

WSR 16-13-087
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Behavioral Health Administration)

[Filed June 15, 2016, 1:52 p.m., effective July 16, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The division of behavioral health and recovery of the department of social and health services is adopting, amending, and repealing rules to comply with 2SSB 6312, chapter 225, Laws of 2014. 2SSB 6312 requires, in part, the regional support networks to be renamed behavioral health organizations effective April 1, 2016, and authorizes the department to establish regional service areas within the state with the intended effect of integrating substance use disorder treatment with mental health services. Changes include updating definitions, changing "chemical dependency" to "substance use disorder," clarifying processes, and making editing changes to provide clarification and consistency within the rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-865-0100, 388-865-0105, 388-865-0106, 388-865-0107, 388-865-0110, 388-865-0115, 388-865-0120, 388-865-0150, 388-865-0200, 388-865-0205, 388-865-0210, 388-865-0215, 388-865-0220, 388-865-0221, 388-865-0222, 388-865-0225, 388-865-0229, 388-865-0230, 388-865-0235, 388-865-0240, 388-865-0245, 388-865-0250, 388-865-0265, 388-865-0270, 388-865-0275, 388-865-0280, 388-865-0282, 388-865-0284, 388-865-0286, 388-865-0288, 388-865-0300, 388-865-0305, 388-865-0310, 388-865-0315, 388-865-0320, 388-865-0325, 388-865-0330, 388-865-0335, 388-865-0345, 388-865-0350, 388-865-0355, 388-865-0360, 388-865-0363, 388-865-0365, 388-877A-0400, 388-877A-0410, 388-877A-0420, 388-877A-0430, 388-877A-0440, 388-877A-0450 and 388-877A-0460; and amending WAC 388-875-0070, 388-877-0100, 388-877-0200, 388-877-0300, 388-877-0305, 388-877-0335, 388-877-0365, 388-877-0420, 388-877-0600, 388-877-0605, 388-877-0610, 388-877-0620, 388-877-0640, 388-877A-0200, 388-877A-0270, 388-877A-0340, 388-877B-0100, 388-877B-0110, 388-877B-0120, 388-877B-0130, 388-877B-0200, 388-877B-0210, 388-877B-0220, 388-877B-0230, 388-877B-0240, 388-877B-0250, 388-877B-0260, 388-877B-0270, 388-877B-0280, 388-877B-0300, 388-877B-0310, 388-877B-0320, 388-877B-0330, 388-877B-0340, 388-877B-0350, 388-877B-0360, 388-877B-0370, 388-877B-0400, 388-877B-0405, 388-877B-0410, 388-877B-0420, 388-877B-0430, 388-877B-0440, 388-877B-0450, 388-877B-0500, 388-877B-0510, 388-877B-0530, 388-877B-0540, 388-877B-0550, 388-877B-0600, 388-877B-0610, 388-877B-0630, 388-877B-0640, 388-877B-0650, 388-877B-0660, and 388-877C-0110.

Statutory Authority for Adoption: RCW 70.02.290, 70.02.340, 70.96A.040(4), 71.05.560, 71.24.035 (5)(c), 71.34.380.

Other Authority: 2SSB 6312 (chapter 225, Laws of 2014).

Adopted under notice filed as WSR 16-07-152 on March 23, 2016.

Changes Other than Editing from Proposed to Adopted Version: The department made minor editorial changes from the proposal.

A final cost-benefit analysis is available by contacting Kathy Sayre, P.O. Box 45330, Olympia, WA 98504-5330, phone (360) 725-1342, fax (360) 586-0341, e-mail kathy.sayre@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 27, Amended 56, Repealed 52.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 27, Amended 56, Repealed 52.

Date Adopted: June 14, 2016.

Patricia K. Lashway
Acting Secretary

~~**((SECTION ONE — COMMUNITY MENTAL HEALTH AND INVOLUNTARY TREATMENT PROGRAMS))**~~
BEHAVIORAL HEALTH ORGANIZATIONS

~~**((SECTION TWO REGIONAL SUPPORT NETWORKS))**~~

NEW SECTION

WAC 388-865-0232 Behavioral health organizations —**General.** (1) Effective April 1, 2016, regional support networks (RSN) become behavioral health organizations (BHO). A BHO contracts with the department's division of behavioral health and recovery (DBHR) to administer behavioral health services within its service area.

(2) A BHO operates only in areas of the state that have not implemented the Washington apple health fully integrated managed care (FIMC) program. See chapter 182-538A WAC for rules that govern the FIMC program operated by the health care authority (HCA).

(3) BHOs, behavioral health agencies, and the BHO managed care plan must:

(a) Comply with chapters 70.96A, 71.05, 71.24, 71.34, and 71.36 RCW, which contain laws regarding substance use disorders, mental illness, and community mental health services.

(b) Meet the requirements in chapters 388-877, 877A, and 877B WAC regarding the licensure of behavioral health agencies and the certification of behavioral health services. An exemption of any section or subsection may be requested, subject to the criteria in WAC 388-865-0236. DBHR does not exempt any requirement that is part of statute.

(4) A BHO is responsible to ensure behavioral health services are responsive in an age and culturally competent manner to the substance use disorder treatment and mental health needs of its community.

(5) DBHR administers behavioral health services regionally if the criteria in WAC 388-865-0234 apply.

(6) The BHO managed care plan is the entity that operates the prepaid inpatient health plan (PIHP) medicaid behavioral health services.

(7) WAC 388-865-0238 and 388-877-0200 contain definitions for terms and phrases used in the BHO and the BHO managed care plan rules.

(8) Contact information can be found on the DBHR website at www.dshs.wa.gov/bhsia/division-behavioral-health-and-recovery.

NEW SECTION

WAC 388-865-0234 Behavioral health organizations—When the division of behavioral health and recovery administers regional behavioral health services. (1) If a currently operating behavioral health organization (BHO) chooses to stop functioning as a BHO, fails to meet state minimum standards specified in rule, or does not meet the requirements under RCW 71.24.045, the following is implemented:

(a) Under RCW 71.24.035(16), the secretary:

(i) Is designated as the BHO until a new BHO is designated; and

(ii) Assumes the duties assigned to the region without a participating BHO.

(b) The division of behavioral health and recovery (DBHR):

(i) Administers behavioral health services within the region without a participating BHO; and

(ii) Continues to apply the BHO requirements in WAC 388-865-0232 through 388-865-0272 and the BHO managed care plan requirements in WAC 388-865-0370 through 388-865-0385.

(2) An individual who resides within the service area of a region without a participating BHO:

(a) May receive services, within available resources as defined in RCW 71.24.025(2), from any provider of behavioral health services that is contracted with and licensed by DBHR; and

(b) Who is a Title XIX medicaid recipient is entitled to receive medically necessary behavioral health services without charge to the individual.

(3) This section does not apply to a region in which the health care authority (HCA) operates the Washington apple health fully integrated managed care (FIMC) program which provides fully-integrated physical and behavioral health services to medicaid beneficiaries through managed care. See chapter 182-538A WAC for information on Washington apple health FIMC.

NEW SECTION

WAC 388-865-0236 Behavioral health organizations—How to request an exemption of a minimum standard.

(1) A behavioral health organization (BHO), a licensed

behavioral health agency, and the behavioral health organization (BHO) managed care plan subject to the BHO and BHO managed care plan rules may request an exemption of a minimum standard in WAC 388-865-0232 through 388-865-0272 and WAC 388-865-0370 through 388-865-0385 by submitting a request in writing to the director of the division of behavioral health and recovery (DBHR).

(2) The exemption request must include:

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

(b) The specific section or subsection of the rule for which an exemption is being requested;

(c) The reason why the exemption 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;

(e) Documentation that the quality review team or behavioral health ombuds office was consulted and any resulting recommendations are included in the request; and

(f) A description of how an individual(s) affected by the exemption will be notified.

(3) DBHR's review of the request considers whether approving the exemption will impact accountability, accessibility, efficiency, individual satisfaction, and quality of care, or will violate state or federal law. The requester receives a determination notice from DBHR within thirty days from the date the exemption request was received.

(a) If DBHR grants the exemption request, the notice includes:

(i) The section or subsection of rule exempted;

(ii) The conditions of acceptance;

(iii) The time frame for which the exemption is approved; and

(iv) Notification that the exemption may be renewed upon request of the party that initially asked for the exemption. In this case, the requester must submit a renewal request to the director of DBHR before the time frame of the initial exemption expires, and meet the applicable requirements of subsection (1) of this section.

(b) If DBHR denies the exemption request, the notice includes the reason for the denial.

(4) DBHR cannot exempt any minimum standard that is required by:

(a) Statute; or

(b) Another state agency.

NEW SECTION

WAC 388-865-0238 Behavioral health organizations—Definitions. The definitions in this section, WAC 388-877-0200, and WAC 388-877-0655 apply to behavioral health organizations (BHO) and the BHO managed care plan.

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

"Behavioral health organization (BHO) managed care plan" is the entity that operates the prepaid inpatient health plan (PIHP) for medicaid behavioral health services.

"Chemical dependency professional" or **"CDP"** means a person credentialed by the department of health as a chemical dependency professional (CDP) with primary responsibility for implementing an individualized service plan for substance use disorder services.

"Child" means a person under the age of eighteen years. For the purposes of the medicaid program, child means a person who is under the age of twenty-one years.

"Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week; prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law; screening for patients being considered for admission to residential services; diagnosis and treatment for children who are mentally or severely emotionally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment (EPSDT) program; investigation, legal, and other nonresidential services under chapter 71.05 RCW; case management services; psychiatric treatment including medication supervision; counseling; psychotherapy; assuring transfer of relevant patient information between service providers; recovery services; and other services determined by behavioral health organizations.

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

"County authority" means the board of county commissioners, county council, or county executive having authority to establish a community mental health program, or two or more of the county authorities specified in this subsection which have entered into an agreement to provide a community mental health program.

"Designated chemical dependency specialist" means a person designated by the behavioral health organization (BHO) or by the county alcoholism and other drug addiction program coordinator designated by the BHO to perform the commitment duties described in RCW 70.96A.140 and qualified to do so by meeting standards adopted by the department.

"Designated mental health professional" or **"DMHP"** means a mental health professional designated by the behavioral health organization (BHO) county or other authority authorized in rule to perform duties under the involuntary treatment act as described in RCW 10.77.010, 71.05.-020, 71.24.025 and 71.34.020.

"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;

- (c) An Eskimo, Aleut, or other Alaskan native; and

- (d) 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.

"Housing services" means the active search and promotion of individual access to, and choice in, safe and affordable housing that is appropriate to the individual's age, culture, and needs.

"Medical necessity" or **"medically necessary"** is 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 professional" means:

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

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

- (3) A person with a master's degree or further advanced degree in counseling or one of the behavioral 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;

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

- (5) A person who had an approved waiver to perform the duties of a mental health professional that was requested by a regional support network and granted by the mental health division prior to July 1, 2001; or

- (6) A person who has been granted a time-limited exception of the minimum requirements of a mental health professional by the division of behavioral health and recovery.

"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 and older; and

(b) The equivalent of one year of full-time experience in the treatment of persons sixty years of age and 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 individuals.

(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 who are deaf; and

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

(b) The specialist for individuals 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.

"Peer counselor" means a person recognized by the division of behavioral health and recovery (DBHR) as a person who:

(1) Is a self-identified consumer of mental health services;

(2) Is a counselor credentialed under chapter 18.19 RCW;

(3) Has completed specialized training provided by or contracted through DBHR. If the person was trained by trainers approved by the mental health division (now DBHR) before October 1, 2004, and has met the requirements in subsection (1), (2) and (4) of this section by January 31, 2005, the person is exempt from completing this specialized training;

(4) Has successfully passed an examination administered by DBHR or an authorized contractor; and

(5) Has received a written notification letter from DBHR stating that DBHR recognizes the person as a "peer counselor."

"Quality assurance and quality improvement" means a focus on compliance to minimum requirements in rules and contracts, and activities to perform above minimum standards and achieve reasonably expected levels of performance, quality, and practice.

"Quality strategy" means an overarching system and/or process whereby quality assurance and quality improvement activities are incorporated and infused into all aspects of a behavioral health organization's (BHO)'s operations.

"Regional support network (RSN)" no longer exists as of March 31, 2016. See **"Behavioral health organization (BHO)."**

"Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the behavioral health organization to be at risk of becoming acutely or chronically mentally ill.

"Resource management services" means the planning, coordination, and authorization of residential services and community support services for:

(1) Adults and children who are acutely mentally ill;

(2) Adults who are chronically mentally ill;

(3) Children who are severely emotionally disturbed; or

(4) Adults who are seriously disturbed and determined solely by a behavioral health organization to be at risk of becoming acutely or chronically mentally ill.

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

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

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

"Tribal authority" means, for the purposes of behavioral health organizations and RCW 71.24.300 only, the federally recognized Indian tribes and the major Indian organizations recognized by the secretary as long as these organizations do not have a financial relationship with any behavioral health organization that would present a conflict of interest.

NEW SECTION

WAC 388-865-0242 Behavioral health organizations—Payment for behavioral health services. Within available resources as defined in RCW 71.24.025(2), a behavioral health organization (BHO) must ensure an individual's eligi-

bility for and payment for behavioral health services meet the following:

(1) An individual who is eligible for medicaid is entitled to receive covered medically necessary behavioral health services without charge to the individual, consistent with the state's medicaid state plan or federal waiver authorities. A medicaid recipient is also entitled to receive behavioral health services from a behavioral health organization (BHO) managed care plan without charge.

(2) An individual who is not eligible for medicaid is entitled to receive behavioral health services consistent with priorities established by the department. The individual, the parent(s) of an individual who has not reached their eighteenth birthday, the individual's legal guardian, or the estate of the individual:

- (a) Is responsible for payment for services provided; and
- (b) May apply to the following entities for payment assistance:
 - (i) The health care authority (HCA) for medical assistance;
 - (ii) The behavioral health service provider for payment responsibility based on a sliding fee scale; or
 - (iii) The BHO for authorization of payment for involuntary evaluation and treatment services.

NEW SECTION

WAC 388-865-0246 Behavioral health organizations—Public awareness of behavioral health services. A behavioral health organization (BHO) or its designee must provide public information on the availability of mental health and substance use disorder services. The BHO must:

- (1) Maintain information on available services, including crisis services and the recovery help line in telephone directories, public websites, and other public places in easily accessible formats;
- (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; and
- (3) Post and make information available to individuals regarding the behavioral health ombuds office consistent with WAC 388-865-0262, and local advocacy organizations that may assist individuals in understanding their rights.

NEW SECTION

WAC 388-865-0248 Behavioral health organizations—Governing body responsible for oversight. The behavioral health organization (BHO) must establish a governing body responsible for oversight of the BHO. 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 BHO and the individuals 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 governing body can assign the matter to others, such as staff members or advisory bodies.

NEW SECTION

WAC 388-865-0252 Behavioral health organizations—Advisory board membership. (1) A behavioral health organization (BHO) must appoint advisory board members and maintain an advisory board in order to:

(a) Promote active engagement with individuals with behavioral health disorders, their families, and behavioral health agencies; and

(b) Solicit and use the advisory board members input to improve service delivery and outcome.

(2) The BHO must appoint advisory board members and maintain an advisory board that:

(a) Broadly represents the demographic character of the service area;

(b) Is composed of at least fifty-one percent representation of one or more of the following:

- (i) Persons with lived experience;
- (ii) Parents or legal guardians of persons with lived experience; or
- (iii) Self-identified as persons in recovery from a behavioral health disorder;

(c) Includes law enforcement representation; and

(d) Includes tribal representation, upon request of a tribe.

(3) When the BHO is not a function of county government, the advisory board must include no more than four county elected officials.

(4) The advisory board:

(a) May have members who are employees of subcontracted agencies, as long as there are written rules that address potential conflicts of interest.

(b) Has the discretion to set rules in order to meet the requirements of this section.

(c) Membership is limited to three years per term for time served, per each advisory board member. Multiple terms may be served by a member if the advisory board rules allow it.

(5) The advisory board independently reviews and provides comments to either the BHO, the BHO governing board, or both, on plans, budgets, and policies developed by the BHO to implement the requirements of this section, chapters 71.05, 71.24, 71.34 RCW, and applicable federal laws.

NEW SECTION

WAC 388-865-0254 Behavioral health organizations—Voluntary inpatient services and involuntary evaluation and treatment services. A behavioral health organization (BHO) must develop and implement age and culturally competent behavioral health services that are consistent with chapters 70.96A, 71.24, 71.05, and 71.34 RCW.

(1) For voluntary inpatient services, the BHO must develop and implement formal agreements with inpatient services funded by the BHO regarding:

- (a) Referrals;
- (b) Admissions; and
- (c) Discharges.

(2) For involuntary evaluation and treatment services, the BHO:

(a) Must ensure that individuals in their regional service area have access to involuntary inpatient care; and

(b) Is responsible for coordinating discharge planning with the treating inpatient facility.

(3) The BHO must:

(a) Ensure periodic reviews of the evaluation and treatment service facilities consistent with BHO procedures and notify the appropriate authorities if it believes that a facility is not in compliance with applicable rules and laws.

(b) Authorize admissions into inpatient evaluation and treatment services for eligible individuals from:

(i) State psychiatric hospitals:

(A) Western state hospital;

(B) Eastern state hospital; and

(C) The child study and treatment center.

(ii) Community hospitals.

(iii) Certified inpatient evaluation and treatment facilities licensed by the department of health as adult residential treatment facilities.

(iv) The children's long-term inpatient program (CLIP).

(c) Receive prior approval from the department's division of behavioral health and recovery (DBHR) in the form of a single bed certification for services to be provided to individuals on a ninety or one hundred eighty day community inpatient involuntary commitment order consistent with the exception criteria in WAC 388-865-0531.

NEW SECTION

WAC 388-865-0256 Behavioral health organizations—Community support, residential, housing, and employment services. (1) **Community support services** as defined in WAC 388-865-0238. A behavioral health organization (BHO) must:

(a) Develop and coordinate age and culturally appropriate community support services that are consistent with chapters 71.05, 71.24, and 71.34 RCW to ensure that the mental health and substance use disorder services listed in chapters 388-877A and 388-877B WAC can be accessed by all eligible individuals in the BHO's service area and are provided to eligible individuals directly, or by contract.

(b) Ensure prescreening determinations are conducted for providing community support services for individuals with mental illness who are being considered for placement in nursing facilities as required by RCW 71.24.025(8).

(2) **Residential services** as defined in 388-865-0238. A BHO must:

(a) Ensure active search and promotion of individual access to, and choice in, safe and affordable independent housing that is appropriate to the individual's age, culture, and residential needs. This includes:

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

(ii) Assuring the availability of community support services, with an emphasis on supporting individuals in their

own home or where they live in the community, with residences and residential supports prescribed in the individual service plan, including a full range of residential services as defined in RCW 71.24.025(23).

(b) Ensure that eligible individuals in licensed residential facilities receive behavioral health services consistent with their individual service plan and are advised of their rights, including long-term care rights under chapter 70.129 RCW.

(3) **Housing services** as defined in WAC 388-865-0238. A BHO must ensure active search and promotion of individual access to, and choice in, safe and affordable housing that is appropriate to the individual's age, culture, and needs. This includes:

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

(b) Assuring the availability of community support services, with an emphasis on supporting individuals in their own home or where they live in the community, with residences and residential supports prescribed in the individual service plan; and

(c) Coordinating with public housing entities, homeless continuums of care, and affordable housing developers.

(4) **Employment services.** A BHO must coordinate with the division of vocational rehabilitation or other local entities that support employment services to assure that individuals wanting to work are provided with recovery support-employment services under WAC 388-877A-0330.

NEW SECTION

WAC 388-865-0258 Behavioral health organizations—Administration of the Mental Health and Substance Use Disorders Involuntary Treatment Acts. A behavioral health organization (BHO) must establish policies and procedures for administration of the Mental Health Involuntary Treatment Act and Substance Use Disorders Involuntary Treatment Act, including investigation, detention, transportation, court-related, and other services required by chapters 70.96A, 71.05 and 71.34 RCW. This includes:

(1) Ensuring that designated mental health professionals (DMHP) and designated chemical dependency specialists perform the duties of involuntary investigation and detention in accordance with the requirements of chapters 70.96A, 71.05 and 71.34 RCW.

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

(a) Ensuring periodic evaluation of each committed individual 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 day commitments and one hundred eighty day commitments.

(b) Notifying the DMHP if noncompliance with the less restrictive alternative 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 the requirements of RCW 71.05.700 through 71.05.715 are met.

NEW SECTION

WAC 388-865-0262 Behavioral health organizations—Behavioral health ombuds office. A behavioral health organization (BHO) must provide unencumbered access to and maintain the independence of the behavioral health ombuds service as set forth in the contract between the BHO and the division of behavioral health and recovery (DBHR). The BHO and DBHR must ensure the inclusion of representatives of individual and family advocate organizations when revising the terms of the contract regarding the requirements of this section. Behavioral health ombuds members must be current consumers of the mental health or substance use disorder system, or past consumers or family members of past consumers. The BHO must maintain a behavioral health ombuds office that:

- (1) Is responsive to the age and demographic character of the region and assists and advocates for individuals with resolving issues, grievances, and appeals at the lowest possible level;
- (2) Is independent of agency service providers;
- (3) Supports individuals, family members, and other interested parties regarding issues, grievances, and appeals;
- (4) Is accessible to individuals, including having a toll-free, independent phone line for access;
- (5) Is able to access service sites and records relating to individuals with appropriate releases so that it can reach out to individuals and help to resolve issues, grievances, and appeals;
- (6) Receives training and adheres to confidentiality consistent with this chapter and chapters 70.96A, 71.05, 71.24, and 70.02 RCW;
- (7) Continues to be available to advocate and support individuals through the grievance, appeal and administrative hearing processes;
- (8) Involves other persons, at the individual's request;
- (9) Supports individuals in the pursuit of a formal resolution;
- (10) If necessary, continues to assist the individual through the administrative hearing process;
- (11) Coordinates and collaborates with allied services to improve the effectiveness of advocacy and to reduce duplication when serving the same individual;
- (12) Provides information on grievances to the DBHR and BHO quality strategy; and
- (13) Provides reports and formalized recommendations at least biennially to DBHR and BHO advisory and governing boards, local consumer and family advocacy groups, the BHO quality review team, and the BHO provider network.

NEW SECTION

WAC 388-865-0264 Behavioral health organizations—Quality strategy. A behavioral health organization (BHO) must implement a quality strategy for continuous quality improvement in the delivery of culturally competent mental health services. The BHO must submit a quality assurance and improvement plan to the division of behavioral health

and recovery (DBHR). All changes to the quality assurance and improvement plan must be submitted to DBHR for approval prior to implementation. The plan must include all of the following:

- (1) Roles, structures, functions and interrelationships of all the elements of the quality strategy, including but not limited to the BHO governing board, clinical and management staff, advisory board, behavioral health ombuds service, and quality review teams.
- (2) Procedures to ensure that quality assurance and improvement 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 contracts;
 - (ii) System performance indicators;
 - (iii) Quality and intensity of services;
 - (iv) Incorporation of feedback from individuals, allied service systems, community providers, the behavioral health ombuds office 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 individuals and practitioners;
 - (b) Monitor management information system data integrity;
 - (c) Monitor complaints, grievances and adverse incidents for adults and children;
 - (d) Monitor contractors and to notify DBHR 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 DBHR;
 - (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 incorporation of all corrective actions to improve the system;
 - (l) Consider system improvements based on recommendations from all on-site monitoring, evaluation, accreditation, and certification reviews; and
 - (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 either current knowledge or best practice, or both, including at least those defined by DBHR in the contract with the BHO;
 - (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.

NEW SECTION

WAC 388-865-0266 Behavioral health organizations—Quality review teams. A behavioral health organization (BHO) must establish and maintain unencumbered access to and maintain the independence of a quality review team as described in this section and in the contract between the BHO and the division of behavioral health and recovery (DBHR). The quality review team must include individuals who currently receive or have in the past received behavioral health services, and may also include the family members of such individuals. The BHO must assure that quality review teams:

(1) Fairly and independently review the performance of the BHO and service providers in order to evaluate systemic issues as measured by objective indicators of individual outcomes in rehabilitation and recovery, including all of the following:

- (a) Quality of care;
- (b) The degree to which services are focused on the individual and are age and culturally appropriate;
- (c) The availability of alternatives to hospitalization, cross-system coordination and range of treatment options; and
- (d) The effectiveness of the BHO's coordination with allied systems including, but not limited to, schools, state and local hospitals, jails and shelters.

(2) Have the authority to enter and monitor any behavioral health agency contracted with a BHO.

(3) Meet with interested individuals and family members, allied service providers, including state or community psychiatric hospitals, BHO contracted service providers, and persons that represent the age and ethnic diversity of the BHO's service area to:

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

(b) Work with interested individuals and other persons, if requested by the individual, service providers, the BHO, and DBHR to resolve identified problems.

(4) Provide reports and formalized recommendations at least biennially to DBHR, the behavioral health advisory committee and the BHO advisory and governing boards and ensure that input from the quality review team is integrated into the overall BHO quality strategy, behavioral health ombuds office services, local consumer and family advocacy groups, and provider network.

(5) Receive training in and adhere to applicable confidentiality standards.

NEW SECTION

WAC 388-865-0268 Behavioral health organizations—Standards for contractors and subcontractors. A behavioral health organization (BHO) must not contract or subcontract for clinical services to be provided using public funds unless the contractor or subcontractor is licensed by the division of behavioral health and recovery (DBHR) for those

services, or is individually licensed by the department of health as defined in chapter 18.57, 18.71, 18.83, or 18.79 RCW. The BHO must:

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

(2) Follow applicable requirements of the BHO contract with DBHR;

(3) Demonstrate that it monitors contractors and subcontractors and notifies DBHR of observations and information indicating that providers may not be in compliance with licensing or certification requirements; and

(4) Terminate its contract or subcontract with a provider if DBHR notifies the BHO of a provider's failure to attain or maintain licensure.

NEW SECTION

WAC 388-865-0272 Behavioral health organizations—Operating as a behavioral health agency. A behavioral health organization (BHO) may operate as a behavioral health agency when the BHO:

(1) Meets the criteria in RCW 71.24.045(2) and chapters 70.96A and 71.24 RCW; and

(2) Maintains a current license as a behavioral health agency from the division of behavioral health and recovery.

NEW SECTION

WAC 388-865-0370 Behavioral health organization managed care plan—Minimum standards. To be eligible to contract with the department's division of behavioral health and recovery (DBHR), the behavioral health organization (BHO) managed care plan must comply with all applicable local, state, and federal rules and laws. The BHO managed care plan must:

(1) Provide documentation of a population base of sixty thousand medicaid eligible persons covered lives within the service area or receive approval from DBHR based on submittal of an actuarially sound risk management profile;

(2) If the BHO is not a county-based organization, the BHO must maintain licensure by the Washington state office of the insurance commissioner as a health care service contractor under chapter 48.44 RCW.

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

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

(5) Develop and maintain written subcontracts that clearly recognize that legal responsibility for administration of the service delivery system remains with the BHO managed care plan, as identified in the contract with DBHR;

(6) Retain responsibility to ensure that applicable standards of this chapter, other state rules, and federal laws are met even when it delegates duties to subcontractors; and

(7) Ensure the protection of individual and family rights as described in chapters 70.96A, 71.05 and 71.34 RCW.

NEW SECTION

WAC 388-865-0375 Behavioral health organization managed care plan—Utilization management. Utilization management is the way the behavioral health organization (BHO) managed care plan authorizes or denies substance use disorder treatment or mental health services, monitors services, and follows the level of care guidelines. To demonstrate the impact on individual access to care of adequate quality, a BHO must provide utilization management of the behavioral health rehabilitation services under 42 C.F.R. Sec. 440.130(d) 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 individuals without a wait list consistent with the contract with the division of behavioral health and recovery (DBHR);
- (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 individuals;
- (6) Develop, implement, and enforce written level of care guidelines for admissions, placements, transfers and discharges into and out of services including:
 - (a) A clear process for the BHO managed care 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 of all medicaid recipients served, including methods that address different ages, cultures, languages, civil commitment status, physical abilities, and unique service needs; and
 - (d) Assure the BHO managed care plan retains a sufficiently strong and regular oversight role to assure decisions are being made appropriately, to the extent authorization of care at any level of care or at continuing stay determinations is delegated;
- (7) Collect data that measures the effectiveness of the criteria in ensuring that all eligible people get services that are appropriate to their needs; and
- (8) Report to DBHR any knowledge it gains that the BHO managed care plan or behavioral health service provider is not in compliance with a state or federal rule or law.

NEW SECTION

WAC 388-865-0380 Behavioral health organization managed care plan—Choice of primary provider. (1) The behavioral health organization (BHO) managed care plan must:

- (a) Ensure that each individual receiving nonemergency behavioral health rehabilitation services has a primary provider who is responsible to carry out the individual service plan; and
- (b) Allow individuals, parents of individuals under age thirteen, and guardians of individuals of all ages to select a primary provider from the available primary provider staff within the BHO managed care plan.
 - (2) For an individual with an assigned case manager, the case manager is the primary provider.
 - (3) If the individual does not select a primary provider, the BHO managed care plan or its designee must assign a primary provider not later than fifteen working days after the individual requests services.
 - (4) The BHO managed care plan or its designee must allow an individual to change primary providers at any time for any reason. The individual must notify the BHO managed care plan or its designee of the request for a change, and inform the plan of the name of the new primary provider.

NEW SECTION

WAC 388-865-0385 Behavioral health organization managed care plan—Behavioral health screening for children. The behavioral health organization (BHO) managed care plan is responsible for conducting behavioral 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 EPSDT program as specified in contract with the division of behavioral health and recovery; and
- (2) Developing and maintaining an oversight committee for the coordination of the EPSDT program that must include representation from parents of medicaid-eligible children.

AMENDATORY SECTION (Amending WSR 01-01-008, filed 12/6/00, effective 1/6/01)

WAC 388-875-0070 Transfer of a patient between state-operated facilities for persons with mental illness. In some instances, it is appropriate for the department to transfer a patient currently residing in a state facility to another state facility for ongoing treatment. The department (~~shall accomplish~~) accomplishes the transfer with the utmost care given to the therapeutic needs of the patient. This section describes the procedures for handling a patient transfer between state facilities in a manner consistent with the best interest of the patient.

- (1) The department (~~may use~~) uses the following criteria when determining the appropriateness of a patient transfer:
 - (a) The patient's family resides within the receiving facility's (~~catchment~~) service area; or
 - (b) The patient's primary home of residence is in the receiving facility's (~~catchment~~) service area; or
 - (c) A particular service or need of the patient is better met at the receiving facility; or
 - (d) Transfer to the receiving facility may facilitate community discharge due to the availability of community service in the receiving facility's (~~catchment~~) service area; or

(e) The county, ~~((regional support network))~~ behavioral health organization (BHO), or patient requests a transfer.

(2) Prior to any proposed transfer of a patient, the state facility ~~((shall))~~ must comply with the following:

(a) The sending facility, at the request of the ~~((superintendent))~~ chief executive officer (CEO), ~~((shall in writing forward))~~ must have forwarded in writing information necessary to make a decision on whether transfer is appropriate to the receiving facility's ~~((liaison))~~ attending physician or the physician's designee and the ~~((regional support network))~~ (BHO) liaison;

(b) The receiving facility's ~~((liaison))~~ attending physician or the physician's designee and the ~~((regional support network))~~ BHO liaison ~~((shall recommend))~~ must have recommended appropriate action to the ~~((superintendent))~~ CEO of the sending facility in writing within five calendar days of receipt of the request;

(c) If the receiving facility accepts the proposed patient transfer, the sending facility ~~((shall))~~ must notify the patient, guardian, ~~((regional support network))~~ BHO liaison, and attorney, if known, at least five days before the proposed patient transfer;

(d) The sending facility is responsible for all patient transfer arrangements, ~~((e.g.))~~ such as, transportation~~((;))~~ and staff escort~~((;-ete-))~~, and ~~((shall))~~ coordinate the day and time of arrival with the receiving ~~((facility's liaison))~~ facility; and

(e) The sending facility ~~((shall))~~ arranges for the transfer of patient's medical record to the receiving facility.

(3) The sending ~~((state))~~ facility ~~((shall))~~ must document the following in the patient's record:

(a) That the physician ~~((documentation of))~~ documented the medical suitability of the patient for transfer; and

(b) That the social worker ~~((documentation regarding))~~ documented:

(i) Justification as to why the transfer is considered in the patient's best interests; and

(ii) The patient's wishes regarding transfer.

(4) The sending facility ~~((shall))~~ must contact the prosecuting attorney's office of the committing county ~~((prior to))~~ before the transfer.

AMENDATORY SECTION (Amending WSR 13-12-054, filed 5/31/13, effective 7/1/13)

WAC 388-877-0100 Behavioral health services— Purpose and scope. The rules in chapter 388-877 WAC:

(1) Establish the following for agencies that provide behavioral health services:

(a) Licensure and certification requirements;

(b) Agency administrative requirements;

(c) Agency personnel requirements; ~~((and))~~

(d) Agency clinical policies and procedures~~((;))~~; and

(e) A grievance system that includes a grievance process, an appeal process, and access to administrative hearings for agencies that serve individuals whose services are covered by the federal medicaid program.

(2) Support the specific program rules in chapter 388-877A WAC for mental health, chapter 388-877B WAC for

~~((chemical dependency))~~ substance use disorders, and chapter 388-877C WAC for problem and pathological gambling.

(3) The department requires all agencies and providers affected by this rule to fully comply with the applicable requirements in chapter 388-877 WAC, chapter 388-877A WAC, chapter 388-877B WAC, and chapter 388-877C WAC no later than September 1, 2013.

AMENDATORY SECTION (Amending WSR 13-12-054, filed 5/31/13, effective 7/1/13)

WAC 388-877-0200 Behavioral health services— Definitions. The definitions in this section contain words and phrases used in chapter ~~388-865 WAC for behavioral health organizations (BHOs) and the BHO managed care plan, and~~ chapter 388-877 WAC for behavioral health services programs. These definitions also apply to the program-specific rules for mental health services in chapter 388-877A WAC, ~~((chemical dependency))~~ substance use disorder rules in chapter 388-877B WAC, and problem and pathological gambling rules in chapter 388-877C WAC.

"Administrative hearing" means a proceeding before an administrative law judge that gives a party an opportunity to be heard in disputes about DSHS programs and services.

"Administrator" means the designated person responsible for the operation of the licensed treatment agency and/or certified treatment service.

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

"Agency" means an entity licensed by the department to provide behavioral health services.

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

"Behavioral health" means the prevention, treatment of, and recovery from ~~((chemical dependency))~~ substance use disorders, mental health disorders and/or problem and pathological gambling disorders.

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

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

~~(("Certified peer counselor" **means a current or former qualified recipient of behavioral health services, who has met the experience and training requirements of, satisfactorily passed the examination given by, and is recognized by the division of behavioral health and recovery as a certified peer counselor under WAC 388-865-0107.)**~~

"Certified" means the status given by the department to ~~((chemical dependency))~~ substance use disorder, mental health, and problem and pathological gambling program-specific services.

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

"Change in ownership" means one of the following:

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

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

(3) The current ownership takes on a new owner of five per cent or more of the organizational assets.

"Clinical record" means a paper and/or electronic file that is maintained by the behavioral health agency and contains pertinent psychological, medical, and clinical information for each individual served.

"Clinical supervision" means regular and periodic activities performed by an appropriate level of professional for clinical staff. Clinical supervision includes review of assessment, diagnostic formulation, treatment planning, progress toward completion of care, identification of barriers to care, continuation of services, authorization of care, and the direct observation of the delivery of clinical care.

"Community mental health agency (CMHA)" means a behavioral health agency ~~((certified))~~ licensed by the department to provide a mental health service.

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

"Complaint" means the expression of a dissatisfaction with a service or program which may be investigated by the department.

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

"Criminal background check" means a search for any record of an individual's conviction or civil adjudication related to crimes against children or other persons, including developmentally disabled and vulnerable adults. A background check includes a search and review of current and past background check applicant self-disclosures, Washington state patrol criminal history data, Washington courts criminal history data, civil adjudication proceedings, department of health disciplinary board final decisions, out-of-state court or law enforcement records, and department of corrections information. A background check may include a

national fingerprint-based background check, including a federal bureau of investigation criminal history search.

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

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

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

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

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

(4) A bomb threat;

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

(6) Suicide attempt at the facility;

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

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

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

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

"Department" means the Washington state department of social and health services.

"Designated chemical dependency specialist" means a person designated by the ~~((county alcoholism and/or other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in chapters 70.96A and 70.96B RCW;))~~ behavioral health organization (BHO) or by the county alcoholism and other drug addiction program coordinator designated by the BHO to perform the commitment duties described in RCW 70.96A.140

and qualified to do so by meeting standards adopted by the department.

"Designated mental health professional (DMHP)" means a mental health professional designated by the behavioral health organization (BHO), county, or other authority authorized in rule to perform duties under the involuntary treatment act as described in RCW 10.77.010, 71.05.020, 71.24.025 and 71.34.020.

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

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

"Division of behavioral health and recovery (DBHR)" means the division within the department of social and health services (formerly the mental health division and the division of alcohol and substance abuse) that administers mental health, problem gambling and substance abuse programs authorized by chapters 43.20A, 71.05, 71.24, 71.34, and 70.96A RCW.

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

~~("Grievance" means an expression of dissatisfaction made by or on behalf of an individual and referred to the agency or regional support network (RSN), as applicable, for resolution.)~~

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

"Individual" means a person ~~(receiving treatment services)~~ who applies for, is eligible for, or receives behavioral health organization (BHO) authorized behavioral health services from an agency licensed by the department as from a ~~(licensed)~~ behavioral health agency.

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

"Licensed" means the status given to behavioral health agencies by the department under its authority to license and certify mental health programs chapters 71.05, 71.34, 71.24 RCW and its authority to certify ~~(chemical dependency)~~ substance use disorder treatment programs chapter 70.96A RCW.

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

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

"Mental health professional (MHP)" means a designation given by the department to an agency staff member who is:

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

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

~~(3) A person with a master's degree or further advanced degree in counseling or one of the social sciences from an accredited college or university who has at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, that was gained under the supervision of a mental health professional and is recognized by the department;~~

~~((3)) (4) A person who meets the waiver criteria of RCW 71.24.260, which was granted prior to 1986;~~

~~((4)) (5) A person who had an approved waiver to perform the duties of a mental health professional (MHP), that was requested by the ((regional support network (RSN))) behavioral health organization (BHO) and granted by the mental health division prior to July 1, 2001; or~~

~~((5)) (6) A person who has been granted a time-limited exception of the minimum requirements of a mental health professional by the ((department consistent with WAC 388-865-0265)) division of behavioral health and recovery (DBHR).~~

"Minor" means an individual who is not yet eighteen years of age.

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

"Outpatient services" means behavioral health treatment services provided to an individual in a nonresidential setting.

"Patient placement criteria (PPC)" means admission, continued service, and discharge criteria found in the patient placement criteria (PPC) for the treatment of substance-related disorders as published by the American Society of Addiction Medicine (ASAM).

"Peer counselor" means a person recognized by the division of behavioral health and recovery (DBHR) as a person who meets all of the following:

(1) Is a self-identified consumer of mental health services.

(2) Is a counselor registered under chapter 18.19 RCW.

(3) Has completed specialized training provided by or contracted through DBHR. If the person was trained by trainers approved by the mental health division (now DBHR) before October 1, 2004, and has met the requirements in (1), (2), and (4) by January 31, 2005, the person is exempt from completing this specialized training.

(4) Has successfully passed an examination administered by DBHR or an authorized contractor.

(5) Has received a notification letter from DBHR stating that DBHR recognizes the person as a "peer counselor."

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

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

"Recovery" means a process of change through which an individual improves their health and wellness, lives a self-directed life, and strives to reach their full potential.

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

"Remodeling" means expanding existing office space to additional office space at the same address, or remodeling interior walls and space within existing office space to a degree that accessibility to or within the facility is impacted.

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

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

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

"Vulnerable adult" means an individual who receives services from the department and has at least one of the following characteristics:

- (1) A vulnerable adult as defined in chapter 74.34 RCW; and
- (2) An individual admitted for detoxification or detained or committed to an involuntary treatment facility that is certified by the division of behavioral health and recovery.

"Youth" means an individual who is seventeen years of age or younger.

AMENDATORY SECTION (Amending WSR 14-18-014, filed 8/22/14, effective 9/22/14)

WAC 388-877-0300 Agency licensure—General information. The department licenses agencies to provide behavioral health treatment services. To gain and maintain licensure, an agency must meet the requirements of chapter 388-877 WAC, applicable local and state rules, and state and federal statutes. In addition, the agency must meet the applicable specific program requirements of chapter 388-877A WAC for mental health, chapter 388-877B WAC for ~~((chemical dependency))~~ substance use disorders, and/or chapter 388-877C WAC for problem and pathological gambling.

- (1) An agency currently accredited by a national accreditation agency recognized by and having a current agreement

with the department may be eligible for licensing through deeming. See WAC 388-877-0310.

(2) Initial applications and renewal forms for behavioral health agency licensure or certification may be downloaded at (<http://www.dshs.wa.gov/dbhr/daforms.shtml>) (<https://www.dshs.wa.gov/bhsia/division-behavioral-health-and-recovery/licensing-and-certification-behavioral-health-agencies>). Completed application packets, forms, and requests for deeming or other services should be mailed to the aging and disability services finance office at the address listed on the applicable application packet or form.

(3) An agency must report to the department any changes that occur following the initial licensing or certification process. The department may request a copy of additional disclosure statements or background inquiries if there is reason to believe that offenses specified under RCW 43.43.830 have occurred since the original application was submitted.

(4) The department may grant an exemption or waiver from compliance with specific licensing or program certification requirements if the exemption does not violate an existing state, federal, or tribal law.

(a) To request an exemption to a rule in this chapter, the agency must:

- (i) Submit the request in writing to the department;
- (ii) Assure the exemption request does not jeopardize the safety, health, or treatment of an individual; and
- (iii) Assure the exemption request does not impede fair competition of another service agency.

(b) The department approves or denies an exemption request in writing and requires the agency to keep a copy of the decision.

(c) Appeal rights under WAC 388-877-0370 do not apply to exemption to rule decisions.

(5) In the event of an agency closure or the cancellation of a program-specific certification, the agency must provide each individual currently being served:

- (a) Notice of the agency closure or program cancellation at least thirty days before the date of closure or program cancellation;
- (b) Assistance with relocation; and
- (c) Information on how to access records to which the individual is entitled.

(6) If an agency certified to provide any behavioral health service closes, the agency must ensure all individual clinical records are kept and managed for at least six years after the closure before destroying the records in a manner that preserves confidentiality. In addition:

(a) The closing agency must notify the division of behavioral health and recovery (DBHR) that the agency will do one of the following:

- (i) Continue to retain and manage all individual clinical records; or
- (ii) Arrange for the continued storage and management of all individual clinical records.

(b) The closing agency must notify DBHR in writing and include the name of the licensed agency or entity storing and managing the records, provide the method of contact, such as a telephone number, and/or electronic address, and provide the mailing and street address where the records will be stored.

~~((b))~~ ~~((c))~~ (c) When a closing agency that has provided ~~((chemical dependency))~~ substance use disorder services arranges for the continued storage and management of clinical records by another entity, the closing agency must enter into a specific qualified services organization agreement with a DBHR licensed agency or other entity. See 42 C.F.R. Part 2, Subpart B.

(d) When any agency or entity storing and maintaining individual clinical records receives an authorized request for a record, the record must be provided to the requester within a reasonable period of time.

AMENDATORY SECTION (Amending WSR 14-18-014, filed 8/22/14, effective 9/22/14)

WAC 388-877-0305 Agency licensure—Application.

To apply for licensure to provide any behavioral health service, an agency must submit an initial application that is signed by the agency's administrator.

(1) The application must include the following:

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

(b) A list of the specific program services for which the agency is seeking certification;

(c) A copy of the report of findings from a criminal background check of the administrator and any owner of five percent or more of the organizational assets;

(d) The physical address of any agency operated facility where behavioral health services will be provided;

(e) A statement assuring the agency meets ~~((American Disability Act [Americans with Disabilities Act]))~~ Americans with Disabilities Act (ADA) standards and that the facility is:

(i) Suitable for the purposes intended;

(ii) Not a personal residence; and

(iii) Approved as meeting all building and safety requirements.

(f) A copy of the policies and procedures specific to the agency;

(g) A staff roster, including each staff member's license under department of health (DOH) rules for professional standards and licensing if credentials are required for the position;

(h) A copy of a current DOH residential treatment facility certificate if the agency is providing ~~((chemical dependency))~~ substance use disorder residential treatment or mental health residential treatment; and

(i) Payment of associated fees.

(2) The department conducts an on-site review as part of the initial licensing or certification process (see WAC 388-877-0320).

AMENDATORY SECTION (Amending WSR 14-18-014, filed 8/22/14, effective 9/22/14)

WAC 388-877-0335 Agency licensure and program-specific certification—Denials, suspensions, revocations, and penalties. (1) The department will deny issuing or renewing an agency's license or specific program certification(s), place an agency on probation, or suspend, or revoke

an agency's license or specific program certification for any of the following reasons:

(a) The agency fails to meet requirements in this chapter.

(b) The agency fails to cooperate or disrupts department representatives during an on-site survey or complaint investigation.

(c) The agency fails to assist the department in conducting individual interviews with ~~((individuals or))~~ either staff members or individuals receiving services, or both.

(d) The agency owner or agency administrator:

(i) Had a license or specific program certification issued by the department subsequently denied, suspended, or revoked;

(ii) Was convicted of child abuse or adjudicated as a perpetrator of substantiated child abuse;

(iii) Was convicted of abuse of a vulnerable adult or adjudicated as a perpetrator of substantiated abuse of a vulnerable adult;

(iv) Obtained or attempted to obtain a health provider license, certification, or registration by fraudulent means or misrepresentation;

(v) Committed, permitted, aided or abetted the commission of an illegal act or unprofessional conduct as defined under RCW 18.130.180;

(vi) Demonstrated cruelty, abuse, negligence, misconduct, or indifference to the welfare of a patient or displayed acts of discrimination;

(vii) Misappropriated patient (individual) property or resources;

(viii) Failed to meet financial obligations or contracted service commitments that affect patient care;

(ix) Has a history of noncompliance with state or federal rules in an agency with which the applicant has been affiliated;

(x) Knowingly, or with reason to know, made a false statement of fact or failed to submit necessary information in:

(A) The submitted application or materials attached; or

(B) Any matter under department investigation.

(xi) Refused to allow the department access to view records, files, books, or portions of the premises relating to operation of the program;

(xii) Willfully interfered with the preservation of material information or attempted to impede the work of an authorized department representative;

(xiii) Is currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in transactions involving certain federal funds (this also applies to any person or business entity named in the agency's application for licensure or certification);

(xiv) Does not meet criminal background check requirements;

(xv) Fails to provide satisfactory application materials; or

(xvi) Advertises the agency as certified when licensing or certification has not been granted, or has been revoked or canceled.

(e) The department determines there is imminent risk to consumer health and safety.

(f) The agency's licensure or specific program certification is in probationary status and the agency fails to correct

the noted health and safety deficiencies within the agreed-upon time frames.

(2) The department may deny issuing or renewing an agency's license or specific program certification, place an agency on probation, or suspend or revoke an agency's license or specific program certification for any of the following reasons:

(a) The agency voluntarily cancels licensure or certification.

(b) The agency fails to pay the required license or certification fees.

(c) The agency stops providing the services for which the agency is certified.

(d) The agency fails to notify the department before changing ownership.

(e) The agency fails to notify the department before relocating its licensed location.

(3) The department sends a written notice to deny, suspend, revoke, or modify the licensure or certification status (see RCW 43.20A.205) that includes the reason(s) for the decision and the agency's right to appeal a department decision (refer to WAC 388-877-0370).

(4) If an agency fails to comply with the requirements of this chapter, the department may:

(a) Assess fees to cover costs of added licensing and program-specific certification activities, including when the department determines a corrective action is required due to a complaint or incident investigation;

(b) Stop referral(s) of an individual who is a program recipient of a state and/or federally-funded program; and

(c) Notify the county alcohol and drug coordinator, (~~regional support network (RSN)~~) behavioral health organization (BHO) and/or local media of stopped referrals, suspensions, revocations, or nonrenewal of the agency's license or program-specific certification(s).

AMENDATORY SECTION (Amending WSR 14-18-014, filed 8/22/14, effective 9/22/14)

WAC 388-877-0365 Agency licensure and program-specific certification—Fee requirements. (1) Payment of licensing and specific program certification fees required under this chapter must be included with the initial application, renewal application, or with requests for other services.

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

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

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

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

Application Fees for Agency Certification for Approved (Chemical Dependency) Substance Use Disorder Treatment Programs	
New agency application	\$1,000
Branch agency application	\$500
Application to add one or more services	\$200
Application to change ownership	\$500
Initial and Annual Certification Fees for Detoxification, Residential, and Nonresidential Services	
Detoxification and residential services	\$100 per licensed bed, per year, for agencies not renewing certification through deeming
	\$50 per licensed bed, per year, for agencies renewing certification through deeming per WAC 388-877-0310
Nonresidential services	\$750 per year for agencies not renewing certification through deeming
	\$200 per year for agencies certified through deeming per WAC 388-877-0310
Complaint/Critical Incident Investigation Fees	
All agencies	\$1,000 per substantiated complaint investigation and \$1,000 per substantiated critical incident investigation that results in a requirement for corrective action

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

(a) The number of licensed detoxification and residential beds; and

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

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

Initial Licensing Application Fee for Mental Health Treatment Programs	
Licensing application fee	\$1,000 initial licensing fee
Initial and Annual Licensing Fees for Agencies not Deemed	
Annual service hours provided:	Initial and annual licensing fees:
0-3,999	\$728

4,000-14,999	\$1,055
15,000-29,999	\$1,405
30,000-49,999	\$2,105
50,000 or more	\$2,575
Annual Licensing Fees for Deemed Agencies	
Deemed agencies licensed by DBHR	\$500 annual licensing fee
Complaint/Critical Incident Investigation Fee	
All residential and nonresidential agencies	\$1,000 per substantiated complaint investigation and \$1,000 per substantiated critical incident investigation that results in a requirement for corrective action

(8) Agencies providing nonresidential mental health services must report the number of annual service hours provided based on the division of behavioral health and recovery's (DBHR's) current published "Service Encounter Reporting Instructions for ((RSN's)) BHOs" and the "Consumer Information System (CIS) Data Dictionary for ((RSN's)) BHOs." These publications are available at: (<http://www.dshs.wa.gov/dbhr/mhpublications.shtml>) <https://www.dshs.wa.gov/bhsia/division-behavioral-health-and-recovery/contractors-and-providers>.

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

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

(9) For inpatient evaluation and treatment facility initial and annual certification bed fees charged by the department, see WAC 388-865-0511.

AMENDATORY SECTION (Amending WSR 14-18-014, filed 8/22/14, effective 9/22/14)

WAC 388-877-0420 Agency administration—Policies and procedures. Each agency licensed by the department to provide any behavioral health service must develop, implement, and maintain administrative policies and procedures to meet the minimum requirements of this chapter. The policies and procedures must demonstrate the following, as applicable:

(1) **Ownership.** Documentation of the agency's governing body, including a description of membership and authorities, and documentation of the agency's:

(a) Articles and certificate of incorporation and bylaws if the owner is a corporation;

(b) Partnership agreement if the owner is a partnership; or

(c) Sole proprietorship if one person is the owner.

(2) **Licensure.** A copy of the agency's master business license that authorizes the organization to do business in Washington state that:

(a) Includes the entity's name, firm name, or registered trade name; and

(b) Lists all addresses where the entity performs services.

(3) **Organizational description.** An organizational description detailing all positions and associated licensure or certification, updated as needed.

(4) **Agency staffing and supervision.** Documentation that shows the agency has staff members:

(a) Adequate in number to provide program-specific certified services to serve the agency's caseload of individuals; and

(b) Who provide treatment in accordance to regulations relevant to their specialty or specialties and registration, certification, licensing, and trainee or volunteer status.

(5) **Interpreter services for individuals with Limited English Proficiency (LEP) and individuals who have sensory disabilities.** Documentation that demonstrates the agency's ability to provide or coordinate services for individuals with LEP and individuals who have sensory disabilities.

(a) Certified interpreters or other interpreter services must be available for individuals with limited English speaking proficiency and individuals who have sensory disabilities; or

(b) The agency must have the ability to effectively provide, coordinate or refer individuals in these populations for appropriate assessment or treatment.

(6) **Reasonable access for individuals with disabilities.** A description of how reasonable accommodations will be provided to individuals with disabilities.

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

(8) **Fee schedules.** A copy of the agency's current fee schedules for all services must be available on request.

(9) **Funding options for treatment costs.** A description of how the agency works with individuals to address the funding of an individual's treatment costs, including a mechanism to address changes in the individual's ability to pay.

(10) **State and federal rules on confidentiality.** A description of how the agency implements state and federal rules on individuals' confidentiality consistent with the service or services being provided.

(11) **Reporting and documentation of suspected abuse, neglect, or exploitation.** A description how the agency directs staff to report and document suspected abuse, neglect, or exploitation of a child or vulnerable adult consistent with chapters 26.44 and 74.34 RCW.

(12) **Protection of youth.** Documentation of how the agency addresses compliance with program-specific rules and the protection of youth participating in group or residential treatment with adults.

(13) **Completing and submitting reports.** A description of how the agency directs staff to:

(a) Complete and submit in a timely manner, all reports required by entities such as the courts, department of corrections, department of licensing, and the department of social and health services; and

(b) Include a copy of the report(s) in the clinical record and document the date submitted.

(14) **Reporting the death of an individual seeking or receiving services.** A description of how the agency directs

staff to report to the department or (~~(regional support network (RSN))~~) behavioral health organization (BHO), as applicable, within one business day the death of any individual which occurs on the premises of a licensed agency.

(15) **Reporting critical incidents.** A description of how the agency directs staff to report to the department or (~~(RSN))~~ BHO, as applicable, within one business day any critical incident that occurs involving an individual, and actions taken as a result of the incident.

(16) **A smoking policy.** Documentation that a smoking policy consistent with chapter 70.160 RCW (smoking in public places), is in effect.

(17) **Outpatient evacuation plan.** For a nonresidential agency, an evacuation plan for use in the event of a disaster or emergency that addresses:

- (a) Different types of disasters or emergencies;
- (b) Placement of posters showing routes of exit;
- (c) The need to mention evacuation routes at public meetings;

(d) Communication methods for individuals, staff, and visitors, including persons with a visual or hearing impairment or limitation;

- (e) Evacuation of mobility impaired individuals; and
- (f) Evacuation of children if child care is offered.

(18) **Individual rights.** A description of how the agency has individual participation rights and policies consistent with WAC 388-877-0600 and if applicable, WAC 388-877-0680.

(19) **Individual complaints and grievances.** A description of how the agency addresses an individual's complaint, consistent with WAC 388-877-0605, and/or the grievance system, consistent with WAC 388-877-0650 through 388-877-0675.

AMENDATORY SECTION (Amending WSR 13-12-054, filed 5/31/13, effective 7/1/13)

WAC 388-877-0600 Clinical—Individual rights. (1) Each agency licensed by the department to provide any behavioral health service must develop a statement of individual participant rights applicable to the service categories the agency is licensed for, to ensure an individual's rights are protected in compliance with chapters 70.96A, 71.05, 71.12, and 71.34 RCW. In addition, the agency must develop a general statement of individual participant rights that incorporates at a minimum the following statements. "You have the right to:

(a) Receive services without regard to race, creed, national origin, religion, gender, sexual orientation, age or disability;

(b) Practice the religion of choice as long as the practice does not infringe on the rights and treatment of others or the treatment service. Individual participants have the right to refuse participation in any religious practice;

(c) Be reasonably accommodated in case of sensory or physical disability, limited ability to communicate, limited English proficiency, and cultural differences;

(d) Be treated with respect, dignity and privacy, except that staff may conduct reasonable searches to detect and prevent possession or use of contraband on the premises;

(e) Be free of any sexual harassment;

(f) Be free of exploitation, including physical and financial exploitation;

(g) Have all clinical and personal information treated in accord with state and federal confidentiality regulations;

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

(i) Receive a copy of agency (~~(complaint and)~~) grievance system procedures upon request and to (~~(file a grievance or)~~) file a grievance with the agency, or (~~(regional support network (RSN))~~) behavioral health organization (BHO), if applicable, if you believe your rights have been violated; and

(j) (~~(File)~~) Lodge a complaint with the department when you feel the agency has violated a WAC requirement regulating behavior health agencies.

(2) Each agency must ensure the applicable individual participant rights described in subsection (1) of this section are:

(a) Provided in writing to each individual on or before admission;

(b) Available in alternative formats for individuals who are blind;

(c) Translated to the most commonly used languages in the agency's service area;

(d) Posted in public areas; and

(e) Available to any participant upon request.

(3) Each agency must ensure all research concerning an individual whose cost of care is publicly funded is done in accordance with chapter 388-04 WAC, protection of human research subjects, and other applicable state and federal rules and laws.

(4) In addition to the requirements in this section, each agency (~~(enrolled as a medicare and/or medicaid provider)~~) providing services to medicaid recipients must ensure an individual seeking or participating in behavioral health treatment services, or the person legally responsible for the individual is informed of their medicaid rights at time of admission and in a manner that is understandable to the individual or legally responsible person.

(5) The grievance system rules in WAC 388-877-0654 through WAC 388-877-0675 apply to an individual who receives behavioral health services funded through a federal medicaid program or sources other than a federal medicaid program.

AMENDATORY SECTION (Amending WSR 15-14-058, filed 6/25/15, effective 7/26/15)

WAC 388-877-0605 DBHR complaint process. Any individual or the individual's representative may use the division of behavioral health and recovery's (DBHR's) complaint process to express concern or dissatisfaction with some aspect of a behavioral health service. See WAC 388-877-0200 for terms and definitions used in this section that apply to the complaint process.

(1) The DBHR complaint manager can be contacted at 360-725-3752 or DBHRcomplaintmgr@dshs.wa.gov.

(2) Examples of complaints include, but are not limited to:

(a) An issue with a behavioral health service or case management;

(b) A possible violation of a DSHS rule; and

(c) ~~(A belief that)~~ The individual believes their rights have been or are being violated.

(3) DBHR requires the following information for each complaint:

(a) The name of the agency or agency provider involved;

(b) The name of the person making the complaint and the person's contact information;

(c) The name of the individual receiving the service and the individual's contact information;

(d) A description of the complaint issue and the date or timeframe it occurred; and

(e) The final finding and/or resolution and the date of the decision if the individual previously discussed the concern with the ~~((RSN))~~ behavioral health organization (BHO), the agency, or agency provider.

(4) If DBHR conducts a complaint investigation in order to resolve a complaint, agency representatives must cooperate to allow DBHR representatives to:

(a) Examine any part of the facility at reasonable times and as needed.

(b) Review and evaluate agency records, including but not limited to:

(i) An individual's clinical record and/or personnel file; and

(ii) The agency's policies, procedures, fiscal records, and any other documents required by DBHR to determine compliance and to resolve the complaint.

(c) Conduct individual interviews with staff members and/or individuals receiving services.

(5) The agency must immediately correct compliance deficiencies found as a result of an investigation, or as agreed to by a plan of correction approved by DBHR.

(6) An agency or agency provider must not retaliate against any:

(a) Individual for making a complaint with DBHR or being interviewed by DBHR about a complaint. Examples of retaliation include, but are not limited to:

(i) Restricting access to a treatment program;

(ii) Restricting access to the individual involved with the complaint issue;

(iii) Increasing or threatening to increase charges for services;

(iv) Decreasing or threatening to decrease services, rights, or privileges;

(v) Taking any action that coerces or compels the individual to leave the facility or to stop receiving services; and

(vi) Abusing or harassing, or threatening to abuse or harass the individual.

(b) Person representing the individual.

(c) A witness involved in the complaint issue.

(d) An employee of the agency.

(7) Under WAC 388-877-0365, DBHR may assess an agency a one thousand dollar fee for the cost of a complaint investigation. Reasons for assessing the fee include, but are not limited to:

(a) Any allegation within the complaint being substantiated; or

(b) DBHR's finding that the individual, an individual's representative, a witness, and/or employee of the agency experienced an act of retaliation by the agency as described in subsection (6) of this section during or after a complaint investigation.

(8) DBHR reviews all complaints and behavioral health agency actions to assure compliance with this section.

(9) At any time during the complaint process, an individual applying for, eligible for, or receiving mental health services, or the individual's representative, may access any of the following through the ~~((regional support network's (RSN's)))~~ behavioral health organization's (BHO) grievance system, subject to the applicable rules:

(a) The grievance process, subject to the rules in WAC ~~((388-877A-0420))~~ 388-877-0660.

(b) The appeal process, subject to the rules in WAC ~~((388-877A-0440))~~ 388-877-0670.

(c) An administrative hearing, subject to the rules in WAC ~~((388-877A-0460))~~ 388-877-0675.

(d) Ombuds services, as described in WAC ~~((388-877A-0400(3)))~~ 388-877-0655(3) and ~~((388-865-0250))~~ 388-865-0262.

AMENDATORY SECTION (Amending WSR 13-12-054, filed 5/31/13, effective 7/1/13)

WAC 388-877-0610 Clinical—Initial assessment.

Each agency licensed by the department to provide any behavioral health service is responsible for an individual's initial assessment.

(1) The initial assessment must be:

(a) Conducted in person; and

(b) Completed by a professional appropriately credentialed or qualified to provide ~~((chemical dependency))~~ substance use disorder, mental health, and/or problem and pathological gambling services as determined by state law.

(2) The initial assessment must include and document the individual's:

(a) Identifying information;

(b) Presenting issues;

(c) Medical provider's name or medical providers' names;

(d) Medical concerns;

(e) Medications currently taken;

(f) Brief mental health history;

(g) Brief substance use history, including tobacco;

(h) Brief problem and pathological gambling history;

(i) The identification of any risk of harm to self and others, including suicide and/or homicide;

(j) A referral for provision of emergency/crisis services must be made if indicated in the risk assessment;

(k) Information that a person is or is not court-ordered to treatment or under the supervision of the department of corrections; and

(l) Treatment recommendations or recommendations for additional program-specific assessment.

AMENDATORY SECTION (Amending WSR 14-18-014, filed 8/22/14, effective 9/22/14)

WAC 388-877-0620 Clinical—Individual service plan. Each agency licensed by the department to provide any behavioral health service is responsible for an individual's service plan as follows:

- (1) The individual service plan must:
 - (a) Be completed or approved by a professional appropriately credentialed or qualified to provide mental health, ~~((chemical dependency))~~ substance use disorder, and/or problem and pathological gambling services.
 - (b) Address age, gender, cultural, strengths and/or disability issues identified by the individual or, if applicable, the individual's parent(s) or legal representative.
 - (c) Be in a terminology that is understandable to the individual and the individual's family.
 - (d) Document that the plan was mutually agreed upon and a copy was provided to the individual.
 - (e) Demonstrate the individual's participation in the development of the plan.
 - (f) Document participation of family or significant others, if participation is requested by the individual and is clinically appropriate.
 - (g) Be strength-based.
 - (h) Contain measurable goals or objectives, or both.
 - (i) Be updated to address applicable changes in identified needs and achievement of goals and objectives.
- (2) If the individual service plan includes assignment of work to an individual, the assignment must have therapeutic value and meet all the requirements in (1) of this section.
- (3) When required by law, the agency must notify the required authority of a violation of a court order or nonparticipation in treatment, or both.

AMENDATORY SECTION (Amending WSR 14-18-014, filed 8/22/14, effective 9/22/14)

WAC 388-877-0640 Clinical—Record content. Each agency licensed by the department to provide any behavioral health service is responsible for an individual's clinical record content. The clinical record must include:

- (1) Documentation the individual received a copy of counselor disclosure requirements as required for the counselor's credential.
- (2) Demographic information.
- (3) An initial assessment.
- (4) Documentation of the individual's response when asked if:
 - (a) The individual is under department of corrections (DOC) supervision.
 - (b) The individual is under civil or criminal court ordered mental health or ~~((chemical dependency))~~ substance use disorder treatment.
 - (c) There is a court order exempting the individual participant from reporting requirements. A copy of the court order must be included in the record if the participant claims exemption from reporting requirements.
 - (5) Documentation that the agency met all the following requirements when an individual informs the agency that the

individual is under supervision by DOC due to a less restrictive alternative or DOC order for treatment:

- (a) The agency notified DOC orally or in writing. The agency must confirm an oral notification with a written notice by electronic mail or fax.
- (b) The agency obtained a copy of the court order from the individual and placed it in the record when the individual has been given relief from disclosure by the committing court.
- (c) When appropriate, the agency requested an evaluation by a designated mental health professional when the provider becomes aware of a violation of the court-ordered treatment and the violation concerns public safety.
- (6) The initial and any subsequent individual service plan that include:
 - (a) All revisions to the plan, consistent with the service(s) the individual receives; and
 - (b) Documentation of objective progress towards established goals as outlined in the plan.
 - (7) Documentation the individual was informed of applicable federal and state confidentiality requirements.
 - (8) Documentation of confidential information that has been released without the consent of the individual under:
 - (a) RCW 70.02.050;
 - (b) The Health Insurance Portability and Accountability Act (HIPAA); and
 - (c) RCW 70.02.230 and 70.02.240 if the individual received mental health treatment services.
 - (9) Documentation that any mandatory reporting of abuse, neglect, or exploitation consistent with chapters 26.44 and 74.34 RCW has occurred.
 - (10) If treatment is not court-ordered, documentation of informed consent to treatment by the individual or individual's parent, or other legal representative.
 - (11) If treatment is court-ordered, a copy of the order.
 - (12) Documentation of coordination of care, as needed.
 - (13) Documentation of all service encounters.
 - (14) Medication records, if applicable.
 - (15) Laboratory reports, if applicable.
 - (16) Properly completed authorizations for release of information, if applicable.
 - (17) Copies of applicable correspondence.
 - (18) Discharge information.
 - (19) A copy of any report required by entities such as the courts, department of corrections, department of licensing, and the department of social and health services, and the date the report was submitted.

NEW SECTION

WAC 388-877-0654 How individuals can express concern about their rights, services, or treatment. (1) An individual applying for, eligible for, or receiving mental health services or substance use disorder services, or both, authorized by a behavioral health organization (BHO), the individual's representative, or the individual's legal guardian, may access the BHO's grievance system to express concern about their rights, services, or treatment. The grievance system includes:

- (a) A grievance process;

- (b) An appeal process; and
- (c) Access to administrative hearings.
- (2) Before requesting an administrative hearing, the individual must exhaust:
 - (a) The grievance process, subject to WAC 388-877-0660; or
 - (b) The appeal process, subject to WAC 388-877-0670.
- (3) Individuals may also use the free and confidential ombuds services through the BHO that contracts with the behavioral health agency in which they receive behavioral health services. Ombuds services are provided independent of BHOs and agency services providers and are offered to individuals at any time to help them with resolving issues or problems at the lowest possible level during the grievance, appeal, or administrative hearing process.
- (4) See WAC 388-865-0262 for more information on ombuds services through the behavioral health ombuds office.

NEW SECTION

WAC 388-877-0655 Grievance system—Definitions.

The terms and definitions in this section and WAC 388-877-0200 apply to the grievance system rules.

- (1) "Action" means, in the case of a behavioral health organization (BHO):
 - (a) The denial or limited authorization of a requested service, including the type or level of service;
 - (b) The reduction, suspension, or termination of a previously authorized service;
 - (c) The denial in whole or in part, of payment for a service;
 - (d) The failure to provide services in a timely manner, as defined by the state; or
 - (e) The failure of a BHO or its contracted behavioral health agency to act within the grievance system timeframes as provided in WAC 388-877-0660 through 388-877-0675.
- (2) "Administrative hearing" means a proceeding before an administrative law judge that gives an individual an opportunity to be heard in disputes about DSHS programs and services.
- (3) "Appeal" means an oral or written request by an individual, or with the individual's written permission, the individual's representative, for the behavioral health organization (BHO) to review an "action," as defined in this section. See also "expedited appeal."
- (4) "Appeal process" is one of the processes included in the grievance system that allows an individual to appeal an action made by the behavioral health organization (BHO) and communicated on a "notice of action."
- (5) "Expedited appeal process" allows an individual, in certain circumstances, to file an appeal that will be reviewed by the behavioral health organization (BHO) more quickly than a standard appeal.
- (6) "Grievance" means an expression of dissatisfaction about any matter other than an "action."
- (7) "Grievance process" is one of the processes included in the grievance system that allows an individual to express concern or dissatisfaction about a behavioral health service.

(8) "Grievance system" means the processes through a behavioral health organization (BHO) in which an individual applying for, eligible for, or receiving behavioral health services may express dissatisfaction about services. The grievance system must be established by the BHO, must meet the requirements of 42 C.F.R. Sec. 438, Subpart F, and include:

- (a) A grievance process;
 - (b) An appeal process; and
 - (c) Access to the department's administrative hearing process.
- (9) "Individual" means a person who applies for, is eligible for, or receives behavioral health organization (BHO)-authorized behavioral health services from an agency licensed by the department as a behavioral health agency. For the purposes of accessing the grievance system, the definition of individual also includes the following if another person is acting on the individual's behalf:
- (a) In the case of a minor, the individual's parent or, if applicable, the individual's custodial parent;
 - (b) The individual's legal guardian; or
 - (c) The individual's representative if the individual gives written permission.
- (10) "Notice of action" is a written notice a behavioral health organization (BHO) provides to an individual to communicate an "action."
- (11) "Regional support network" or "RSN" no longer exists as of March 31, 2016. See WAC 388-865-0238, "Behavioral health organization."

NEW SECTION

WAC 388-877-0660 Grievance process. (1) The grievance process is used by an individual or the individual's representative to express dissatisfaction in person, orally, or in writing about any matter other than an "action," as defined in WAC 388-877-0655, to:

- (a) The behavioral health agency providing the behavioral health services; or
 - (b) The behavioral health organization (BHO), if the agency is contracted with the BHO.
- (2) If an individual receives behavioral health services through a behavioral health agency that is not contracted with a BHO, the agency, through its internal process, is responsible to handle the individual's grievances or expressions of dissatisfaction.
- (3) The ombuds serving the behavioral health agency or BHO may assist the individual in resolving the grievance at the lowest possible level.
- (4) Grievances are subject to the rules in this section, WAC 388-877-0650, 388-877-0655, and 388-877-0665 through 388-877-0680. An individual may choose to file a grievance with the behavioral health agency that provides the behavioral health services or with the BHO, subject to the following:
- (a) **Filing a grievance with a behavioral health agency.** If the individual first files a grievance with the behavioral health agency and the individual is not satisfied with the agency's written decision on the grievance, or if the individual does not receive a copy of that decision from the agency within the time required under subsection (6) of this

section, the individual may then choose to file the grievance with the BHO. If the individual is not satisfied with the BHO's written decision on the grievance, or if the individual does not receive a copy of the decision from the BHO within the time required under subsection (6) of this section, the individual can request an administrative hearing to have the grievance reviewed and the BHO's decision or failure to make a timely decision about it.

(b) **Filing a grievance with a BHO.** If the individual first files a grievance with the BHO (and not the agency), and the individual either is not satisfied with the BHO's written decision on the grievance, or does not receive a copy of the decision within the time required under subsection (6) of this section, the individual can request an administrative hearing to have the grievance reviewed and the BHO's decision or failure to make a timely decision about it. Once an individual gets a decision on a grievance from a BHO, the individual cannot file the same grievance with the behavioral health agency, even if that agency or its staff member(s) is the subject of the grievance.

(5) An individual may also request an administrative hearing if a written notice regarding the grievance was not received within the timeframes established in subsection (6) of this section.

(6) When an individual files a grievance, the behavioral health agency or BHO receiving the grievance must:

- (a) Acknowledge the receipt of the grievance in writing within five business days;
- (b) Investigate the grievance;
- (c) Apply the rules in subsection (7) of this section; and
- (d) Send the individual who filed the grievance a written notice describing the decision within ninety calendar days from the date the grievance was filed.

(7) The behavioral health agency or BHO receiving the grievance must ensure all of the following:

- (a) Other people, if the individual chooses, are allowed to participate in the grievance process.
- (b) The individual's right to have currently authorized behavioral health services continued pending resolution of the grievance and, if applicable, through subsequent steps of the grievance system.
- (c) That a grievance is resolved even if the individual is no longer receiving behavioral health services.
- (d) That the persons who make decisions on a grievance:
 - (i) Were not involved in any previous level of review or decision making; and
 - (ii) Are mental health or chemical dependency professionals who have appropriate clinical expertise if the grievance involves clinical issues.

(e) That the individual and, if applicable, the individual's representative, receive a written notice containing the decision within ninety days from the date a grievance is received by the agency or BHO. This timeframe can be extended up to an additional fourteen days:

- (i) If requested by the individual or the individual's representative; or
- (ii) By the agency or BHO when additional information is needed and the BHO can demonstrate that it needs additional information and that the added time is in the individual's interest.

- (f) That the written notice includes:
 - (i) The decision on the grievance;
 - (ii) The reason for the decision; and
 - (iii) The right to request an administrative hearing and the required timeframe to request the hearing.
- (g) That full records of all grievances and materials received or compiled in the course of processing and attempting to resolve the grievance are maintained and:
 - (i) Kept for six years after the completion of the grievance process;
 - (ii) Made available to the department upon request as part of the state quality strategy;
 - (iii) Kept in confidential files separate from the individual's clinical record; and
 - (iv) Not disclosed without the individual's written permission, except to the department or as necessary to resolve the grievance.

NEW SECTION

WAC 388-877-0665 Notice of action. (1) The behavioral health organization's (BHO's) notice of action provided to an individual must be in writing, be in the individual's primary language, be easily understood and, at a minimum, explain:

- (a) The action the BHO or its contractor (behavioral health agency) has taken or intends to take;
- (b) The reason for the action and a citation of the rule(s) being implemented;
- (c) The individual's right to file an appeal with the BHO and the required timeframes if the individual does not agree with the decision or action;
- (d) The circumstances under which an expedited resolution is available and how to request it; and
- (e) The individual's right to receive behavioral health services while an appeal is pending, how to make the request, and that the individual may be held liable for the cost of services received while the appeal is pending if the appeal decision upholds the decision or action.

(2) When the BHO or its contracted behavioral health agency does not reach service authorization decisions within the required timeframes, or fails to provide services in a timely manner or to act within the grievance system timeframes, as defined in rule, it is considered a denial. In these cases, the BHO sends a formal notice of action, which includes the individual's right to request an administrative hearing.

NEW SECTION

WAC 388-877-0670 Appeal process. (1) The appeal process is used by an individual to ask the behavioral health organization (BHO) to review an action that the BHO has communicated on a written notice of action (see WAC 388-877-0665). An individual's representative may appeal an action with the individual's written consent. If a written notice of action was not received, an appeal may still be filed.

(2) The individual requesting review of an action must file an appeal and receive a notice of the resolution from the BHO before requesting an administrative hearing.

(3) The appeal process can be:

(a) Standard as described in subsection (6) of this section; or

(b) Expedited if the criteria in subsection (7) of this section are met.

(4) The appeal process must:

(a) Provide an individual a reasonable opportunity to present evidence and allegations of fact or law in person as well as in writing. The BHO must inform the individual of the limited time available.

(b) Provide the individual opportunity, before and during the appeal process, to examine the individual's clinical record, including medical records and any other documents and records considered during the appeal process.

(c) Include the following, as applicable, as parties to the appeal:

(i) The individual, the individual's representative, or both; or

(ii) The legal representative of a deceased individual's estate.

(5) The BHO must ensure that the persons who make decisions on an appeal:

(a) Were not involved in any previous level of review or decision making; and

(b) Are mental health or chemical dependency professionals who have appropriate clinical expertise in the type of behavioral health service involved in the appeal.

(6) **Standard appeal process.** The standard appeal process includes the following:

(a) **Standard appeals for actions communicated on a notice of action-continued services not requested.** An individual who disagrees with a decision or action communicated on a notice of action may file an appeal orally or in writing. An oral filing of an appeal must be followed with a written and signed appeal. All of the following apply:

(i) The individual must file the appeal within ninety calendar days from the date on the notice of action.

(ii) The BHO must confirm receipt of the appeal in writing within five business days.

(iii) The BHO must send the individual a written notice of the resolution within forty-five calendar days of receiving the appeal. This timeframe may be extended up to fourteen additional days if the individual requests an extension or the BHO can demonstrate that it needs additional information and that the added time is in the individual's interest. The written notice of the resolution must include:

(A) The BHO's decision;

(B) The reason for the decision; and

(C) The right to request an administrative hearing if the individual disagrees with the decision. The hearing must be requested within ninety calendar days from the date on the notice of the resolution.

(b) **Standard appeals for termination, suspension, or reduction of previously authorized services—continued services requested.** An individual receiving a notice of action from the BHO that terminates, suspends, or reduces previously authorized services may file an appeal orally or in writing and request continuation of those services pending the BHO's decision on the appeal. An oral filing of an appeal and request for continuation of services must be followed

with a written and signed appeal and include a written request for continuation of services pending the BHO's decision on the appeal. All of the following apply:

(i) The individual must:

(A) File the appeal with the BHO on or before the later of the following:

(I) Within ten calendar days of the date on the notice of action; or

(II) The intended effective date of the BHO's proposed action.

(B) Request continuation of services.

(ii) The BHO must:

(A) Confirm receipt of the appeal and the request for continued services with the individual orally or in writing within five business days;

(B) Send a notice in writing that follows up on any oral confirmation made; and

(C) Include in the notice that if the appeal decision is not in favor of the individual, the BHO may recover the cost of the behavioral health services provided pending the BHO decision.

(iii) The BHO's written notice of the resolution must contain:

(A) The BHO's decision on the appeal;

(B) The reason for the decision; and

(C) The right to request an administrative hearing if the individual disagrees with the decision and include the following timeframes:

(I) Within ten calendar days from the date on the notice of the resolution if the individual is asking that services be continued pending the outcome of the hearing.

(II) Within ninety calendar days from the date on the notice of the resolution if the individual is not asking for continued services.

(7) **Expedited appeal process.** If an individual or the individual's behavioral health provider feels that the time taken for a standard resolution of an appeal could seriously jeopardize the individual's life or health and ability to attain, maintain, or regain maximum function, an expedited appeal and resolution of the appeal can be requested. If the BHO denies the request for the expedited appeal and resolution of an appeal, it must transfer the appeal to the timeframe for standard resolutions under subsection (6) of this section, and make reasonable efforts to give the individual prompt oral notice of the denial and follow up within two calendar days with a written notice.

(a) Both of the following apply to expedited appeal requests:

(i) The action taken on the notice of action is for denial of a requested service, termination, suspension, or reduction of previously authorized behavioral health services; and

(ii) The appeal must be filed with the BHO, either orally or in writing, within:

(A) Ten calendar days of the BHO's mailing the written notice of action that communicated the action, or the intended effective date of the BHO's proposed action, if the individual is requesting continued benefits; or

(B) Twenty calendar days from the date on the BHO's written notice of action that communicated the action if the individual is not requesting continued benefits.

(b) The BHO must:

(i) Confirm receipt of the request for an expedited appeal in person or by telephone.

(ii) Send the individual a written notice of the resolution within three business days of receiving the request for an expedited appeal.

(c) The BHO may extend the timeframes up to fourteen additional days if the individual requests an extension or the BHO can demonstrate it needs additional information and that the added time is in the individual's interest.

(8) Duration of continued services during the appeal process. When an individual has requested continued behavioral health services pending the outcome of the appeal process and the criteria in this section have been met, the BHO ensures the services are continued until one of the following occurs:

(a) The individual withdraws the appeal.

(b) The BHO provides a written notice of the resolution that contains a decision that is not in favor of the individual and the individual does not request an administrative hearing within ten days from the date the BHO mails the notice. (See WAC 388-877-0675, Administrative Hearings, for rules on duration of continued services during the administrative hearing process.)

(c) The time period of a previously authorized service has expired.

(d) A behavioral health treatment service limit of a previously authorized service has been fulfilled.

(9) Recovery of the cost of behavioral health services in adverse decisions of appeals. If the final written notice of the resolution of the appeal is not in favor of the individual, the BHO may recover the cost of the behavioral health services furnished to the individual while the appeal was pending to the extent that they were provided solely because of the requirements of this section.

(10) The BHO must maintain full records of all appeals and ensure an individual's records are:

(a) Kept for six years after the completion of the appeal process;

(b) Made available to the department upon request as part of the state quality strategy;

(c) Kept in confidential files separate from the individual's clinical record; and

(d) Not disclosed without the individual's written permission, except to the department or as necessary to resolve the appeal.

NEW SECTION

WAC 388-877-0675 Administrative hearings. (1) An administrative hearing (also known as "fair hearing") is a proceeding before an administrative law judge (ALJ) that gives an individual, as defined in WAC 388-877-0200, an opportunity to be heard in disputes about a behavioral health program or service.

(2) An individual must first exhaust the grievance process described in WAC 388-877-0660, or the appeal process described in WAC 388-877-0670 before requesting an administrative hearing.

(3) An individual requesting an administrative hearing must do so within one of the following timeframes:

(a) If continued services are not requested, a hearing must be requested within ninety calendar days from:

(i) The date on the written notice from the agency or behavioral health organization (BHO) at the end of the grievance process; or

(ii) The date on the written notice of the resolution received from the BHO at the end of the appeal process.

(b) If continued services are requested pending the outcome of the administrative hearing, all of the following apply:

(i) The decision on a notice of action must be for termination, suspension, or reduction of the individual's behavioral health services and the individual appealed this decision;

(ii) The individual received a written notification of the resolution of the appeal from the BHO that upholds the decision on the notice of action; and

(iii) The individual requests an administrative hearing and continued behavioral health services within ten calendar days of the date on the written notification of the resolution.

(4) If an individual requests an expedited administrative hearing, the expedited hearing must be requested within ten calendar days from the date on the notice of the resolution. Subsection (3)(b) of this section applies if continued behavioral health services are requested.

(5) If a written notice was not received under subsection (3) or (4) of this section, the individual may still request an administrative hearing.

(6) When the criteria in this section are met for continued services, the BHO continues the individual's behavioral health treatment services during the administrative hearing process until one of the following occurs:

(a) The individual withdraws the hearing request.

(b) The administrative law judge issues a hearing decision adverse to the individual.

(c) The period covered by the original authorization of mental health services has expired.

(7) If the administrative hearing decision is not in favor of the individual, the BHO may recover the cost of the behavioral health services furnished to the individual while the hearing was pending to the extent that they were provided solely because of the requirements of this section.

(8) For purposes of this chapter, hearings include administrative hearings, adjudicative proceedings, and any other similar term referenced under chapter 34.05 RCW, the Administrative Procedure Act, Title 388 WAC, chapter 10-08 WAC, or other law. Chapter 34.05 RCW and chapter 388-02 WAC govern cases where an individual has an issue involving a service that is not funded by medicaid. Chapter 34.05 RCW and chapter 182-526 WAC govern cases where an individual has an issue involving a service that is funded by medicaid.

NEW SECTION

WAC 388-877-0680 Individual rights specific to medicaid recipients. (1) Medicaid recipients have general individual rights and medicaid-specific rights when applying

for, eligible for, or receiving behavioral health services authorized by a behavioral health organization (BHO).

(a) General rights that apply to all individuals, regardless of whether an individual is or is not a medicaid recipient, include:

- (i) All applicable statutory and constitutional rights;
- (ii) The participant rights provided under WAC 388-877-0600; and
- (iii) Applicable necessary supplemental accommodation services in chapter 388-472 WAC.

(b) Medicaid-specific rights that apply specifically to medicaid recipients include the following. You have the right to:

(i) Receive medically necessary behavioral health services, consistent with access to care standards adopted by the department in its managed care waiver with the federal government. Access to care standards provide minimum standards and eligibility criteria for behavioral health services and are available on the behavioral health administration's (BHA) division of behavioral health and recovery (DBHR) website.

(ii) Receive the name, address, telephone number, and any languages offered other than English, of behavioral health providers in your BHO.

(iii) Receive information about the structure and operation of the BHO.

(iv) Receive emergency or urgent care or crisis services.

(v) Receive post-stabilization services after you receive emergency or urgent care or crisis services that result in admission to a hospital.

(vi) Receive age and culturally appropriate services.

(vii) Be provided a certified interpreter and translated material at no cost to you.

(viii) Receive information you request and help in the language or format of your choice.

(ix) Have available treatment options and alternatives explained to you.

(x) Refuse any proposed treatment.

(xi) Receive care that does not discriminate against you.

(xii) Be free of any sexual exploitation or harassment.

(xiii) Receive an explanation of all medications prescribed and possible side effects.

(xiv) Make a mental health advance directive that states your choices and preferences for mental health care.

(xv) Receive information about medical advance directives.

(xvi) Choose a behavioral health care provider for yourself and your child, if your child is under thirteen years of age.

(xvii) Change behavioral health care providers at any time for any reason.

(xviii) Request and receive a copy of your medical or behavioral health services records, and be told the cost for copying.

(xix) Be free from retaliation.

(xx) Request and receive policies and procedures of the BHO and behavioral health agency as they relate to your rights.

(xxi) Receive the amount and duration of services you need.

(xxii) Receive services in a barrier-free (accessible) location.

(xxiii) Medically necessary services in accordance with the early periodic screen, diagnosis and treatment (EPSDT) under WAC 182-534-0100, if you are twenty years of age or younger.

(xxiv) Receive enrollment notices, informational materials, materials related to grievances, appeals, and administrative hearings, and instructional materials relating to services provided by the BHO, in an easily understood format and non-English language that you prefer.

(xxv) Be treated with dignity, privacy and respect, and to receive treatment options and alternatives in a manner that is appropriate to your condition.

(xxvi) Participate in treatment decisions, including the right to refuse treatment.

(xxvii) Be free from seclusion or restraint used as a means of coercion, discipline, convenience or retaliation.

(xxviii) A second opinion from a qualified professional within your BHO area at no cost, or to have one arranged outside the network at no cost to you, as provided in 42 C.F.R. § 438.206(3).

(xxix) Receive medically necessary behavioral health services outside of the BHO if those services cannot be provided adequately and timely within the BHO.

(xxx) File a grievance with the BHO if you are not satisfied with a service.

(xxxi) Receive a notice of action so that you may appeal any decision by the BHO that denies or limits authorization of a requested service, that reduces, suspends, or terminates a previously authorized service, or that denies payment for a service, in whole or in part.

(xxxii) File an appeal if the BHO fails to provide services in a timely manner as defined by the state, or act within the timeframes provided in 42 CFR § 438.408(b).

(xxxiii) Request an administrative (fair) hearing if your grievance or appeal is not resolved in your favor.

(xxxiv) Services by the behavioral health ombuds office to help you in filing a grievance or appeal, or to request an administrative hearing.

(2) A behavioral health agency licensed by the division of behavioral health and recovery (DBHR) and certified by DBHR to provide mental health and/or substance use disorder services must ensure the medicaid rights described in subsection (1)(b) of this section are:

(a) Provided in writing to each medicaid recipient, and if appropriate, the recipient's legal representative, on or before admission;

(b) Upon request, given to the medicaid recipient in an alternative format or language appropriate to the recipient and, if appropriate, the recipient's legal representative;

(c) Translated to the most commonly used languages in the agency's service area; and

(d) Posted in public areas.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877A-0200 Crisis mental health services—General. The rules in WAC 388-877A-0200 through 377A-

0280 apply to behavioral health agencies that provide crisis mental health services. The definitions in WAC 388-877-0200 also apply to crisis mental health services. The department requires all agencies and providers affected by this rule to fully comply with the applicable requirements in chapter 388-877 WAC, chapter 388-877A WAC, chapter 388-877B WAC, and chapter 388-877C WAC no later than September 1, 2013.

(1) Crisis mental health services are intended to stabilize an individual in crisis to:

- (a) Prevent further deterioration;
- (b) Provide immediate treatment and intervention in a location best suited to meet the needs of the individual; and
- (c) Provide treatment services in the least restrictive environment available.

(2) Crisis mental health services include:

- (a) Crisis telephone support (see WAC 388-877A-0230);
- (b) Crisis outreach services (see WAC 388-877A-0240);
- (c) Crisis stabilization services (see WAC 388-877A-0260);
- (d) Crisis peer support services (see WAC 388-877A-0270); and
- (e) Emergency involuntary detention services (see WAC 388-877A-0280).

(3) An agency providing any crisis mental health service to an individual must:

- (a) Be licensed by the department as a behavioral health agency;
- (b) Be certified by the department to provide crisis mental health services;
- (c) Meet the applicable behavioral health agency licensure, administration, personnel, and clinical requirements in chapter 388-877 WAC, Behavioral health services administrative requirements; and
- (d) Have policies and procedures to support and implement the:
 - (i) General requirements in chapter 388-877 WAC;
 - (ii) Program-specific requirements in WAC 388-877A-0230 through WAC 388-877A-0280 for each crisis mental health service provided; and
 - (iii) Department of Corrections Access to Confidential Mental Health Information requirements in WAC 388-865-600 through 388-865-0640.

(4) An agency providing crisis mental health services only is not required to meet the initial assessment, individual service plan, and clinical record requirements in WAC 388-877-0610, 388-877-0620, and 388-877-0640.

(5) An agency must ensure crisis mental health services:

- (a) Are, with the exception of stabilization services, available twenty-four hours a day, seven days a week;
- (b) Include family members, significant others, and other relevant treatment providers, as necessary, to provide support to the individual in crisis; and
- (c) Are provided in a setting that provides for the safety of the individual and agency staff members.

(6) An agency providing involuntary crisis mental health services must hold a contract with the county in which it is located, or the appropriate ~~((regional support network (RSN)))~~ behavioral health organization (BHO).

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877A-0270 Crisis mental health services—Peer support services. Crisis peer support services assist an individual in exercising control over their own life and recovery process through the practice of peer counselors sharing their own life experiences related to mental illness to build alliances that enhance the individual's ability to function.

(1) Peer support services are intended to augment and not supplant other necessary mental health services.

(2) An agency providing crisis peer support services must:

(a) Ensure services are provided by a ~~((peer counselor, properly credentialed under WAC 388-865-0107))~~ person recognized by the division of behavioral health and recovery (DBHR) as a peer counselor, as defined in WAC 388-877-0200, under the supervision of a mental health professional.

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

(c) Ensure that a peer counselor responding to a crisis is accompanied by a mental health professional.

(d) Ensure that any staff member who engages in home visits is provided by their employer with a wireless telephone, or comparable device, for the purpose of emergency communication.

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

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877A-0340 Recovery support services requiring program-specific certification—Peer support services. Peer support services are a recovery support service that requires program-specific certification by the department's division of behavioral health and recovery.

(1) Peer support services provide a wide range of activities to assist an individual in exercising control over their own life and recovery process through:

- (a) Developing self-advocacy and natural supports;
- (b) Maintenance of community living skills;
- (c) Promoting socialization; and
- (d) The practice of peer counselors sharing their own life experiences related to mental illness to build alliances that enhance the individual's ability to function.

(2) An agency providing peer support services must ensure peer support counselors~~((s))~~:

(a) ~~((Meet the requirements of WAC 388-865-0107))~~ Are recognized by the division of behavioral health and recovery (DBHR) as a "peer counselor" as defined in WAC 388-877-0200.

(b) Provide peer support services:

- (i) Under the supervision of a mental health professional; and
- (ii) Within the scope of the peer counselor's training and department of health credential.

(c) Receive annual training relevant to their unique working environment.

(3) An agency providing peer support services must document the frequency, duration, and expected outcome of all peer support services in the individual service plan.

((CHEMICAL DEPENDENCY)) SUBSTANCE USE DISORDER SERVICES

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0100 ((Chemical dependency)) Substance use disorder detoxification services—General. The rules in WAC 388-877B-0100 through 388-877B-0130 apply to behavioral health agencies that provide detoxification services. The definitions in WAC 388-877-0200 also apply to ((chemical dependency)) substance use disorder detoxification services. The department requires all agencies and providers affected by this rule to fully comply with the applicable requirements in chapter 388-877 WAC, chapter 388-877A WAC, chapter 388-877B WAC, and chapter 388-877C WAC no later than September 1, 2013.

(1) ((Chemical dependency)) Substance use disorder detoxification services are provided to an individual to assist in the process of withdrawal from psychoactive substances in a safe and effective manner, in accordance with patient placement criteria (PPC).

(2) A behavioral health agency certified for detoxification services may choose to provide optional ((chemical dependency)) substance use disorder youth detoxification services (see WAC 388-877B-0130). Optional youth detoxification services require additional program-specific certification by the department's division of behavioral health and recovery (DBHR).

(3) An agency providing detoxification services to an individual must:

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

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

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

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

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

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

(c) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in chapter 388-877 WAC, Behavioral health services administrative requirements; and

(d) Have policies and procedures to support and implement the:

(i) General requirements in chapter 388-877 WAC; and

(ii) Specific applicable requirements in WAC 388-877B-0100 through 388-877B-0130.

(4) An agency must:

(a) Use PPC for admission, continued services, and discharge planning and decisions.

(b) Provide counseling to each individual that addresses the individual's:

(i) ((Chemical dependency)) Substance use disorder and motivation;

(ii) Continuing care needs and need for referral to other services.

(c) Maintain a list of resources and referral options that can be used by staff members to refer an individual to appropriate services.

(d) Post any rules and responsibilities for individuals receiving treatment, including information on potential use of increased motivation interventions or sanctions, in a public place in the facility.

(e) Provide tuberculosis screenings to individuals for the prevention and control of tuberculosis.

(f) Provide HIV/AIDS information and include a brief risk intervention and referral as indicated.

AMENDATORY SECTION (Amending WSR 14-18-014, filed 8/22/14, effective 9/22/14)

WAC 388-877B-0110 ((Chemical dependency)) Substance use disorder detoxification services—Agency staff requirements. In addition to meeting the agency administrative and personnel requirements in WAC 388-877-0400 through 388-877-0530, an agency providing ((chemical dependency)) substance use disorder detoxification services must ensure:

(1) All ((chemical dependency)) substance use disorder assessment and counseling services are provided by a chemical dependency professional (CDP), or a CDP trainee (CDPT) under the supervision of an approved supervisor.

(2) There is a designated clinical supervisor who:

(a) Is a CDP;

(b) Has documented competency in clinical supervision;

(c) Is responsible for monitoring the continued competency of each CDP in assessment, treatment, continuing care, transfer, and discharge. The monitoring must include a semi-annual review of a sample of the clinical records kept by the CDP; and

(d) Has not committed, permitted, aided or abetted the commission of an illegal act or unprofessional conduct as defined under RCW 18.130.180.

(3) Each staff member providing detoxification services to an individual, with the exception of licensed staff members and CDPs, completes a minimum of forty hours of documented training before being assigned individual care duties. This personnel training must include the following topics:

(a) ((Chemical dependency)) Substance use disorders;

(b) Infectious diseases, to include hepatitis and tuberculosis (TB); and

(c) Detoxification screening, admission, and signs of trauma.

(4) Each CDPT has at least one approved supervisor who meets the qualifications in WAC 246-811-049. An approved supervisor must decrease the hours of individual contact by twenty percent for each full-time CDPT supervised.

(5) Each staff member that provides individual care has a copy of an initial TB screen or test and any subsequent screenings or testing in their personnel file.

(6) All staff members are provided annual training on the prevention and control of communicable disease, bloodborne pathogens, and TB. The training must be documented in the personnel file.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0120 (~~Chemical dependency~~) Substance use disorder detoxification services—Clinical record content and documentation requirements. In addition to the general clinical record content requirements in WAC 388-877-0640, an agency providing (~~chemical dependency~~) substance use disorder detoxification services must maintain an individual's clinical record that contains:

- (1) Documentation of a (~~chemical dependency~~) substance use disorder screening before admission.
- (2) A voluntary consent to treatment form, or any release forms, signed and dated by the individual, or the individual's parent or legal guardian, except as authorized by law for protective custody and involuntary treatment.
- (3) Documentation that the individual was informed of federal confidentiality requirements and received a copy of the individual notice required under 42 C.F.R., Part 2.
- (4) Documentation that the individual received the HIV/AIDS brief risk intervention.
- (5) Documentation of progress notes in a timely manner from each shift and as events occur, or documentation as to why this did not occur. Progress notes must include the date, time, duration, participant names, and a brief summary of the shift or event, and the name of the staff member who provided it.
- (6) Documentation that a discharge summary, including a continuing care recommendation and a description of the individual's physical condition, was completed within seven working days of discharge.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0130 (~~Chemical dependency~~) Substance use disorder detoxification services requiring program-specific certification—Youth detoxification services. Youth detoxification services are (~~chemical dependency treatment~~) substance use disorder services provided to an individual seventeen years of age or younger. Youth detoxification services are optional detoxification services that require program-specific certification by the department's division of behavioral health and recovery. An agency providing youth detoxification services must:

- (1) Admit youth only with the written permission of the youth's parent or, if applicable, the youth's legal guardian. If a youth meets the requirements of a child in need of services (CHINS), the youth may sign themselves into treatment.
- (2) Assess the individual's need for referral to the department's child welfare services.
- (3) Ensure the following for individuals who share a room:
 - (a) An individual fifteen years of age or younger must not room with an individual eighteen years of age or older.

(b) An individual sixteen or seventeen years of age must be evaluated for clinical appropriateness before being placed in a room with an individual eighteen years of age or older.

(4) Allow communication between the youth and the youth's parent or if applicable, a legal guardian, and facilitate the communication when clinically appropriate.

(5) (~~Must~~) Notify the parent or legal guardian within two hours of any change in the status of the youth and document all notification and attempts of notification in the clinical record.

(6) Discharge the youth to the care of the parent or legal guardian. For emergency discharge and when the parent or legal guardian is not available, the agency must contact the appropriate authority.

(7) Ensure at least one adult staff member of each gender is present or available by phone at all times if co-educational treatment services are provided.

(8) Ensure a staff member who demonstrates knowledge of adolescent development and addiction is available at the facility or available by phone.

AMENDATORY SECTION (Amending WSR 14-18-014, filed 8/22/14, effective 9/22/14)

WAC 388-877B-0200 (~~Chemical dependency~~) Substance use disorder residential treatment services—General. The rules in WAC 388-877B-0200 through 388-877B-0280 apply to behavioral health agencies that provide (~~chemical dependency~~) substance use disorder residential treatment services. The definitions in WAC 388-877-0200 also apply to (~~chemical dependency~~) substance use disorder residential treatment services. The department requires all agencies and providers affected by this rule to fully comply with the applicable requirements in chapter 388-877 WAC, chapter 388-877A WAC, chapter 388-877B WAC, chapter 388-877C WAC no later than September 1, 2013.

(1) Residential treatment services provide (~~chemical dependency~~) substance use disorder treatment for an individual and include room and board in a facility with twenty-four hours a day supervision.

(2) Residential treatment services require additional program-specific certification by the department's division of behavioral health and recovery and include:

- (a) Intensive inpatient services (see WAC 388-877B-0250);
 - (b) Recovery house treatment services (see WAC 388-877B-0260);
 - (c) Long-term residential treatment services (see WAC 388-877B-0270); and
 - (d) Youth residential services (see WAC 388-877B-0280).
- (3) An agency providing residential treatment services must:
- (a) Be a facility licensed by department of health (DOH) and meet the criteria under one of the following DOH chapters:
 - (i) Hospital licensing regulations (chapter 246-320 WAC);
 - (ii) Private psychiatric and alcoholism hospitals (chapter 246-322 WAC);

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

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

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

(c) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in chapter 388-877 WAC, Behavioral health services administrative requirements; and

(d) Have policies and procedures to support and implement the:

(i) General requirements in chapter 388-877 WAC; and

(ii) Specific applicable requirements in WAC 388-877B-0200 through 388-877B-0280.

(4) An agency must:

(a) Use patient placement criteria (PPC) for admission, continued services, and discharge planning and decisions.

(b) Provide education to each individual admitted to the treatment facility on:

(i) Alcohol, other drugs, and/or ~~((chemical dependency))~~ substance use disorder;

(ii) Relapse prevention;

(iii) Blood borne pathogens; and

(iv) Tuberculosis (TB).

(c) Provide education or information to each individual admitted on:

(i) Emotional, physical, and sexual abuse;

(ii) Nicotine addiction; and

(iii) The impact of ~~((chemical))~~ substance use during pregnancy, risks to the fetus, and the importance of informing medical practitioners of chemical use during pregnancy.

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

(e) Screen for the prevention and control of tuberculosis.

(f) Limit the size of group counseling sessions to no more than twelve individuals.

(g) Have written procedures for:

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

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

(5) An agency that provides services to a pregnant woman must:

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

(b) Provide referral information to applicable resources.

(6) An agency that provides an assessment to an individual under RCW 46.61.5056 must also meet the requirements for driving under the influence (DUI) assessment providers in WAC 388-877B-0550.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0210 (~~((Chemical dependency))~~ Substance use disorder residential treatment services—Agency staff requirements. In addition to meeting the

agency administrative and personnel requirements in WAC 388-877-0400 through 388-877-0530, an agency providing ~~((chemical dependency))~~ substance use disorder residential treatment services must ensure all ~~((chemical dependency))~~ substance use disorder assessment and counseling services are provided by a chemical dependency professional (CDP), or a CDP trainee (CDPT) under the supervision of an approved supervisor.

The agency must ensure:

(1) There is a designated clinical supervisor who:

(a) Is a CDP;

(b) Has documented competency in clinical supervision;

(c) Is responsible for monitoring the continued competency of each CDP in assessment, treatment, continuing care, transfer, and discharge. The monitoring must include a semi-annual review of a sample of the clinical records maintained by the CDP; and

(d) Has not committed, permitted, aided or abetted the commission of an illegal act or unprofessional conduct as defined under RCW 18.130.180.

(2) Each CDPT has at least one approved supervisor who meets the qualifications in WAC 246-811-049. An approved supervisor must decrease the hours of individual contact by twenty percent for each full-time CDPT supervised.

(3) All staff members are provided annual training on the prevention and control of communicable disease, blood borne pathogens and tuberculosis (TB) and the training is documented in each personnel file.

(4) Each staff member that provides individual care has a copy of an initial TB screen or test and any subsequent screening or testing in their personnel file.

AMENDATORY SECTION (Amending WSR 14-18-014, filed 8/22/14, effective 9/22/14)

WAC 388-877B-0220 (~~((Chemical dependency))~~ Substance use disorder residential treatment services—Clinical record content and documentation requirements. In addition to the general clinical record content requirements in WAC 388-877-0640, an agency providing ~~((chemical dependency))~~ substance use disorder residential treatment services must maintain an individual's clinical record.

(1) The clinical record must contain:

(a) Documentation the individual was informed of the federal confidentiality requirements and received a copy of the individual notice required under 42 C.F.R. Part 2.

(b) Documentation that the individual received a copy of the rules and responsibilities for treatment participants, including the potential use of interventions or sanction.

(c) Justification for the change in the level of care when transferring an individual from one certified treatment service to another within the same agency, at the same location.

(d) Documentation of progress notes in a timely manner and before any subsequent scheduled appointments of the same type of service session or group type occur, or documentation as to why this did not occur. Progress notes must include the date, time, duration, participant names, and a brief summary of the session and the name of the staff member who provided it.

(e) When an individual is transferring to another service provider, documentation that copies of documents pertinent to the individual's course of treatment were forwarded to the new service provider to include:

- (i) The individual's demographic information; and
- (ii) The diagnostic assessment statement and other assessment information to include:
 - (A) Documentation of the HIV/AIDS intervention.
 - (B) Tuberculosis (TB) screen or test result.
 - (C) A record of the individual's detoxification and treatment history.
 - (D) The reason for the individual's transfer.
 - (E) Court mandated, department of correction supervision status or the agency's recommended follow-up treatment.
 - (F) A discharge summary and continuing care plan.
- (f) Documentation that a staff member(s) met with each individual at the time of discharge, unless the individual left without notice, to:
 - (i) Determine the appropriate recommendation for care and finalize a continuing care plan.
 - (ii) Assist the individual in making contact with necessary agencies or services.
 - (iii) Provide and document the individual was provided with a copy of the plan.
 - (g) Documentation that the discharge summary was completed within seven working days of the individual's discharge from the agency, which includes the date of discharge and a summary of the individual's progress toward each individual service plan goal.
- (2) In addition to the requirements in (1) of this section, an agency must ensure the following for each individual service plan. The individual service plan must:
 - (a) Be personalized to the individual's unique treatment needs.
 - (b) Be initiated with at least one goal identified by the individual during the initial assessment or at the first service session following the assessment.
 - (c) Include individual needs identified in the diagnostic and periodic reviews, addressing:
 - (i) All substance use needing treatment, including tobacco, if necessary;
 - (ii) Patient bio-psychosocial problems;
 - (iii) Treatment goals;
 - (iv) Estimated dates or conditions for completion of each treatment goal; and
 - (v) Approaches to resolve the problem.
 - (d) Document approval by a chemical dependency professional (CDP) if the staff member developing the plan is not a CDP.
 - (e) Document that the plan was updated to reflect any changes in the individual's treatment needs, status, and progress towards goals, or as requested by the individual, at least weekly.
 - (f) Document that the plan has been reviewed with the individual.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0230 (~~Chemical dependency~~) Substance use disorder residential treatment services—Additional assessment standards. An individual must have a (~~chemical dependency~~) substance use disorder assessment before receiving (~~chemical dependency~~) substance use disorder residential treatment services. The purpose of the assessment is to gather information to determine if a substance use disorder exists and if there are services available to address the individual's needs. In addition to the assessment requirements in WAC 388-877-0610, the assessment must include:

- (1) A face-to-face diagnostic interview with the individual in order to obtain, review, evaluate, and document the following:
 - (a) A history of the individual's involvement with alcohol and other drugs, including:
 - (i) The type of substances used, including tobacco;
 - (ii) The route of administration; and
 - (iii) The amount, frequency, and duration of use.
 - (b) A history of alcohol or other drug treatment or education;
 - (c) The individual's self-assessment of use of alcohol and other drugs;
 - (d) A history of relapse;
 - (e) A history of self-harm;
 - (f) A history of legal involvement; and
 - (g) A statement regarding the provision of an HIV/AIDS brief risk intervention, and any referral made.
- (2) A diagnostic assessment statement, including sufficient information to determine the individual's diagnosis using:
 - (a) Diagnostic and Statistical Manual (DMS 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 website at www.DSM5.org.
- (3) A placement decision, using patient placement criteria (PPC) dimensions when the assessment indicates the individual is in need of services.
- (4) Evidence the individual was notified of the assessment results and documentation of the treatment options provided and the individual's choice. If the individual was not notified of the results and advised of referral options, the reason must be documented.
- (5) The additional requirements for DUI assessment providers in WAC 388-877B-0550 if the agency is providing services to an individual under RCW 46.61.5056.
- (6) Documented attempts to obtain the following information when assessing youth:
 - (a) Parental and sibling use of alcohol and other drugs.
 - (b) A history of school assessments for learning disabilities or other problems which may affect ability to understand written materials.
 - (c) Past and present parent/guardian custodial status, including running away and out-of-home placements.
 - (d) A history of emotional or psychological problems.

(e) A history of child or adolescent developmental problems.

(f) Ability of the youth's parent(s) or if applicable, legal guardian, to participate in treatment.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0240 ((~~Chemical dependency~~)) Substance use disorder residential treatment services—Non-compliance reporting requirements. An agency providing ((~~chemical dependency~~)) substance use disorder residential treatment services must report noncompliance in all levels of care, for an individual ordered into ((~~chemical dependency~~)) substance use disorder treatment by a court of law or other appropriate jurisdictions. An agency that fails to report non-compliance for an individual under chapter 46.61 RCW is subject to penalties as stated in RCW 46.61.5056(4).

An agency providing treatment to a court-mandated individual, including deferred prosecution, must develop procedures addressing individual noncompliance and reporting requirements, including:

(1) Completing an authorization to release confidential information form that meets the requirements of 42 C.F.R. Part 2 and 45 C.F.R. Parts 160 and 164 or through a court order authorizing the disclosure under the requirements of 42 C.F.R. Part 2, Sections 2.63 through 2.67.

(2) Notifying the designated chemical dependency specialist within three working days from obtaining information of any violation of the terms of the court order for purposes of revoking the individual's conditional release, or department of corrections (DOC) if the individual is under DOC supervision.

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

(a) An individual's failure to maintain abstinence from alcohol and other nonprescribed drugs as verified by individual's self-report, identified third party report confirmed by the agency, or blood alcohol content or other laboratory test.

(b) An individual's report of subsequent alcohol and/or drug related arrests.

(c) An individual leaving the program against program advice.

(d) An individual discharged for rule violation.

(4) Reporting and recommending action for ((~~nonemergency~~)) nonemergency noncompliance to the court or other appropriate jurisdiction(s) within ten working days from the end of each reporting period, upon obtaining information on:

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

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

(5) Transmitting noncompliance or other significant changes as soon as possible, but no longer than ten working days from the date of the noncompliance, when the court does not wish to receive monthly reports.

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

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0250 ((~~Chemical dependency~~)) Substance use disorder residential treatment services requiring program-specific certification—Intensive inpatient services. Intensive inpatient services are ((~~chemical dependency~~)) substance use disorder residential treatment services that provide a concentrated program of individual and group counseling, education, and activities for a detoxified individual and the individual's family to address overall functioning and to demonstrate aspects of recovery lifestyle. Intensive inpatient services require program-specific certification by the department's division of behavioral health and recovery. An agency providing intensive inpatient services must:

(1) Complete the individual service plan within five days of admission.

(2) Conduct and document at least weekly, one face-to-face individual ((~~chemical dependency~~)) substance use disorder counseling session with the individual.

(3) Document progress notes in a timely manner and before any subsequent scheduled appointments of the same type of service session or group type occur, or documentation as to why this did not occur. Progress notes must include the date, time, duration, participant names, and a brief summary of the session and the name of the staff member who provided it.

(4) Document at least weekly, an individual service plan review which determines continued stay needs and progress towards goals.

(5) Provide a minimum of twenty hours of treatment services each week to each individual. At least ten hours of these services must be ((~~chemical dependency~~)) substance use disorder counseling. The agency may provide an individual up to ten hours of education each week to meet the minimum requirements.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0260 ((~~Chemical dependency~~)) Substance use disorder residential treatment services requiring program-specific certification—Recovery house. Recovery house services are ((~~chemical dependency~~)) substance use disorder residential treatment services that provide a program of care and treatment with social, vocational, and recreational activities to aid in individual adjustment to abstinence and to aid in job training, employment, or participating in other types of community services. Recovery house services require program-specific certification by the department's division of behavioral health and recovery.

An agency providing recovery house services must:

(1) Provide an individual a minimum of five hours of treatment each week consisting of individual or group counseling and education regarding drug-free and sober living, and general re-entry living skills.

(2) Document progress notes in a timely manner and before any subsequent scheduled appointments of the same

type of service session or group type occur. Progress notes should include the date, time, duration, participant names, and a brief summary of the session and the name of the staff member who provided it.

(3) Conduct and document an individual service plan review at least monthly.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0270 ((~~Chemical dependency~~)) Substance use disorder residential treatment services requiring program-specific certification—Long-term treatment services. Long-term treatment services are ((~~chemical dependency~~)) substance use disorder residential treatment services that provide a program for an individual needing consistent structure over a longer period of time to develop and maintain abstinence, develop recovery skills, and to improve overall health. Long-term treatment services require program-specific certification by the department's division of behavioral health and recovery. An agency providing long-term treatment services must:

(1) Provide an individual a minimum of two hours each week of individual or group counseling.

(2) Provide an individual a minimum of two hours each week of education regarding alcohol, other drugs, and other addictions.

(3) Document progress notes in a timely manner and before any subsequent scheduled appointments of the same type of service session or group type occur, or documentation as to why this did not occur. Progress notes should include the date, time, duration, participant names, and a brief summary of the session and the names of the staff member who provided it.

(4) Provide an individual, during the course of services, with:

- (a) Education on social and coping skills;
- (b) Social and recreational activities;
- (c) Assistance in seeking employment, when appropriate; and
- (d) Assistance with re-entry living skills to include seeking and obtaining safe housing.

(5) Conduct and document an individual service plan review at least monthly.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0280 ((~~Chemical dependency~~)) Substance use disorder residential treatment services requiring program-specific certification—Youth residential services. Youth residential services are ((~~chemical dependency~~)) substance use disorder residential treatment services provided to an individual seventeen years of age or younger. Youth residential services require program-specific certification by the department's division of behavioral health and recovery. The agency must:

(1) Ensure at least one adult staff member of each gender is present or on call at all times if co-educational treatment services are provided.

(2) Ensure group counseling sessions with nine to twelve youths include a second adult staff member.

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

- (a) Verbal de-escalation;
- (b) Crisis intervention;
- (c) Anger management;
- (d) Suicide assessment and intervention;
- (e) Conflict management and problem solving skills;
- (f) Management of assaultive behavior;
- (g) Proper use of therapeutic physical intervention techniques; and
- (h) Emergency procedures.

(4) Provide group meetings to promote personal growth.

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

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

(7) Provide each youth one or more hours per day, five days each week, of supervised academic tutoring or instruction by a certified teacher when the youth is unable to attend school for an estimated period of four weeks or more. The agency must:

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

(b) Obtain school work from the individual's school, or when applicable, provide school work and assignments consistent with the individual's academic level and functioning.

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

(9) Only admit youth with the written permission of the youth's parent or if applicable, legal guardian. In cases where the youth meets the requirements of a child in need of services (CHINS), the youth may sign themselves into treatment.

(10) Assess the individual's need for referral to the department's child welfare services.

(11) Ensure the following for individuals who share a room:

(a) An individual fifteen years of age or younger must not room with an individual eighteen years of age or older.

(b) An individual sixteen or seventeen years of age must be evaluated for clinical appropriateness before being placed in a room with an individual eighteen years of age or older.

(12) Allow communication between the youth and the youth's parent or if applicable, a legal guardian, and facilitate the communication when clinically appropriate.

(13) ~~(Must)~~ Notify the parent or legal guardian within two hours of any change in the status of the youth and document all notifications and attempts of notifications in the clinical record.

(14) Discharge the youth to the care of the youth's parent or if applicable, legal guardian. For emergency discharge and when the parent or legal guardian is not available, the agency must contact the appropriate authority.

(15) Ensure each individual's clinical record:

(a) Contains any consent or release forms signed by the youth and their parent or legal guardian.

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

(c) Documents any problems identified in specific youth assessment, including any referrals to school and community support services, on the individual service plan.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0300 (~~Chemical dependency~~) Substance use disorder outpatient treatment services—General. The rules in WAC 388-877B-0300 through 388-877B-0370 apply to behavioral health agencies that provide (~~chemical dependency~~) substance use disorder outpatient treatment services. The definitions in WAC 388-877-0200 also apply to (~~chemical dependency~~) substance use disorder outpatient treatment services. The department requires all agencies and providers affected by this rule to fully comply with the applicable requirements in chapter 388-877 WAC, chapter 388-877A WAC, chapter 388-877B WAC, and chapter 388-877C WAC no later than September 1, 2013.

(1) Outpatient treatment services provide (~~chemical dependency~~) substance use disorder treatment to an individual and include essential education and counseling services in accordance with patient placement criteria (PPC).

(2) (~~Chemical dependency~~) Substance use disorder outpatient treatment services require additional program-specific certification by the department's division of behavioral health and recovery and include:

(a) Level II intensive outpatient treatment services (see WAC 388-877B-0350); and

(b) Level I outpatient treatment services (see WAC 388-877B-0360).

(3) An agency providing outpatient treatment services to an individual must:

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

(b) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in chapter 388-877 WAC, Behavioral health services administrative requirements; and

(c) Have policies and procedures to support and implement the:

(i) General requirements in chapter 388-877 WAC; and

(ii) Specific applicable requirements in WAC 388-877B-0300 through 388-877B-0370.

(4) An agency must:

(a) Use the PPC for admission, continued services, and discharge planning and decisions.

(b) Have an outline of each lecture and education session included in the service, sufficient in detail for another trained staff member to deliver the session in the absence of the regular instructor.

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

(d) Provide tuberculosis screenings to individuals for the prevention and control of tuberculosis.

(5) An agency must:

(a) Provide education to each individual admitted to the treatment facility on:

(i) Alcohol, other drugs, and/or (~~chemical dependency~~) substance use disorders;

(ii) Relapse prevention;

(iii) Blood borne pathogens; and

(iv) Tuberculosis (TB).

(b) Provide education or information to each individual admitted on:

(i) Emotional, physical, and sexual abuse;

(ii) Nicotine addiction; and

(iii) The impact of (~~chemical~~) substance use during pregnancy, risks to the fetus, and the importance of informing medical practitioners of chemical use during pregnancy.

(c) Limit the size of group counseling sessions to no more than twelve individuals.

(d) Have written procedures for:

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

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

(6) An agency that provides services to a pregnant woman must:

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

(b) Provide referral information to applicable resources.

(7) An agency that provides youth outpatient treatment services must:

(a) Have a written procedure to assess and refer an individual to the department's child welfare services when applicable; and

(b) Ensure that counseling sessions with nine to twelve youths include a second adult staff member.

(8) An agency that provides a DUI assessment to an individual under RCW 46.61.5056 must also be certified by the department under WAC 388-877B-0550.

(9) An agency must ensure that when offering off-site treatment:

(a) The agency maintains a current list of all locations where off-site services are provided, including:

(i) The name and address (except for an individual receiving in-home services);

(ii) The primary purpose of the off-site location;

(iii) The level of services provided; and

(iv) The date the off-site services began at that location.

(b) The agency maintains a written procedure of:

(i) How confidentiality will be maintained at each off-site location, including how confidential information and individual records will be transported between the certified facility and the off-site location; and

(ii) How services will be offered in a manner that promotes individual and agency staff safety.

(c) The agency is certified to provide the type of service offered at its main location.

(d) (~~Chemical dependency~~) Substance use disorder assessment or treatment is not the primary purpose of the

location where the individual is served (such as in a school, hospital, or correctional facility).

(e) Services are provided in a private, confidential setting within the off-site location.

(10) Minimum treatment requirements for deferred prosecution are established in chapter 10.05 RCW.

AMENDATORY SECTION (Amending WSR 14-18-014, filed 8/22/14, effective 9/22/14)

WAC 388-877B-0310 (~~(Chemical dependency)~~) Substance use disorder outpatient treatment services—Agency staff requirements. In addition to meeting the agency administrative and personnel requirements in WAC 388-877-0400 through 388-877-0530, an agency providing (~~(chemical dependency)~~) substance use disorder outpatient treatment services must ensure:

(1) All (~~(chemical dependency)~~) substance use disorder assessment and counseling services are provided by a chemical dependency professional (CDP), or a department of health-credential CDP trainee (CDPT) under the supervision of an approved supervisor.

(2) There is a designated clinical supervisor who:

(a) Is a CDP;

(b) Has documented competency in clinical supervision;

(c) Is responsible for monitoring the continued competency of each CDP in assessment, treatment, continuing care, transfer, and discharge. The monitoring must include a semi-annual review of a sample of the clinical records kept by the CDP; and

(d) Has not committed, permitted, aided or abetted the commission of an illegal act or unprofessional conduct as defined under RCW 18.130.180.

(3) Each chemical dependency professional trainee has at least one approved supervisor who meets the qualifications in WAC 246-811-049. An approved supervisor must decrease the hours of individual contact by twenty percent for each full-time CDPT supervised.

(4) Each staff member that provides individual care has a copy of an initial TB screen or test and any subsequent screenings or testing in their personnel file.

(5) All staff members are provided annual training on the prevention and control of communicable disease, bloodborne pathogens and TB, and document the training in the personnel file.

AMENDATORY SECTION (Amending WSR 14-06-093, filed 3/4/14, effective 4/4/14)

WAC 388-877B-0320 (~~(Chemical dependency)~~) Substance use disorder outpatient treatment services—Clinical record content and documentation. In addition to the general clinical record content requirements in WAC 388-877-0640, an agency providing (~~(chemical dependency)~~) substance use disorder outpatient treatment services must maintain an individual's clinical record.

(1) The clinical record must contain:

(a) Documentation the individual was informed of federal confidentiality requirements and received a copy of the individual notice required under 42 C.F.R. Part 2.

(b) Documentation that the individual received a copy of the rules and responsibilities for treatment participants, including the potential use of interventions or sanctions.

(c) Documentation that the initial individual service plan was completed before treatment services are received.

(d) Documentation of progress notes in a timely manner and before any subsequent scheduled appointments of the same type of service session or group type occur or documentation as to why this did not occur. Progress notes must include the date, time, duration, participant names, and a brief summary of the session and the name of the staff member who provided it.

(e) When an individual is transferring to another service provider, documentation that copies of documents pertinent to the individual's course of treatment were forwarded to the new service provider to include:

(i) The individual's demographic information; and

(ii) The diagnostic assessment statement and other assessment information to include:

(A) Documentation of the HIV/AIDS intervention.

(B) Tuberculosis (TB) screen or test result.

(C) A record of the individual's detoxification and treatment history.

(D) The reason for the individual's transfer.

(E) Court mandated, department of correction supervision status or the agency's recommended follow-up treatment.

(F) A discharge summary and continuing care plan.

(f) Justification for the change in the level of care when transferring an individual from one certified treatment service to another within the same agency, at the same location.

(g) Documentation that staff members met with each individual at the time of discharge, unless the individual left without notice, to:

(i) Determine the appropriate recommendation for care and finalize a continuing care plan((-));

(ii) Assist the individual in making contact with necessary agencies or services((-); and

(iii) Provide and document the individual was provided with a copy of the plan.

(h) Documentation that a discharge summary was completed within seven days of the individual's discharge, including the date of discharge, a summary of the individual's progress towards each individual service plan goal, legal status, and if applicable, current prescribed medication.

(2) In addition to the requirements in (1) of this section, an agency must ensure the following for each individual service plan. The individual service plan must:

(a) Be personalized to the individual's unique treatment needs;

(b) Include individual needs identified in the diagnostic and periodic reviews, addressing:

(i) All substance use needing treatment, including tobacco, if necessary;

(ii) The individual's bio-psychosocial problems;

(iii) Treatment goals;

(iv) Estimated dates or conditions for completion of each treatment goal; and

(v) Approaches to resolve the problem.

(c) Document approval by a chemical dependency professional (CDP) if the staff member developing the plan is not a CDP.

(d) Document that the plan was updated to reflect any changes in the individual's treatment needs, or as requested by the individual, at least once per month for the first three months, and at least quarterly thereafter.

(e) Document that the plan has been reviewed with the individual.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0330 (~~Chemical dependency~~) Substance use disorder outpatient treatment services—Additional assessment standards. An individual must have a (~~chemical dependency~~) substance use disorder assessment before receiving outpatient treatment services. The purpose of the assessment is to gather information to determine if a substance use disorder exists and if there are services available to address the individual's needs. In addition to the assessment requirements in WAC 388-877-0610, the assessment must include:

(1) A face-to-face diagnostic interview with the individual in order to obtain, review, evaluate, and document a history of the individual's involvement with alcohol and other drugs, including:

- (a) The type of substances used, including tobacco;
- (b) The route of administration; and
- (c) The amount, frequency, and duration of use.

(2) A history of alcohol or other drug treatment or education.

(3) The individual's self-assessment of use of alcohol and other drugs.

(4) A history of relapse.

(5) A history of self-harm.

(6) A history of legal involvement.

(7) A statement regarding the provision of an HIV/AIDS brief risk intervention, and any referral made.

(8) A diagnostic assessment statement, including sufficient information to determine the individual's diagnosis using:

(a) Diagnostic and Statistical Manual (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 website at www.DSM5.org.

(9) A placement decision, using PPC dimensions when the assessment indicates the individual is in need of services.

(10) Evidence the individual was notified of the assessment results and documentation of the treatment options provided and the individual's choice. If the individual was not notified of the results and advised of referral options, the reason must be documented.

(11) The additional requirements outlined under WAC 388-877B-0550 for driving under the influence (DUI) assessments, for an agency providing services to an individual under RCW 46.61.5056.

(12) Documented attempts to obtain the following information when assessing youth:

(a) Parental and sibling use of alcohol and other drugs.

(b) A history of school assessments for learning disabilities or other problems, which may affect ability to understand written materials.

(c) Past and present parent/guardian custodial status, including a history of running away and out-of-home placements.

(d) A history of emotional or psychological problems.

(e) A history of child or adolescent developmental problems.

(f) The ability of parents, or if applicable, a legal guardian to participate in treatment.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0340 (~~Chemical dependency~~) Substance use disorder outpatient treatment services—Non-compliance reporting requirements. An agency providing (~~chemical dependency~~) substance use disorder outpatient treatment services must report noncompliance, in all levels of care, for an individual ordered into (~~chemical dependency~~) substance use disorder treatment by a court of law or other appropriate jurisdictions. An agency that fails to report non-compliance for an individual under chapter 46.61 RCW is subject to penalties as stated in RCW 46.61.5056(4). An agency providing treatment to a court-mandated individual, including deferred prosecution, must develop procedures addressing individual noncompliance and reporting requirements, including:

(1) Completing an authorization to release confidential information form that meets the requirements of 42 C.F.R. Part 2 and 45 C.F.R. Parts 160 and 164 or through a court order authorizing the disclosure pursuant to 42 C.F.R. Part 2, Sections 2.63 through 2.67.

(2) Notifying the designated chemical dependency specialist within three working days from obtaining information of any violation of the terms of the court order for purposes of revocation of the individual's conditional release, or department of corrections (DOC) if the individual is under DOC supervision.

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

(a) An individual's failure to maintain abstinence from alcohol and other nonprescribed drugs as verified by individual's self-report, identified third party report confirmed by the agency, or blood alcohol content or other laboratory test.

(b) An individual's report of subsequent alcohol and/or drug related arrests.

(c) An individual leaving the program against program advice or an individual discharged for rule violation.

(4) Reporting and recommending action for (~~nonemergency~~) nonemergency, noncompliance to the court or other appropriate jurisdiction(s) within ten working days from the end of each reporting period, upon obtaining information on:

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

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

(5) Transmitting noncompliance or other significant changes as soon as possible, but no longer than ten working days from the date of the noncompliance, when the court does not wish to receive monthly reports.

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

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0350 ((~~Chemical dependency~~)) Substance use disorder outpatient treatment services requiring program-specific certification—Level II intensive outpatient services. Level II intensive outpatient services are ((~~chemical dependency~~)) substance use disorder outpatient treatment services that provide a concentrated program of individual and group counseling, education, and activities, in accordance with patient placement criteria (PPC). Level II intensive outpatient services require program-specific certification by the department's division of behavioral health and recovery. An agency providing Level II intensive outpatient treatment services must:

(1) Develop an initial individual service plan prior to the individual's participation in treatment.

(2) Provide individual ((~~chemical dependency~~)) substance use disorder counseling sessions with each individual at least once a month or more if clinically indicated.

(3) Document progress notes in a timely manner and before any subsequent scheduled appointments of the same type of service session or group type occur, or documentation as to why this did not occur. Progress notes must include the date, time, duration, participant names, and a brief summary of the session and the name of the staff member who provided it.

(4) Conduct and document a review of each individual's service plan in individual counseling sessions, at least once a month, to assess adequacy and attainment of goals.

(5) Refer for ongoing treatment or support upon completion of intensive outpatient treatment, as necessary.

(6) Ensure that individuals admitted under a deferred prosecution order, under chapter 10.05 RCW:

(a) Receive a minimum of seventy-two hours of treatment services within a maximum of twelve weeks, which consist of the following during the first four weeks of treatment:

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

(ii) Group sessions must last at least one hour.

(b) Attend self-help groups in addition to the seventy-two hours of treatment services.

(c) Have approval, in writing, by the court having jurisdiction in the case, when there is any exception to the requirements in this subsection.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0360 ((~~Chemical dependency~~)) Substance use disorder outpatient treatment services requiring program-specific certification—Level I outpatient treatment services. Level I outpatient treatment services are ((~~chemical dependency~~)) substance use disorder outpatient treatment services that provide ((~~chemical dependency~~)) substance use disorder treatment to an individual less than twenty-four-hours-a-day, including individual and group treatment services of varying duration and intensity according to a prescribed plan. Level I outpatient treatment services require program-specific certification by the department's division of behavioral health and recovery.

An agency providing Level I outpatient treatment services must:

(1) Develop an initial individual service plan before the individual's participation in treatment.

(2) Conduct group or individual ((~~chemical dependency~~)) substance use disorder counseling sessions for each individual, each month, according to an individual service plan.

(3) Conduct and document an individual service plan review for each individual once a month for the first three months and quarterly thereafter or sooner if required by other laws.

(4) Document progress notes in a timely manner and before any subsequent scheduled appointments of the same type of service session or group type occur, or documentation as to why this did not occur. Progress notes must include the date, time, duration, participant names, and a brief summary of the session and the name of the staff member who provided it.

AMENDATORY SECTION (Amending WSR 14-18-014, filed 8/22/14, effective 9/22/14)

WAC 388-877B-0370 ((~~Chemical dependency~~)) Substance use disorder outpatient treatment services—((~~Chemical dependency~~)) Substance use disorder counseling subject to RCW 46.61.5056. ((~~Chemical dependency~~)) Substance use disorder outpatient treatment services provided to an individual convicted of driving under the influence or physical control under RCW 46.61.5056 are subject to the requirements in this section. An agency providing outpatient treatment services subject to RCW 46.61.5056 must ensure treatment is completed as follows:

(1) Treatment during the first sixty days must include:

(a) Weekly group or individual ((~~chemical dependency~~)) substance use disorder counseling sessions according to the individual service plan.

(b) One individual ((~~chemical dependency~~)) substance use disorder counseling session of not less than thirty minutes duration, excluding the time taken for a ((~~chemical dependency~~)) substance use disorder assessment, for each individual, according to the individual service plan.

(c) Alcohol and drug basic education for each individual.

(d) Participation in self-help groups for an individual with a diagnosis of substance dependence. Participation must be documented in the individual's clinical record.

(e) The balance of the sixty-day time period for individuals who complete intensive inpatient (~~(chemical dependency)~~) substance use disorder treatment services must include, at a minimum, weekly outpatient counseling sessions according to the individual service plan.

(2) The next one hundred twenty days of treatment includes:

(a) Group or individual (~~(chemical dependency)~~) substance use disorder counseling sessions every two weeks according to the individual service plan.

(b) One individual (~~(chemical dependency)~~) substance use disorder counseling session of not less than thirty minutes duration, every sixty days according to the individual service plan.

(c) Referral of each individual for ongoing treatment or support, as necessary, using PPC, upon completion of one hundred eighty days of treatment.

(3) For an individual who is assessed with insufficient evidence of a substance use disorder, a (~~(chemical dependency)~~) substance use disorder professional (CDP) must refer the individual to alcohol/drug information school.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0400 (~~(Chemical dependency)~~) Substance use disorder opiate substitution treatment services—General. The rules in WAC 388-877B-0400 through WAC 388-877B-0450 apply to behavioral health agencies that provide (~~(chemical dependency)~~) substance use disorder opiate substitution treatment services. The definitions in WAC 388-877-0200 also apply to (~~(chemical dependency)~~) substance use disorder opiate substitution treatment services. The department requires all agencies and providers affected by this rule to fully comply with the applicable requirements in chapter 388-877 WAC, chapter 388-877A WAC, chapter 388-877B WAC, and chapter 388-877C WAC no later than September 1, 2013.

(1) Opiate substitution treatment services include the dispensing of an opioid agonist treatment medication, along with a comprehensive range of medical and rehabilitative services, when clinically necessary, to an individual to alleviate the adverse medical, psychological, or physical effects incident to opiate addiction. These services include detoxification treatment and maintenance treatment.

(2) An agency must meet all the certification requirements in WAC 388-877B-0405 in order to provide opiate substitution treatment services and:

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

(b) Meet the applicable behavioral health agency licensure, certification, administrative, personnel, and clinical requirements in chapter 388-877 WAC, Behavioral health services administrative requirements; and

(c) Have policies and procedures to support and implement the:

(i) General requirements in chapter 388-877 WAC; and

(ii) Program-specific requirements in WAC 388-877B-0400 through 388-877B-0450.

(3) An agency providing opiate substitution treatment services must ensure that the agency's individual record system complies with all federal and state reporting requirements relevant to opioid drugs approved for use in treatment of opioid addiction.

(4) An agency must:

(a) Use patient placement criteria (PPC) for admission, continued services, and discharge planning and decisions.

(b) Provide education to each individual admitted, totaling no more than fifty percent of treatment services, on:

(i) Alcohol, other drugs, and (~~(chemical dependency)~~) substance use disorder;

(ii) Relapse prevention;

(iii) Blood borne pathogens; and

(iv) Tuberculosis (TB).

(c) Provide education or information to each individual on:

(i) Emotional, physical, and sexual abuse;

(ii) Nicotine addiction;

(iii) The impact of chemical use during pregnancy, risks to the fetus, and the importance of informing medical practitioners of chemical use during pregnancy; and

(iv) Family planning.

(d) Have written procedures for:

(i) Diversion control that contains specific measures to reduce the possibility of the diversion of controlled substances from legitimate treatment use, and assign specific responsibility to the medical and administrative staff members for carrying out the described diversion control measures and functions.

(ii) Urinalysis and drug testing, to include obtaining:

(A) Specimen samples from each individual, at least eight times within twelve consecutive months.

(B) Random samples, without notice to the individual.

(C) Samples in a therapeutic manner that minimizes falsification.

(D) Observed samples, when clinically appropriate.

(E) Samples handled through proper chain of custody techniques.

(iii) Laboratory testing.

(iv) The response to medical and psychiatric emergencies.

(v) Verifying the identity of an individual receiving treatment services, including maintaining a file in the dispensary with a photograph of the individual and updating the photographs when the individual's physical appearance changes significantly.

(5) An agency must ensure that an individual is not admitted to opiate substitution treatment detoxification services more than two times in a twelve-month period following admission to services.

(6) An agency providing services to a pregnant woman must have a written procedure to address specific issues regarding their pregnancy and prenatal care needs, and to provide referral information to applicable resources.

(7) An agency providing youth opiate substitution treatment services must:

(a) Have a written procedure to assess and refer the youth to the department's child welfare services, when applicable.

(b) Ensure that a group counseling session with nine to twelve youths include a second staff member.

(c) Ensure that before admission the youth has had two documented attempts at short-term detoxification or drug-free treatment within a twelve-month period, with a waiting period of no less than seven days between the first and second short-term detoxification treatment.

(d) Ensure that when a youth is admitted for maintenance treatment, written consent by a parent or if applicable, legal guardian or responsible adult designated by the relevant state authority, is obtained.

(8) An agency providing opiate substitution treatment services must ensure:

(a) That notification to the federal Substance Abuse and Mental Health Services Administration (SAMHSA) and the department is made within three weeks of any replacement or other change in the status of the program, program sponsor (as defined in 42 C.F.R. Part 8), or medical director.

(b) Treatment is provided to an individual in compliance with 42 C.F.R. Part 8.

(c) The number of individuals receiving treatment services does not exceed three hundred fifty unless authorized by the county, city, or tribal (~~legislative~~) authority in which the program is located.

(d) The individual record system complies with all federal and state reporting requirements relevant to opioid drugs approved for use in treatment of opioid addiction.

(e) The death of an individual enrolled in opiate substitution treatment is reported to the department within one business day.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0405 (~~Chemical dependency~~) Substance use disorder opiate substitution treatment services—Certification.**** An agency providing opiate substitution treatment services must be certified by the department's division of behavioral health and recovery to provide these services. An agency applying to provide opiate substitution treatment service must:

(1) Submit to the department documentation that the agency has communicated with the county legislative authority and if applicable, the city legislative authority or tribal (~~legislative~~) authority, in order to secure a location for the new opiate substitution treatment program that meets county, tribal or city land use ordinances.

(2) Ensure that a community relations plan developed and completed in consultation with the county, city, or tribal (~~legislative~~) authority or their designee, in order to minimize the impact of the opiate substitution treatment programs upon the business and residential neighborhoods in which the program is located. The plan must include:

(a) Documentation of the strategies used to:

(i) Obtain stakeholder input regarding the proposed location;

(ii) Address any concerns identified by stakeholders; and

(iii) Develop an ongoing community relations plan to address new concerns expressed by stakeholders.

(b) Documentation that transportation systems will provide reasonable opportunities to persons in need of treatment to access the services of the program.

(c) A copy of the application for:

(i) A registration certificate from the Washington state board of pharmacy.

(ii) Licensure to the federal Drug Enforcement Administration.

(iii) Certification to the federal Center for Substance Abuse Treatment (CSAT) of the Substance Abuse and Mental Health Services Administration (SAMHSA).

(iv) Accreditation from a federal CSAT/SAMHSA-approved opioid treatment program accreditation body.

(d) A declaration to limit the number of individual program participants to three hundred fifty as specified in RCW 70.96A.410 (1)(e).

(e) For new applicants who operate opiate substitution treatment programs in another state, copies of all survey reports written by their national accreditation body and state certification, if applicable, within the past six years.

(3) Have concurrent approval to provide opiate substitution treatment by:

(a) The Washington State department of health board of pharmacy;

(b) The Federal CSAT SAMHSA, as required by 42 C.F.R. Part 8 for certification as an opioid treatment program; and

(c) The federal Drug Enforcement Administration.

(4) An agency must ensure that opiate substitution treatment is provided to an individual in compliance with the applicable requirements in 42 C.F.R. Part 8 and 21 C.F.R. Part 1301.

(5) The department may deny an application for certification when:

(a) There is not a demonstrated need in the community where the applicant proposes to locate the program.

(b) There is sufficient availability, access, and capacity of other certified programs near the area where the applicant is proposing to locate the program.

(c) The applicant has not demonstrated in the past, the capability to provide the appropriate services to assist individuals using the program to meet goals established by the legislature.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0410 (~~Chemical dependency~~) Substance use disorder opiate substitution treatment services—Agency staff requirements.**** In addition to meeting the agency administrative and personnel requirements in WAC 388-877-0400 through 388-877-0530, an agency providing (~~chemical dependency~~) substance use disorder opiate substitution treatment services must:

(1) Appoint a program sponsor, as defined in 42 C.F.R. Part 8, who is responsible for notifying the federal Center for Substance Abuse Treatment (CSAT), Substance Abuse and Mental Health Services Administration (SAMHSA), the federal Drug Enforcement Administration (DEA), the department

ment, and the Washington State board of pharmacy of any theft or significant loss of a controlled substance.

(2) Ensure there is an appointed medical director who:

(a) Is licensed by department of health (DOH) to practice medicine and practices within their scope of practice.

(b) Is responsible for all medical services performed. See the program physician responsibilities in WAC 388-877B-0440.

(c) Ensures all medical services provided are in compliance with applicable federal, state, and local rules and laws.

(3) Ensure all medical services provided are provided by an appropriate DOH-credentialed medical provider practicing within their scope of practice.

(4) Ensure all (~~chemical dependency~~) substance use disorder assessment and counseling services are provided by a DOH-credentialed chemical dependency professional (CDP), or a CDP trainee (CDPT) under the supervision of an approved supervisor.

(5) Ensure there is a designated and identified clinical supervisor who:

(a) Is a CDP.

(b) Has documented competency in clinical supervision.

(c) Is responsible for monitoring the continued competency of each CDP in assessment, treatment, continuing care, transfer, and discharge. This monitoring must include a semi-annual review of a sample of each CDP's clinical records.

(d) Has not committed, permitted, aided or abetted the commission of an illegal act or unprofessional conduct as defined under RCW 18.130.180.

(6) Ensure an agency using CDPTs has at least one approved supervisor that meets the qualification in WAC 246-811-049. An approved supervisor must decrease the hours of individual contact by twenty percent for each full-time CDPT supervised.

(7) Ensure at least one staff member has documented training in:

(a) Family planning;

(b) Prenatal health care; and

(c) Parenting skills.

(8) Ensure that at least one staff member is on duty at all times who has documented training in:

(a) Cardiopulmonary resuscitation (CPR); and

(b) Management of opiate overdose.

(9) Ensure that a personnel file for a staff member providing individual care includes a copy of an initial tuberculosis (TB) screen and subsequent screening as appropriate.

(10) Provide and ensure all staff members receive annual training on:

(a) The prevention and control of communicable disease, blood borne pathogens, and TB; and

(b) Opiate dependency clinical and medical best practice, specific to the staff member's scope of practice and job function.

AMENDATORY SECTION (Amending WSR 14-06-093, filed 3/4/14, effective 4/4/14)

WAC 388-877B-0420 (~~Chemical dependency~~) Substance use disorder opiate substitution treatment services—Clinical record content and documentation require-

ments. In addition to the general clinical record content requirements in WAC 388-877-0640, an agency providing (~~chemical dependency~~) substance use disorder opiate substitution treatment services must maintain an individual's clinical record.

(1) The clinical record must contain:

(a) Documentation the individual was informed of the federal confidentiality requirements and received a copy of the individual notice required under 42 C.F.R. Part 2.

(b) Documentation that the agency made a good faith effort to review if the individual is enrolled in any other opiate substitution treatment and take appropriate action.

(c) Documentation that the agency:

(i) Referred the individual to self-help group(s).

(ii) Addressed the individual's vocational, educational, and employment needs; and

(iii) Encouraged family participation.

(d) Documentation that the individual received a copy of the rules and responsibilities for treatment participants, including the potential use of interventions or sanction.

(e) Documentation that the individual service plan was completed before the individual received treatment services.

(f) Documentation that the individual service plan was reviewed:

(i) Once every month, for the first ninety days in treatment;

(ii) Once every three months, for every two years of continued enrollment in treatment; and

(iii) Once every six months, after the second year of continued enrollment in treatment.

(g) Documentation that individual or group counseling sessions were provided:

(i) Once every week, for the first ninety days:

(A) For a new individual in treatment;

(B) For an individual readmitted more than ninety days since the most recent discharge from opiate substitution treatment.

(ii) Once every week, for the first month, for an individual readmitted within ninety days since the most recent discharge from opiate substitution treatment; and

(iii) Once every month, for an individual transferring from another opiate substitution treatment program, when the individual had received treatment for at least ninety days.

(h) Documentation of progress notes in a timely manner and before any subsequent scheduled appointments of the same type of service session or group type occur, or documentation as to why this did not occur. Progress notes must include the date, time, duration, participant names, and a brief summary of the session and the name of the staff member who provided it.

(i) Documentation when an individual refuses to provide a drug testing specimen sample or refuses to initial the log containing the sample number. The refusal is considered a positive drug screen specimen.

(j) Documentation of the results and the discussion held with the individual regarding any positive drug screen specimens in the counseling session immediately following the notification of positive results.

(k) Justification for the change in the level of care when transferring an individual from one certified treatment service to another within the same agency, at the same location.

(l) When an individual is transferring to another service provider, documentation that copies of documents pertinent to the individual's course of treatment were forwarded to the new service provider to include:

(i) The individual's demographic information; and
 (ii) The diagnostic assessment statement and other assessment information to include:

(A) Documentation of the HIV/AIDS intervention.

(B) Tuberculosis (TB) screen or test result.

(C) A record of the individual's detoxification and treatment history.

(D) The reason for the individual's transfer.

(E) Court mandated, department of correction supervisory status or the agency's recommended follow-up treatment.

(F) A discharge summary and continuing care plan.

(m) Documentation that a staff member(s) met with the individual at the time of discharge from the agency, unless the individual left without notice, to:

(i) Determine the appropriate recommendation for care and finalize a continuing care plan.

(ii) Assist the individual in making contact with necessary agencies or services.

(iii) Provide and document the individual was provided a copy of the plan.

(n) Documentation that the discharge summary was completed within seven working days of the individual's discharge from the agency, which includes the date of discharge and a summary of the individual's progress towards each individual service plan goal.

(o) Documentation of all medical services. See WAC 388-877B-0440 and 388-877B-0450, regarding program physician responsibility and medication management.

(2) In addition to the requirements in (1) of this section, an agency must ensure the following for each individual service plan. The individual service plan must:

(a) Be personalized to the individual's unique treatment needs;

(b) Include individual needs identified in the diagnostic and periodic reviews, addressing:

(i) All substance use needing treatment, including tobacco, if necessary;

(ii) The individual's bio-psychosocial problems;

(iii) The treatment goals;

(iv) Estimated dates or conditions for completion of each treatment goal; and

(v) Approaches to resolve the problem.

(c) Document approval by a chemical dependency professional (CDP) if the staff member developing the plan is not a CDP.

(d) Document that the plan has been reviewed with the individual.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0430 (~~Chemical dependency~~) Substance use disorder opiate substitution treatment services—Additional assessment standards.

An individual must have a (~~chemical dependency~~) substance use disorder assessment before receiving (~~chemical dependency~~) substance use disorder opiate substitution treatment services.

The purpose of the assessment is to gather information to determine if a substance disorder exists and if there are services available to address the individual's needs. In addition to the assessment requirements in WAC 388-877-0610, the assessment must include:

(1) A face-to-face diagnostic interview with the individual in order to obtain, review, evaluate, and document the following:

(a) A history of the individual's involvement with alcohol and other drugs, to include:

(i) The type of substances used, including tobacco;

(ii) The route of administration; and

(iii) The amount, frequency, and duration of use.

(b) A history of alcohol or other drug treatment or education.

(c) The individual's self-assessment of use of alcohol and other drugs.

(d) A history of relapse.

(e) A history of self-harm.

(f) A history of legal involvement.

(g) A statement regarding the provision of an HIV/AIDS brief risk intervention, and any referral made.

(2) A diagnostic assessment statement, including sufficient information to determine the individual's diagnosis using the:

(a) Diagnostic and Statistical Manual (DMS 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 website at www.DSM5.org.

(3) A placement decision, using patient placement criteria dimensions when the assessment indicates the individual is in need of services.

(4) Evidence the individual was notified of the assessment results and documentation of the treatment options provided and the individual's choice. If the individual was not notified of the results and advised of referral options, the reason must be documented.

(5) The additional requirements for driving under the influence (DUI) assessment providers in WAC 388-877B-0550 if the agency is providing services to an individual under RCW 46.61.5056.

(6) When assessing youth, documented attempts to obtain the following information:

(a) Parental and sibling use of alcohol and other drugs.

(b) A history of school assessments for learning disabilities or other problems which may affect ability to understand written materials.

(c) Past and present parent/guardian custodial status, including a history of running away and out-of-home placements.

(d) A history of emotional or psychological problems.

(e) A history of child or adolescent developmental problems.

(f) Ability of the youth's parent(s) or if applicable, legal guardian, to participate in treatment.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0440 ((~~Chemical dependency~~)) Substance use disorder opiate substitution treatment services —Program physician responsibility.** An agency providing ((~~chemical dependency~~)) Substance use disorder opiate substitution treatment services must ensure the program physician, or the medical practitioner under supervision of the program physician, performs and meets the following:**

(1) The program physician or medical practitioner under supervision of the program physician:

(a) Is responsible to verify an individual is currently addicted to an opioid drug and that the person became addicted at least twelve months before admission to treatment.

(b) May waive the twelve month requirement in (a) of this subsection upon receiving documentation that the individual:

(i) Was released from a penal institution, if the release was within the previous six months;

(ii) Is pregnant; or

(iii) Was previously treated within the previous twenty-four months.

(2) A physical evaluation must be completed on the individual before admission that includes the determination of opiate physical addiction consistent with the Diagnostic and Statistical Manual (DSM-5) criteria, and an assessment for appropriateness for Sunday and holiday take-home medication. Information on the DSM-5 can be found on the American Psychiatric Association's public website at www.DSM5.org.

(3) A review must be completed by the department of health prescription drug monitoring program data on the individual:

(a) At admission;

(b) Annually after the date of admission; and

(c) Subsequent to any incidents of concern.

(4) All relevant facts concerning the use of the opioid drug must be clearly and adequately explained to each individual.

(5) Current written and verbal information must be provided to pregnant individuals, before the initial prescribed dosage regarding:

(a) The concerns of possible addiction, health risks, and benefits the opiate substitution medication may have on the individual and the fetus.

(b) The risk of not initiating opiate substitution medication on the individual and the fetus.

(c) Referral options to address neonatal abstinence syndrome for the baby.

(6) Each individual voluntarily choosing to receive maintenance treatment must sign an informed consent to treatment.

(7) Within fourteen days of admission, a medical examination must be completed that includes:

(a) Documentation of the results of serology and other tests; and

(b) An assessment for the appropriateness of take-home medications as required by 42 C.F.R. part 8.12(i).

(8) When exceptional circumstances exist for an individual to be enrolled with more than one opiate substitution treatment agency, justification granting permission must be documented in the individual's clinical record at each agency.

(9) Each individual admitted to detoxification services must have an approved detoxification schedule that is medically appropriate.

(10) Each individual administratively discharged from services must have an approved detoxification schedule that is medically appropriate.

(11) An assessment for other forms of treatment must be completed for each individual who has two or more unsuccessful detoxification episodes within twelve consecutive months.

(12) An annual medical examination must be completed on each individual that includes the individual's overall physical condition and response to medication.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0450 ((~~Chemical dependency~~)) Substance use disorder opiate substitution treatment services —Medication management.** An agency providing ((~~chemical dependency~~)) substance use disorder opiate substitution treatment services must ensure the medication management requirements in this section are met.**

(1) An agency:

(a) Must use only those opioid agonist treatment medications that are approved by the Food and Drug Administration under section 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in the treatment of opioid addiction.

(b) Providing opiate substitution treatment that is fully compliant with the procedures of an investigational use of a drug and other conditions set forth in the application may administer a drug that has been authorized by the Food and Drug Administration under an investigational new drug application under section 505(i) of the federal Food, Drug, and Cosmetic Act for investigational use in the treatment of opioid addiction. The following opioid agonist treatment medications are approved by the Food and Drug Administration for use in the treatment of opioid addiction:

(i) Methadone; and

(ii) Buprenorphine.

(2) An agency providing opiate substitution treatment must ensure that initial dosing requirements are met as follows:

(a) Methadone must be administered or dispensed only in oral form and is formulated in such a way as to reduce its potential for parenteral abuse.

(b) The initial dose of methadone must not exceed thirty milligrams and the total dose for the first day must not exceed forty milligrams, unless the program physician documents in the individual's record that forty milligrams did not suppress opiate abstinence symptoms.

(c) The establishment of the initial dose must consider:

- (i) Signs and symptoms of withdrawal;
- (ii) Individual comfort; and
- (iii) Side effects from over medication.

(3) An agency providing opiate substitution treatment must ensure that:

(a) Each opioid agonist treatment medication used by the program is administered and dispensed in accordance with its approved product labeling.

(b) All dosing and administration decisions are made by a:

- (i) Program physician; or
- (ii) Medical practitioner under supervision of a program physician familiar with the most up-to-date product labeling.

(c) Any significant deviations from the approved labeling, including deviations with regard to dose, frequency, or the conditions of use described in the approved labeling, are specifically documented in the individual's record.

(4) An agency providing opiate substitution treatment must ensure that all take-home medications are:

(a) Consistent with 42 C.F.R. Part 8.12 (i)(1-5) and are authorized only to stable individuals who:

- (i) Have received opiate substitution treatment medication for a minimum of ninety days; and
- (ii) Have not had any positive drug screens in the last sixty days.

(b) Assessed and authorized, as appropriate, for a Sunday or legal holiday as identified in RCW 1.16.050.

(c) Assessed and authorized, as appropriate, when travel to the facility presents a safety risk for an individual or staff member due to inclement weather.

(d) Not allowed in short-term detoxification or interim maintenance treatment.

(5) All exceptions to take-home requirements must be submitted and approved by the state opioid treatment authority and Substance Abuse and Mental Health Services Administration (SAMHSA).

AMENDATORY SECTION (Amending WSR 14-06-093, filed 3/4/14, effective 4/4/14)

WAC 388-877B-0500 (~~Chemical dependency~~) **Substance use disorder assessment services—General.** The rules in WAC 388-877B-0500 through 388-877B-0550 apply to behavioral health agencies that provide (~~chemical dependency~~) substance use disorder assessment services. The definitions in WAC 388-877-0200 also apply to (~~chemical dependency~~) substance use disorder assessment services. The department requires all agencies and providers affected by this rule to fully comply with the applicable requirements in chapter 388-877 WAC, chapter 388-877A WAC, chapter 388-877B WAC, and chapter 388-877C WAC no later than September 1, 2013.

(1) (~~Chemical dependency~~) Substance use disorder assessment services are provided to an individual to deter-

mine the individual's involvement with alcohol and other drugs and determine the appropriate course of care or referral.

(2) (~~Chemical dependency~~) Substance use disorder assessment services include:

- (a) Assessment only services; and
- (b) Driving under the influence (DUI) assessment services.

(3) A behavioral health agency certified for assessment only services may choose to provide optional program-specific DUI assessment services (see WAC 388-877B-0550). Optional DUI assessment services require additional program-specific certification by the department's division of behavioral health and recovery.

(4) An agency providing assessment services to an individual must:

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

(b) Meet the applicable behavioral health agency licensure, certification, administrative, personnel, and clinical requirements in chapter 388-877 WAC, Behavioral health services administrative requirements; and

(c) Have policies and procedures to support and implement the:

- (i) General requirements in chapter 388-877 WAC; and
- (ii) Program-specific requirements in WAC 388-877B-0500 through 388-877B-0550.

(5) An agency providing assessment services:

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

(b) May include information from external sources such as family, support individuals, legal entities, courts, and employers; and

(c) Is not required to meet the individual service plan requirements in WAC 388-877-0620.

(6) An agency must maintain and provide a list of resources, including self-help groups, and referral options that can be used by staff members to refer an individual to appropriate services.

(7) When an individual is transferring to another service provider, documentation that copies of documents pertinent to the individual's course of treatment were forwarded to the new service provider to include:

- (~~(A)~~) (a) The individual's demographic information; and
- (~~(B)~~) (b) The diagnostic assessment statement and other assessment information to include:

(~~(A)~~) (i) Documentation of the HIV/AIDS intervention.

(~~(B)~~) (ii) Tuberculosis (TB) screen or test result.

(~~(C)~~) (iii) A record of the individual's detoxification and treatment history.

(~~(D)~~) (iv) The reason for the individual's transfer.

(~~(E)~~) (v) Court mandated, department of correction supervision status or the agency's recommended follow-up treatment.

(~~(F)~~) (vi) A discharge summary and continuing care plan.

(8) An agency providing driving under the influence (DUI) assessment services must meet the additional program-specific standards in WAC 388-877B-0550.

(9) An agency that offers off-site assessment services must meet the requirements in WAC 388-877B-0300(9).

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0510 ((~~Chemical dependency~~) Substance use disorder assessment only services—Agency staff requirements. In addition to meeting the agency administrative and personnel requirements in WAC 388-877-0400 through 388-877-0530, an agency providing ((~~chemical dependency~~) substance use disorder assessment services) must ensure:

(1) All ((~~chemical dependency~~) substance use disorder assessment only services) are provided by a chemical dependency professional (CDP).

(2) There is a designated clinical supervisor who:

(a) Is a CDP;

(b) Has documented competency in clinical supervision; and

(c) Is responsible for monitoring the continued competency of each CDP. The monitoring must include a semi-annual review of a sample of the clinical records kept by the CDP.

(3) Each staff member that provides individual care has a copy of an initial tuberculosis (TB) screen or test and any subsequent screening or testing in their personnel file.

(4) All staff members are provided annual training on the prevention and control of communicable disease, blood borne pathogens, and TB. The training must be documented in the personnel file.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0530 ((~~Chemical dependency~~) Substance use disorder assessment only services—Additional assessment standards. An individual must have a ((~~chemical dependency~~) substance use disorder assessment) before receiving ((~~chemical dependency~~) substance use disorder treatment services). The purpose of the assessment is to gather information to determine if a substance use disorder exists and if there are services available to address the individual's needs. In addition to the assessment requirements in WAC 388-877-0610, the assessment must include:

(1) A face-to-face diagnostic interview with the individual in order to obtain, review, evaluate, and document the following:

(a) A history of the individual's involvement with alcohol and other drugs, including:

(i) The type of substances used, including tobacco;

(ii) The route of administration;

(iii) The amount, frequency, and duration of use.

(b) A history of alcohol or other drug treatment or education.

(c) The individual's self-assessment of use of alcohol and other drugs.

(d) A history of relapse.

(e) A history of self-harm.

(f) A history of legal involvement.

(g) A statement regarding the provision of an HIV/AIDS brief risk intervention, and any referral made.

(2) A diagnostic assessment statement, including sufficient information to determine the individual's diagnosis using the:

(a) Diagnostic and Statistical Manual (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 website at www.DSM5.org.

(3) A placement decision, using patient placement criteria dimensions when the assessment indicates the individual is in need of services.

(4) Evidence the individual was notified of the assessment results and documentation of the treatment options provided and the individual's choice. If the individual was not notified of the results and advised of referral options, the reason must be documented.

(5) Documented attempts to obtain the following information when assessing youth:

(a) Parental and sibling use of alcohol and other drugs.

(b) A history of school assessments for learning disabilities or other problems which may affect ability to understand written materials.

(c) Past and present parent/guardian custodial status, including a history of running away and out-of-home placements.

(d) A history of emotional or psychological problems.

(e) A history of child or adolescent developmental problems.

(f) Ability of the youth's parent(s) or if applicable, legal guardian, to participate in treatment.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0540 ((~~Chemical dependency~~) Substance use disorder assessment services—Noncompliance reporting requirements. An agency providing ((~~chemical dependency~~) substance use disorder assessment services) must report noncompliance in all levels of care for an individual ordered into ((~~chemical dependency~~) substance use disorder treatment) by a court or other appropriate jurisdiction(s). An agency that fails to report noncompliance for an individual under chapter 46.61 RCW is subject to penalties as stated in RCW 46.61.5056(4). An agency providing treatment to an individual court-mandated to treatment, including deferred prosecution, must develop procedures addressing individual noncompliance and reporting requirements, including:

(1) Completing an authorization to release confidential information form that meets the requirements of 42 C.F.R. Part 2 and 45 C.F.R. Parts 160 and 164 or through a court order authorizing the disclosure under the requirements of 42 C.F.R. Part 2, Section 2.63 through 2.67.

(2) Notifying the designated chemical dependency specialist within three working days from obtaining information of any violation of the terms of the court order for purposes of revoking the individual's conditional release, or department

of corrections (DOC) if the individual is under DOC supervision.

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

(a) An individual's failure to maintain abstinence from alcohol and other nonprescribed drugs as verified by individual's self-report, identified third party report confirmed by the agency, or blood alcohol content or other laboratory test.

(b) An individual's report of subsequent alcohol and/or drug related arrests.

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

AMENDATORY SECTION (Amending WSR 14-18-014, filed 8/22/14, effective 9/22/14)

WAC 388-877B-0550 (~~Chemical dependency~~) Substance use disorder assessment only services requiring program-specific certification—DUI assessment services. Driving under the influence (DUI) assessment services are diagnostic services requested by a court to determine an individual's involvement with alcohol and other drugs and to recommend a course of action.

(1) A behavioral health agency certified for (~~chemical dependency~~) substance use disorder assessment only services may choose to provide optional program-specific DUI assessment services. Optional DUI assessment services require additional program-specific certification by the department's division of behavioral health and recovery.

(2) An agency providing DUI assessment services, as defined in chapter 46.61 RCW, must ensure:

(a) The assessment is conducted in person.

(b) The individual has a summary included in the assessment that evaluates the individual's:

(i) Blood or breath alcohol level and other drug levels, or documentation of the individual's refusal at the time of the arrest, if available; and

(ii) Self-reported driving record and the abstract of the individual's legal driving record.

(3) When the assessment findings do not result in a substance use disorder diagnosis, the assessment must also include:

(a) A copy of the police report;

(b) A copy of the court originated criminal case history;

(c) The results of a urinalysis or drug testing obtained at the time of the assessment; and

(d) A referral to alcohol and drug information school.

(4) If the information in subsection (3)(a) through (d) of this section is required and not readily available, the record must contain documentation of attempts to obtain the information.

(5) Upon completion of the DUI assessment, the individual must be:

(a) Informed of the results of the assessment; and

(b) Referred to the appropriate level of care according to patient placement criteria (PPC).

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0600 (~~Chemical dependency~~) Substance use disorder information and assistance services—General. The rules in WAC 388-877B-0600 through 388-877B-0660 apply to behavioral health agencies that provide (~~chemical dependency~~) substance use disorder information and assistance services. The definitions in WAC 388-877-0200 also apply to (~~chemical dependency~~) substance use disorder information and assistance services. The department requires all agencies and providers affected by this rule to fully comply with the applicable requirements in chapter 388-877 WAC, chapter 388-877A WAC, chapter 388-877B WAC, and chapter 388-877C WAC no later than September 1, 2013.

(1) Information and assistance services are considered nontreatment services provided to support an individual who has a need for interventions related to the use of alcohol and/or other drugs.

(2) Information and assistance services require additional program-specific certification by the department's division of behavioral health and recovery and include:

(a) Alcohol and drug information school (see WAC 388-877B-0630);

(b) Information and crisis services (see WAC 388-877B-0640);

(c) Emergency service patrol (see WAC 388-877B-0650); and

(d) Screening and brief intervention (see WAC 388-877B-0660).

(3) An agency providing information and assistance services to an individual must:

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

(b) Meet the applicable behavioral health agency licensure, certification, administrative, personnel, and clinical requirements in chapter 388-877 WAC, Behavioral health services administrative requirements; and

(c) Have policies and procedures to support and implement the:

(i) General requirements in chapter 388-877 WAC; and

(ii) Specific applicable requirements in WAC 388-877B-0600 through 388-877B-0660.

(4) (~~Chemical dependency~~) Substance use disorder information and assistance services are available without an initial assessment or individual service plan and are not required to meet the requirements under WAC 388-877-0640.

(5) An agency providing information and assistance services must maintain and provide a list of resources, including self-help groups and referral options, that can be used by staff members to refer an individual to appropriate services.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0610 (~~Chemical dependency~~) Substance use disorder information and assistance services—Agency staff requirements. In addition to meeting the agency administrative and personnel requirements in WAC

388-877-0400 through 388-877-0530, an agency providing (~~chemical dependency~~) substance use disorder information and assistance services must ensure each staff member:

(1) Is provided annual training on the prevention and control of communicable disease, blood borne pathogens and tuberculosis (TB). The training must be documented in the personnel file.

(2) Who provides individual care has a copy of their initial TB screen or test and any subsequent screening or testing in their personnel file.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0630 (~~Chemical dependency~~) Substance use disorder information and assistance services requiring program-specific certification—Alcohol and drug information school services. Alcohol and drug information school services are a (~~chemical dependency~~) substance use disorder information and assistance services educational program about the use and abuse of alcohol and other drugs. These services are for an individual referred by a court or other jurisdiction(s) who may have been assessed and determined not to require treatment. The services require program-specific certification by the department's division of behavioral health and recovery. An agency providing alcohol and drug information school services must:

(1) Ensure courses are taught by a certified information school instructor or a chemical dependency professional (CDP) who:

(a) At the time of enrollment, informs each student of the course fees.

(b) Advises each student there is no assumption the student has a substance use disorder, and that the course is not a therapy session.

(c) Discusses the class rules.

(d) Reviews the course objectives.

(e) Follows a department-approved curriculum.

(f) Ensures each course has no fewer than eight and no more than fifteen hours of classroom instruction.

(g) Ensures adequate and comfortable seating in a well-lit and ventilated room.

(h) Administers each enrolled student the post-test for each course after the course is completed.

(2) Ensure a school instructor who is not a CDP:

(a) Has a certificate of completion of an alcohol and other drug information school instructor's training course approved by the department, and the personnel file contains documentation of the training.

(b) Maintains school instructor status by completing fifteen clock hours of continuing education. The fifteen hours of continuing education must:

(i) Occur during each two-year period beginning January of the year following the instructor's initial qualification; and

(ii) Be in subject areas that increase knowledge and skills in training, teaching techniques, curriculum planning and development, presentation of educational material, laws and rules, and developments in the (~~chemical dependency~~) substance use disorder field.

(3) Ensure each individual student record contains:

(a) An intake form, including demographics;

(b) The hours of attendance, including dates;

(c) The source of the student's referral;

(d) A copy of all reports, assessments, letters, certificates, and other correspondence to the courts and the department of licensing, including noncompliance reporting under chapter 46.61 RCW;

(e) A record of any referrals made; and

(f) A copy of the scored post-test.

AMENDATORY SECTION (Amending WSR 14-18-014, filed 8/22/14, effective 9/22/14)

WAC 388-877B-0640 (~~Chemical dependency~~) Substance use disorder information and assistance services requiring program-specific certification—Information and crisis services. (~~Chemical dependency~~) Substance use disorder information and crisis services provide an individual assistance or guidance related to the abuse of addictive substances, twenty-four hours a day by telephone or in-person. Information and crisis services require program-specific certification by the department's division of behavioral health and recovery. An agency providing information and crisis services must:

(1) Have services available to any individual twenty-four hours a day, seven days a week.

(2) Ensure each staff member completes forty hours of training that covers the following areas before assigning the staff member unsupervised duties:

(a) (~~Chemical dependency~~) Substance use disorder crisis intervention techniques; and

(b) Alcoholism and drug abuse.

(3) Ensure a chemical dependency professional (CDP), or a CDP trainee (CDPT) under supervision of a CDP, is available or on staff twenty-four hours a day.

(4) Have at least one approved supervisor that meets the qualifications in WAC 246-811-049, if services are provided by a CDPT or other certified or licensed counselor in training to become a CDP. The supervisor must decrease the number of individual contact hours for each full-time CDPT under their supervision.

(5) Maintain a current directory of all certified (~~chemical dependency~~) substance use disorder service providers in the state.

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

(7) Maintain records of each individual contact, including:

(a) The name, age, sex, and ethnic background of the individual.

(b) The presenting problem.

(c) The outcome.

(d) A record of any referral made.

(e) The signature of the person handling the case.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0650 ((~~Chemical dependency~~)) Substance use disorder information and assistance services requiring program-specific certification—Emergency service patrol services. Emergency service patrol services are ((~~chemical dependency~~)) substance use disorder information and assistance services that provide transport assistance to an intoxicated individual in a public place when a request has been received from police, merchants, or other persons. An agency providing emergency service patrol services must:

- (1) Ensure the staff member providing the service:
 - (a) Has proof of a valid Washington state driver's license.
 - (b) Possesses annually updated verification of first-aid and cardiopulmonary resuscitation training.
 - (c) Has completed forty hours of training in ((~~chemical dependency~~)) substance use disorder crisis intervention techniques and alcoholism and drug abuse, to improve skills in handling crisis situations.
- (2) Respond to calls from police, merchants, and other persons for assistance with an intoxicated individual in a public place.
- (3) Patrol assigned areas and give assistance to an individual intoxicated in a public place.
- (4) Conduct a preliminary screening of an individual's condition related to the state of their impairment and presence of a physical condition needing medical attention.
- (5) Transport the individual to their home or shelter, to a certified treatment provider, or a health care facility if the individual is intoxicated, but subdued and willing to be transported.
- (6) Make reasonable efforts to take the individual into protective custody and transport the individual to an appropriate treatment or health care facility, when the individual is incapacitated, unconscious, or has threatened or inflicted harm on another person.
- (7) Call law enforcement for assistance if the individual is unwilling to be taken into protective custody.
- (8) Maintain a log, including:
 - (a) The date, time and origin of each call received for assistance.
 - (b) The time of arrival at the scene.
 - (c) The location of the individual at the time of the assist.
 - (d) The name and sex of the individual transported.
 - (e) The results of the preliminary screening.
 - (f) The destination and address of the transport and time of arrival.
 - (g) In case of nonpickup of a person, documentation of why the pickup did not occur.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0660 ((~~Chemical dependency~~)) Substance use disorder information and assistance services requiring program-specific certification—Screening and brief intervention services. Screening and brief intervention services are a combination of information and assistance services designed to screen an individual for risk factors that

appear to be related to alcohol and other drug use disorders, provide interventions, and make appropriate referral as needed. These services require program-specific certification by the department's division of behavioral health and recovery and may be provided in a wide variety of settings. An agency providing screening and brief intervention services must:

- (1) Ensure services are provided by a chemical dependency professional (CDP), a chemical dependency professional trainee (CDPT) under the supervision of a CDP, or another appropriately credentialed staff member.
- (2) Ensure each staff member completes forty hours of training that covers the following areas before assigning the staff member unsupervised duties:
 - (a) ((~~Chemical dependency~~)) Substance use disorder screening and brief intervention techniques;
 - (b) Motivational interviewing; and
 - (c) Referral.
- (3) Maintain a current list of local resources for legal, employment, education, interpreter, and social and health services.
- (4) Ensure each individual's record contains:
 - (a) A copy of a referral.
 - (b) Demographic information.
 - (c) Documentation the individual was informed and received a copy of the requirements under 42 C.F.R. Part 2.
 - (d) Documentation the individual received a copy of the counselor disclosure information.
 - (e) Documentation the individual received a copy of the individual rights.
 - (f) Authorization for the release of information.
 - (g) A copy of screening documents, including outcome and referrals.
 - (h) Documentation of progress notes in a timely manner summarizing any contact with the individual. Progress notes must include the date, time, duration, participant names, a brief summary of the screening and brief intervention, and the name of the staff member who provided it.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877C-0110 Problem and pathological gambling services—Agency staff requirements. In addition to meeting the agency administrative and personnel requirements in WAC 388-877-0400 through 388-877-0530, an agency providing problem and pathological gambling services must ensure:

- (1) All problem and pathological gambling treatment services are provided by:
 - (a) A certified Washington state, national, or international gambling counselor who is credentialed by the department of health (DOH) under chapter 18.19, 18.83, or 18.225 RCW; or
 - (b) An individual credentialed by DOH under chapter 18.19, 18.83, or 18.225 RCW, under the supervision of a certified problem gambling counselor, in training to become a certified problem gambling counselor.

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

(a) At least one thousand five hundred hours of professionally supervised post-certification or post-registration experience providing mental health or ~~((chemical dependency))~~ substance use disorder treatment services; and

(b) Thirty hours of unduplicated gambling specific training, including the basic training. One of the following state, national, or international organizations must approve the training:

(i) Washington state gambling counselor certification committee;

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

(iii) The department's division of behavioral health and recovery.

(3) An individual who meets (2)(b) of this section must complete training to become a certified problem and pathological gambling counselor within two years of beginning problem and pathological gambling clinical practice.

(4) All staff members in training to become a certified problem gambling counselor must receive clinical supervision. The clinical supervisor must:

(a) Hold a valid international gambling counselor certification board-approved clinical consultant credential, a valid Washington state certified gambling counselor II certification credential, or a valid national certified gambling counselor II certification credential; and

(b) Complete training on gambling specific clinical supervision approved by a state, national, or international organization including, but not limited to, the:

(i) Washington state gambling counselor certification committee;

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

(iii) The department's division of behavioral health and recovery.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-865-0100 Purpose.
- WAC 388-865-0105 What the mental health division does and how it is organized.
- WAC 388-865-0106 When local services are administered by the mental health division.
- WAC 388-865-0107 Peer counselor certification.
- WAC 388-865-0110 Access to records of registration.
- WAC 388-865-0115 Access to clinical records.
- WAC 388-865-0120 Waiver of a minimum standard of this chapter.
- WAC 388-865-0150 Definitions.
- WAC 388-865-0200 Regional support networks.

- WAC 388-865-0205 Initial certification of a regional support network.
- WAC 388-865-0210 Renewal of regional support network certification.
- WAC 388-865-0215 Consumer eligibility and payment for services.
- WAC 388-865-0220 Standards for administration.
- WAC 388-865-0221 Public awareness of mental health services.
- WAC 388-865-0222 Advisory board.
- WAC 388-865-0225 Resource management.
- WAC 388-865-0229 Inpatient services.
- WAC 388-865-0230 Community support services.
- WAC 388-865-0235 Residential and housing services.
- WAC 388-865-0240 Consumer employment services.
- WAC 388-865-0245 Administration of the Involuntary Treatment Act.
- WAC 388-865-0250 Ombuds services.
- WAC 388-865-0265 Mental health professional—Exception.
- WAC 388-865-0270 Financial management.
- WAC 388-865-0275 Management information system.
- WAC 388-865-0280 Quality management process.
- WAC 388-865-0282 Quality review teams.
- WAC 388-865-0284 Standards for contractors and sub-contractors.
- WAC 388-865-0286 Coordination with a mental health prepaid health plan.
- WAC 388-865-0288 Regional support networks as a service provider.
- WAC 388-865-0300 Mental health prepaid health plans.
- WAC 388-865-0305 Regional support network contracting as a mental health prepaid health plan.
- WAC 388-865-0310 Mental health prepaid health plans—Minimum standards.
- WAC 388-865-0315 Governing body.
- WAC 388-865-0320 Utilization management.
- WAC 388-865-0325 Risk management.
- WAC 388-865-0330 Marketing/education of mental health services.
- WAC 388-865-0335 Consumer enrollment.
- WAC 388-865-0345 Choice of primary care provider.
- WAC 388-865-0350 Mental health screening for children.
- WAC 388-865-0355 Consumer request for a second opinion.

- WAC 388-865-0360 Monitoring of mental health prepaid health plans.
- WAC 388-865-0363 Coordination with the regional support network.
- WAC 388-865-0365 Suspension, revocation, limitation or restriction of a contract.
- WAC 388-877A-0400 How individuals can express concern about their rights, services, or treatment.
- WAC 388-877A-0410 Grievance system—Definitions.
- WAC 388-877A-0420 Grievance process.
- WAC 388-877A-0430 Notice of action.
- WAC 388-877A-0440 Appeal process.
- WAC 388-877A-0450 Administrative hearings.
- WAC 388-877A-0460 Individual rights specific to Medicaid recipients.

WSR 16-15-004**PERMANENT RULES****DEPARTMENT OF AGRICULTURE**

[Filed July 7, 2016, 6:52 a.m., effective August 7, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule-making order changes the name of the Washington dry pea and lentil commission to the Washington pulse crops commission and adds faba beans and lupines to the commodities covered by the marketing order.

Citation of Existing Rules Affected by this Order: Amending WAC 16-536-005, 16-536-006, 16-536-010, 16-536-020, 16-536-040, and 16-536-070.

Statutory Authority for Adoption: RCW 15.65.047 and 15.65.050.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 16-10-031 on April 26, 2016.

Changes Other than Editing from Proposed to Adopted Version: The proposal to increase the assessment from one percent to two percent of net receipts at first point of sale for a period of three years was defeated in a referendum of affected producers. The assessment remains at one percent. In addition, a definition was added for chickpeas/garbanzo beans to distinguish them from dry peas.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 6, Repealed 0.

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

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

Date Adopted: July 7, 2016.

Derek I. Sandison
Director

Chapter 16-536 WAC**((DRY PEAS AND LENTILS)) WASHINGTON PULSE CROPS COMMISSION**

AMENDATORY SECTION (Amending WSR 04-17-021, filed 8/9/04, effective 9/9/04)

WAC 16-536-005 Marketing order for Washington ((dry peas and lentils)) pulse crops—Policy statement. (1) The marketing of ((dry peas and lentils)) pulse crops within this state is in the public interest. It is vital to the continued economic well-being of the citizens of this state and their general welfare that its ((dry peas and lentils)) pulse crops be properly promoted by:

(a) Enabling producers of ((dry peas and lentils)) pulse crops to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading, and standardizing of the ((dry peas and lentils)) pulse crops they produce; and

(b) Working towards stabilizing the agricultural industry by increasing consumption of ((dry peas and lentils)) pulse crops within the state, the nation, and internationally.

(2) That it is in the overriding public interest that support for the ((dry peas and lentils)) pulse crops industry be clearly expressed, that adequate protection be given to the industry and its activities and operations, and that ((dry peas and lentils)) pulse crops be promoted individually, and as part of a comprehensive agricultural industry to:

(a) Enhance the reputation and image of Washington state's ((dry peas and lentils)) pulse crops.

(b) Increase the sale and use of Washington state's ((dry peas and lentils)) pulse crops in local, domestic, and foreign markets.

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's ((dry peas and lentils)) pulse crops.

(d) Increase the knowledge of the health-giving qualities and dietetic value of Washington state's ((dry peas and lentils)) pulse crops and products.

(e) Support and engage in programs or activities that benefit the planting, production, harvesting, handling, processing, marketing, and uses of ((dry peas and lentils)) pulse crops produced in Washington state.

(3) The director is authorized to implement, administer, and enforce chapter 15.65 RCW through the adoption of this marketing order.

(4) The Washington state ((dry pea and lentil)) pulse crops commodity board exists primarily for the benefit of the people of the state of Washington and its economy, and with oversight by the director, the board is authorized to speak on behalf of Washington state government with regard to ((dry

~~peas and lentils~~) pulse crops under the provisions of this marketing order.

AMENDATORY SECTION (Amending WSR 04-17-021, filed 8/9/04, effective 9/9/04)

WAC 16-536-006 Marketing order purposes. This marketing order is to promote the general welfare of the state and for the purpose of maintaining existing markets or creating new or larger local, domestic, and foreign markets; or increasing production efficiency, ensuring a fair regulatory environment; or increasing per capita consumption of ~~((dry peas and/or lentils))~~ pulse crops in Washington state. The Washington state ~~((dry pea and lentil))~~ pulse crops commodity board is designated by the director to conduct the following programs in accordance with chapter 15.65 RCW:

(1) To carry out the purposes of the order, the board shall provide for a program in one or more of the following areas:

(a) Establish plans and conduct programs for marketing, sales, promotion and/or other programs for maintaining present markets and/or creating new or larger markets for ~~((dry peas and/or lentils))~~ pulse crops. Such programs shall be directed toward increasing the sale of ~~((dry peas and/or lentils))~~ pulse crops without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims on behalf of ~~((dry peas and/or lentils))~~ pulse crops nor disparage the quality, value, sale or use of any other agricultural commodity.

(b) Provide for research in the production, processing, irrigation, transportation, handling, and/or distribution of ~~((dry peas and/or lentils))~~ pulse crops and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried out by experiment stations of Washington State University, but if in the judgment of the board said experiment stations do not have adequate facilities for a particular project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

(c) Provide by rules for:

(i) Establishing uniform grades and standards of quality, condition, maturity, size, weight, pack, packages and/or label for ~~((dry peas and/or lentils))~~ pulse crops or any products thereof.

(ii) Requiring producers, handlers and/or other persons to conform to such grades and/or standards in packing, packaging, processing, labeling, selling or otherwise commercially disposing of ~~((dry peas and/or lentils))~~ pulse crops and/or in offering, advertising and/or delivering it therefor.

(iii) Providing for inspection and enforcement to ascertain and effectuate compliance.

(iv) Providing that the board shall carry out inspection and enforcement of, and may (within the general provisions of the order) establish detailed provisions relating to, such standards and grades and such rules and regulations: Provided, That any modification not of a substantial nature, such as the modification of standards within a certain grade may be made without a hearing, and shall not be considered an amendment for the purposes of the act and order.

(d) Conduct programs for the purpose of providing information and education including:

(i) Marketing information and services for producers of ~~((dry peas and/or lentils))~~ pulse crops for the verification of grades, standards, weights, tests, and sampling of quality and quantity of ~~((dry peas and/or lentils))~~ pulse crops purchased by handlers from affected producers.

(ii) Information and services enabling producers to meet their resource conservation objectives.

(iii) ~~((Dry peas and lentils))~~ Pulse crops-related education and training.

(e) Subject to the provisions of the act, provide information and communicate on matters pertaining to the production, irrigation, processing, transportation, marketing, or uses of ~~((dry peas and/or lentils))~~ pulse crops produced in Washington state to any elected official or officer or employee of any agency.

(2) The director shall approve any plans, programs, and projects concerning:

(a) The establishment, issuance, effectuation, and administration of programs authorized under this section for advertising and promotion of ~~((dry peas and/or lentils))~~ pulse crops; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that marketing and utilization of ~~((dry peas and/or lentils))~~ pulse crops may be encouraged, expanded, improved, or made more efficient.

AMENDATORY SECTION (Amending WSR 04-17-021, filed 8/9/04, effective 9/9/04)

WAC 16-536-010 Definitions. Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agricultural Commodity Boards Act. For the purpose of this marketing order:

~~((1)) "Director" means the director of agriculture of the state of Washington or his or her duly appointed representative.~~

~~((2)) "Department" means the department of agriculture of the state of Washington.~~

~~((3)) "Act" means the Washington State Agriculture Commodity Boards Act or chapter 15.65 RCW.~~

~~((4)) "Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society, or any other organization of individuals or any unit or agency of local or state government.~~

~~((5)) "Affected producer" means any person who produces, or causes to be produced, in commercial quantities, dry peas and/or lentils in the state of Washington.~~

~~((6)) "Commercial quantity" means all the dry peas and/or lentils produced for market in any calendar year by any producer.~~

~~((7)) "Affected handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing or distributing dry peas and/or lentils not produced by him or her. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.~~

~~((8)) "Dry pea and lentil commodity board" hereinafter referred to as "board" or "commission" means the dry pea and~~

lentil commodity board formed under the provisions of WAC 16-536-020.

(9) "Dry peas" means and includes all kinds and varieties of dry peas grown in the state of Washington, including chick peas/garbanzo beans and commercially grown wrinkled peas raised for seed: Provided, That it shall not include dry peas used by the producer thereof on his or her premises for feed, seed, and personal consumption: Provided further, That the inclusion of commercially grown wrinkled peas raised for seed will not become effective until approved by a referendum vote of the affected commercial wrinkled pea seed producers.

(10) "Lentils" means and includes all kinds and varieties of lentils grown in the state of Washington: Provided, That it shall not include lentils used by the producers thereof on his or her premises for feed, seed, and personal consumption.

(11) "Marketing season" or "fiscal year" means the twelve month period beginning with July 1 of any year and ending with the last day of June, both dates being inclusive.

(12) "Producer-handler" means any person who acts both as a producer and as a handler with respect to dry peas and/or lentils. A producer-handler shall be deemed to be a producer with respect to the dry peas and/or lentils which he or she produces, and a handler with respect to the dry peas and/or lentils which he or she handles, including those produced by himself or herself. "To produce" means to act as a producer. For purposes of the dry peas and lentils marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(13) "Affected area" means the state of Washington.

(14) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

(15) "Affected unit" means one hundred pounds of dry peas and/or lentils.) "Act" means the Washington State Agricultural Commodity Boards Act, chapter 15.65 RCW.

"Affected area" means the state of Washington.

"Affected handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing or distributing pulse crops not produced by him or her. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

"Affected producer" means any person who produces, or causes to be produced, in commercial quantities, pulse crops in the state of Washington.

"Affected unit" means one hundred pounds of pulse crops.

"Chickpeas (garbanzo beans)" means all kinds and varieties of dry chickpeas grown in the state of Washington: Provided, That it shall not include dry chickpeas used by the producers thereof on his or her premises for feed, seed, and personal consumption.

"Commercial quantity" means all the pulse crops produced for market in any calendar year by any producer.

"Department" means the department of agriculture of the state of Washington.

"Director" means the director of agriculture of the state of Washington or his or her duly appointed representative.

"Dry peas" means all kinds and varieties of dry peas grown in the state of Washington, including commercially grown wrinkled peas raised for seed: Provided, That it shall not include dry peas used by the producer thereof on his or her premises for feed, seed, and personal consumption: Provided further, That the inclusion of commercially grown wrinkled peas raised for seed will not become effective until approved by a referendum vote of the affected commercial wrinkled pea seed producers.

"Faba (fava) beans" means all kinds and varieties of dry faba beans grown in the state of Washington: Provided, That it shall not include faba beans used by the producers thereof on his or her premises for feed, seed, and personal consumption.

"Lentils" means all kinds and varieties of lentils grown in the state of Washington: Provided, That it shall not include lentils used by the producers thereof on his or her premises for feed, seed, and personal consumption.

"Lupine (lupin)" means all kinds and varieties of dry lupine grown in the state of Washington: Provided, That it shall not include lupine used by the producers thereof on his or her premises for feed, seed, and personal consumption.

"Marketing season" or "fiscal year" means the twelve-month period beginning with July 1 of any year and ending with the last day of June, both dates being inclusive.

"Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society, or any other organization of individuals or any unit or agency of local or state government.

"Producer-handler" means any person who acts both as a producer and as a handler with respect to pulse crops. A producer-handler shall be deemed to be a producer with respect to the pulse crops which he or she produces, and a handler with respect to the pulse crops which he or she handles, including those produced by himself or herself. "To produce" means to act as a producer. For purposes of the pulse crops marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

"Pulse crops" means the following commodities marketed in their "dry" condition: Dry peas, chickpeas/garbanzo beans, lentils, faba beans, and lupine as defined in this marketing order.

"Pulse crops commodity board" hereinafter referred to as "board" or "commission" means the dry pea and lentil commodity board formed under the provisions of WAC 16-536-020 and renamed the Washington pulse crops commission.

"Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

AMENDATORY SECTION (Amending WSR 04-17-021, filed 8/9/04, effective 9/9/04)

WAC 16-536-020 The ((dry pea and lentil)) pulse crops board. (1) **Administration.** The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) Board membership.

(a) The board shall consist of ten members. Eight members shall be affected producers appointed as provided in this marketing order. One member shall be an affected handler appointed as provided in this marketing order. The director shall appoint one member of the board who is neither an affected producer nor an affected handler to represent the director. The position representing the director shall be a voting member.

(b) For the purpose of nomination and appointment of producer members of the board, the affected area of the state of Washington shall be divided into four representative districts as follows:

(i) District I shall have three board members, being positions 1, 2 and 3 and shall include the county of Whitman.

(ii) District II shall have two board members, being positions 4 and 5 and shall include the county of Spokane.

(iii) District III shall have one board member being position 6 and shall include the counties of Walla Walla, Garfield, Columbia and Asotin.

(iv) District IV shall have two board members, being positions 7 and 8 and shall include all other counties of the state of Washington: Provided, That the addition of another member, being position 8, shall not become effective until approved by a referendum vote of the affected commercial wrinkled pea seed producers.

(3) Board membership qualifications.

(a) The producer members of the board must be practical producers of ~~((dry peas and/or lentils))~~ pulse crops in the district in and for which they are nominated and appointed and each shall be a citizen and resident of the state, over the age of eighteen years. Each producer board member must be and have been actually engaged in producing ~~((dry peas and/or lentils))~~ pulse crops within the state of Washington for a period of five years and has during that time derived a substantial portion of his or her income therefrom and is not engaged in business, directly or indirectly, as a handler or other dealer.

(b) The handler member of the board must be a practical handler of ~~((dry peas and/or lentils))~~ pulse crops and shall be a citizen and resident of the state, over the age of eighteen years ~~((and who is and has))~~. The handler board member must be and have been, either individually or as an officer or an employee of a corporation, firm, partnership, association or cooperative actually engaged in handling ~~((dry peas and/or lentils))~~ pulse crops within the state of Washington for a period of five years and has during that period derived a substantial portion of his or her income therefrom.

(c) The qualifications of members of the board must continue during their term of office.

(4) Term of office.

(a) The term of office for members of the board shall be three years, and one-third of the membership as nearly as possible shall be appointed each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through eight, the affected handler shall have position nine and the member representing the director position ten.

(c) The term of office for the initial board members shall be as follows:

Positions seven, eight, nine, and ten - One year

Positions four, five and six - Two years

Positions one, two, and three - Three years

(d) Except for the director's representative, no appointed member of the board may serve more than two full consecutive three-year terms.

(e) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members shall be forwarded to the director for appointment within thirty days of the effective date of this amended marketing order.

(5) Nomination of director-appointed board members.

(a) For the purpose of nominating candidates for appointment to board membership the director shall call separate meetings of affected producers and affected handlers.

(b) Each year the director shall call a nomination meeting for director-appointed board members in those districts whose board members term is about to expire. The meeting(s) shall be held at least thirty days in advance of the date set by the director for the advisory vote of board members.

(c) Notice of a nomination meeting shall be published in newspapers of general circulation within the affected district not less than ten days in advance of the date of such meeting and in addition, written notice of every such meeting shall be given to all affected producers within such affected district and handlers according to the list maintained by the board pursuant to RCW 15.65.295.

(d) Nonreceipt of notice by any interested person shall not invalidate the proceedings at a nomination meeting.

(e) Any qualified affected producer or handler may be nominated orally for membership on the board at a nomination meeting. Nominations may also be made within five days after the meeting by written petition filed with the director signed by not less than five affected producers or affected handlers.

(f) If the board moves and the director approves that the nomination meeting procedure be deleted, the director shall give notice of the open board position(s) by mail to all affected producers and handlers. Nominating petitions for producers and handlers shall be signed by not less than five affected producers and handlers. Final date for filing nominations shall be not less than twenty days after the notice was mailed.

(g) When only one nominee is nominated for a director-appointed position, RCW 15.65.250 shall apply.

(6) Advisory vote of board members.

(a) An advisory vote shall be conducted by secret ballot under the supervision of the director within the month of May. Each affected producer and affected handler shall be entitled to one vote.

(b) An advisory vote shall be conducted for board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(c) Notice of every advisory vote for board membership shall be published in a newspaper of general circulation within the affected district not less than ten days in advance of the date of the advisory vote. Not less than ten days prior to every advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer and affected handler entitled to vote whose name appears upon the list of such affected producers and affected handlers maintained by the board pursuant to RCW 15.65.295. Any other affected producer or affected handler entitled to vote may obtain a ballot by application to the director upon establishing his or her qualifications.

(d) Nonreceipt of a ballot by an affected producer or affected handler shall not invalidate the advisory vote of any board member.

(7) **Vacancies.** In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

(8) **Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary or other compensation, but each member may be compensated in accordance with RCW 43.03.230 and shall be reimbursed for subsistence, lodging, and mileage in accordance with RCW 43.03.050 and 43.03.060, as provided for in RCW 15.65.270. The board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. Such expenses and costs may be paid by check, draft or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating the order: Provided, That the total reimbursement to all applicants shall not exceed two thousand dollars.

(f) To establish a "~~(dry pea and lentil)~~ pulse crops board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books and accounts shall be audited at least annually subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the state of Washington. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year. The board, at least fifteen days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(p) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(q) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW.

(r) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(s) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of ~~((dry peas and lentils))~~ pulse crops.

(t) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(u) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(v) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of ~~((dry peas and lentils))~~ pulse crops including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(w) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(x) To maintain a list of the names and addresses of persons who handle ~~((dry peas and lentils))~~ pulse crops within the affected area and data on the amount and value of the dry peas and lentils handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(y) To maintain a list of the names and addresses of all affected persons who produce ~~((dry peas and lentils))~~ pulse crops and the amount, by unit, of ~~((dry peas and lentils))~~ pulse crops produced during the past three years pursuant to RCW 15.65.295.

(z) To maintain a list of all persons who handle ~~((dry peas and lentils))~~ pulse crops and the amount of ~~((dry peas and lentils))~~ pulse crops handled by each person during the past three years pursuant to RCW 15.65.295.

(aa) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(11) Procedures for board.

(a) The board shall hold regular meetings with the time and date thereof to be fixed by resolution of the board and the meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act). The notice of the time and place of regular meetings shall be published on or before January of each year in the *Washington State Register*. Notice of any change to the meeting schedule shall be published in the state register at least twenty days prior to the rescheduled meeting date.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting through regular wire news services and radio-television press.

(c) The board ~~((shall establish by resolution, the time, place and manner of calling special meetings with reasonable notice to the members: Provided, That the notice to a member of any special meeting may be waived by a waiver from that member of the board. Notice for special meetings shall be in~~

~~compliance with chapter 42.30 RCW))~~ may call special meetings as provided under RCW 42.30.080.

AMENDATORY SECTION (Amending WSR 04-17-021, filed 8/9/04, effective 9/9/04)

WAC 16-536-040 Assessments and collections. (1) Assessments.

(a) The assessment on all varieties of ~~((dry peas and dry lentils))~~ pulse crops subject to this marketing order shall be one percent of the net receipts at the first point of sale and shall be deducted by the first purchaser from the price paid to the grower. Such assessment shall be remitted to the commission board in accordance with procedures adopted by the commission board: Provided, That an assessment on commercial wrinkled pea seed shall not become effective unless approved by a referendum vote of the affected wrinkled pea seed producers.

(b) Assessments shall not be payable on any such ~~((dry peas and/or lentils))~~ pulse crops used by the producer thereof on his or her premises for feed, seed and personal consumption.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of this order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of this marketing order, to all persons from whom moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate the policies and purposes.

(3) **Penalties.** Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and this order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the unpaid assessment to defray the cost of enforcing the collecting of it. In the event of failure of such person or persons to pay any due and payable assessment or other such sum, the board may bring a civil action against the person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent, and the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

AMENDATORY SECTION (Amending Order Articles VII and VIII, filed 3/26/65)

WAC 16-536-070 Effective time. ~~((+))~~ This marketing order for pulse crops (formerly titled "dry peas and lentils") shall become effective on and after July 1, 1965, as amended by rule.

~~((2))~~ This order shall remain in full force and effect until July 1, 1972 unless terminated prior thereto under the provi-

sions of chapter 15.65 RCW as set forth in WAC 16-536-060: Provided, That if it remains in effect until said July 1, 1972 the director shall conduct a referendum election as required for the approval of an order under chapter 15.65 RCW at such time prior to such date so that he may determine if the affected producers and handlers desire that the order be terminated on such date or continued in full force and effect beyond such date. All the costs of conducting such election shall be defrayed from the funds of the board.))

WSR 16-15-011
PERMANENT RULES
BIG BEND

COMMUNITY COLLEGE

[Filed July 8, 2016, 8:47 a.m., effective August 8, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Changes to the current Title 132R WAC are necessary to comply with the Violence Against Women Reauthorization Act of 2013, to clarify processes for compliance with United States Department of Education Title IX as described in Dear Colleague Letter: Harassment and Bullying (October 26, 2010), and to clarify campus marijuana use rules in light of I-502.

Citation of Existing Rules Affected by this Order: Amending chapter 132R-04 WAC, Community colleges—Big Bend Community College.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 16-10-015 on April 22, 2016.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 14, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: July 1, 2016.

Melinda Dourte
Executive Assistant
to the President

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-010 Statement of student rights ((and responsibilities)). ((Admission to the college carries with it the expectation that students will conduct themselves as responsible members of the college community, that they will

comply with the rules and regulations of the college, maintain high standards of integrity and honesty, respect the rights, privileges, and property of other members of the college community, and will not interfere with legitimate college affairs.

The rights and responsibilities of students are further defined and listed in the "student rights and responsibilities" policy adopted by the board of trustees of Big Bend Community College. Policies and procedures are fully explained in the student handbook which is on file in the office of the vice-president of student services.)) As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to maintain and to respect the general conditions necessary for a free and effective learning environment is shared by all members of the college community.

The following enumerated rights are guaranteed to each student within the limitations of statutory law and college policy which are deemed necessary to achieve the educational goals of the college:

(1) Academic freedom.

(a) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

(b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(c) Students shall be protected from academic evaluation which is arbitrary, prejudiced, or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors.

(d) Students have the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and any and all harassment, including sexual harassment.

(2) Due process.

(a) The rights of students to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures is guaranteed.

(b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

A student accused of violating this code of student conduct is entitled, upon request, to procedural due process as set forth in this chapter.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-015 Definitions. ((1) "ASB" means the representative governing body for students at Big Bend Community College recognized by the board of trustees.

(2) "Assembly" means any overt activity engaged in by two or more persons, the object of which is to gain publicity,

advocate a view, petition for a cause or disseminate information to any person, persons or group of persons.

(3) "Board" means the board of trustees of Community College District 18, state of Washington.

(4) "College president" or "president" means the duly appointed chief executive officer of Big Bend Community College, Community College District 18, state of Washington, or in his/her absence, the acting chief executive officer.

(5) "College" means Big Bend Community College located within Community College District 18, state of Washington.

(6) "College facilities" means and includes any or all real and personal property owned or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto.

(7) "College personnel" refers to any person employed by Community College District 18 on a full-time or part-time basis, except those who are faculty members.

(8) "Disciplinary action" means and includes suspension or any lesser sanction of any student by the vice president of student services, student disciplinary council, college president, or the board of trustees for the violation of any of the provisions of the code of student conduct or any of the provisions of the code of student rights and responsibilities for which such sanctions may be imposed.

(9) "District" means Community College 18, state of Washington.

(10) "Faculty member(s)" means any employee of Big Bend Community College who is employed on a full-time or part-time basis as a teacher, counselor, librarian or other position for which the training, experience and responsibility are comparable as determined by the appointing authority, except administrative appointments.

(11) "Hazing" means any method of initiation into a student organization, association, or living group or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending any institution of higher education or post-secondary institution.

(12) "Recognized student organization" means and includes any group or organization composed of students, which is affirmed by the student government of the college.

(13) "A sponsored event or activity" means any activity that is scheduled by the college and is supervised and controlled by college faculty members or personnel. Such sponsorship shall continue only as long as the event is supervised and controlled by the college faculty member or personnel. When the sponsored event or activity is of a prolonged nature, and free time periods are permitted to the students participating in the event, any activity taking place during such a free time period outside of the supervision and control of the college faculty member(s) or personnel, shall be deemed to be a nonsponsored activity.

(14) "Student" means a person who is enrolled for courses at the college.

(15) "Working days" means Monday through Friday, excluding holidays.) For the purposes of this chapter, terms are defined as follows:

(1) "Student conduct officer" is a college administrator responsible for implementing and enforcing the student conduct code. The student conduct officer is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary. The vice-president of instruction and student services will serve as the student conduct officer or may appoint a designee.

(2) "Conduct review officer" is a college administrator responsible for receiving and facilitating appeals from student disciplinary actions and for reviewing initial orders issued in a brief adjudicative proceeding. The conduct review officer shall be designated by the president and shall be authorized to grant appropriate relief upon review. The conduct review officer is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary. The director of student programs will serve as the conduct review officer, unless otherwise designated by the president.

(3) "The president" is the president of the college. The president is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary.

(4) "Disciplinary action" is the process by which discipline is imposed by the student conduct officer against a student for a violation of the student conduct code.

(5) "Disciplinary appeal" is the process by which an aggrieved student can appeal the discipline imposed by the student conduct officer. Disciplinary appeals from a suspension in excess of ten instructional days or an expulsion are heard by the disciplinary committee. Appeals of all other appealable disciplinary action may be reviewed through brief adjudicative proceedings.

(6) "Respondent" is the student against whom disciplinary action is being taken.

(7) "Service" is the process by which a document is officially delivered to a party. Unless expressly specified otherwise, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) By sending the document by e-mail and by certified mail or first class mail to the party's last known address.

Service is deemed complete upon hand delivery of the document or upon the date the document is e-mailed and deposited into the mail.

(8) "Filing" is the process by which a document is officially delivered to a school official responsible for facilitating a disciplinary review or a presiding officer. Unless expressly specified otherwise, filing shall be accomplished by:

(a) Hand delivery of the document to the school official or school official's assistant; or

(b) By sending the document by e-mail and first class mail to the recipient's college e-mail and office address.

Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified official or presiding officer.

(9) "College premises" shall include all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, and other property owned, used, or controlled by the college.

(10) "Student" includes all persons taking courses at or through the college, whether on a full-time or part-time basis.

and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who withdraw after allegedly violating the code, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered "students."

(11) "Business day" means a weekday, excluding weekends and college holidays. If a time period is not specifically stated in business days, then calendar days apply.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-017 Statement of jurisdiction. ((All rules herein adopted shall apply to every student whenever said student is present upon or in any college facility and whenever said student is present at or engaged in any college sponsored activity or function whether occurring on or off college facilities/premises.)) The conduct code adopted herein applies to student conduct that occurs on college premises, at college-sponsored activities, and to off-campus student conduct that adversely affects the well-being of the college community and/or the pursuit of its objectives. Jurisdiction includes, but is not limited to, locations in which students are engaged in official college activities including, but not limited to, foreign or domestic travel, activities funded by the associated students, athletic events, training internships, cooperative and distance education, online education, practicums, supervised work experiences or any other college-sanctioned social or club activities. Students are responsible for their conduct from the time of application for admission through the actual receipt of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending. The student conduct officer has sole discretion, on a case-by-case basis, to determine whether the code of student conduct will be applied to conduct occurring off campus.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-057 Student code of conduct violations. ((Any student shall be subject to immediate disciplinary action provided for in code procedures and summary suspension rules who, either as a principal actor or aider or abettor:

(1) Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college.

(2) Violates any provisions of the code of student rights and responsibilities.

(3) Commits any of the following acts which are hereby prohibited:

(a) All forms of academic misconduct and dishonesty including cheating, plagiarism, knowingly furnishing false information to the college, and forgery, alteration or use of college documents or instruments of identification with intent to defraud.

(b) Failure to comply with lawful directions of faculty, administrators and other regularly employed personnel acting in performance of their lawful duties.

(c) Conduct which intentionally and substantially obstructs or disrupts freedom of movement, teaching, disciplinary proceedings or other lawful activities on the college campus. Said conduct may be defined as:

(i) Behavior that involves an expressed or an implied threat to interfere with an individual's personal safety, academic efforts, employment, or participation in college activities and causes the person to have a reasonable apprehension that such interference is about to occur;

(ii) Threat to cause bodily harm at present or in the future to any person, or to cause physical damage to another's property, or to maliciously do any act which is intended to substantially harm another person's physical or mental health or safety;

(iii) Intentional and repeated following or contacting another person in a manner that intimidates, harasses or places another in fear for his or her personal safety or the safety of his or her property.

(d) Physical abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the physical or mental health and safety of any person on college owned or controlled property or at college-sponsored or supervised functions.

(e) All forms of sexual misconduct which includes sexual harassment, sexual intimidation, sexual coercion, sexual assault, and rape.

(f) All forms of hazing which endangers, or is likely to endanger, the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of admission into, affiliation with, or as a condition for continued membership in a group or college organization.

(g) Malicious damage to or malicious misuse of college property, or the property of any person where such property is located on the college campus.

(h) Refusal to comply with any lawful order to leave the college campus or any portion thereof.

(i) Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities on the college campus, except for authorized college purposes; unless prior written approval has been obtained from the vice president of student services, or any other person designated by the college president.

(j) Intentionally inciting others to engage immediately in any of the conduct prohibited herein, which incitement leads directly to such conduct. (Inciting is that advocacy which prepares the group addressed for imminent action and steers it to the conduct prohibited herein.)

(k) Possessing, consuming, being demonstrably under the influence of, or furnishing any form of alcoholic beverages on college owned or controlled property or at college-sponsored or supervised functions where prohibited by the college's current alcohol policy.

(l) Disorderly conduct, including disorderly conduct resulting from drunkenness.

(m) Engaging in lewd, indecent or obscene behavior on college-owned or controlled property or at college-sponsored or supervised functions.

(n) Using, possessing, furnishing or selling any narcotic or dangerous drug as defined in Washington statutes, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist.

(o) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm or other device established for the safety of individuals and/or college facilities.

(p) Theft or conversion of college property or private property.

(q) Entering any administrative office or any locked or otherwise closed college facility in any manner, at any time, without permission of the college employee or agent in charge thereof.

(r) Possession, making or causing to be made, any key to operate locks or locking mechanisms on campus without proper authorization or using or giving to another, a key for which there has been no proper authorization.

(s) Interfering with college computing or communication functions or with the work of another student, faculty member, or college official; gaining unauthorized access, altering data, misusing computing facilities to send harassing messages, or misuse of the campus network and/or computing facilities as defined by the current college technology use policy and procedures.

(t) Disruptive classroom conduct including abusive language toward a classroom instructor and/or student and other acts of misconduct.

(4) Single or repeated violation of the above code is relevant in determining an applicant's or a student's membership in the college.) **Student misconduct.** Misconduct for which the college may impose sanctions includes, but is not limited to, any of the following:

(1) Any act of academic dishonesty including, but not limited to, cheating or plagiarism.

(a) Cheating includes, but is not limited to, using, or attempting to use, any material, assistance, or source which has not been authorized by the instructor to satisfy any expectation or requirement in an instructional course, or obtaining, without authorization, test questions or answers or other academic material that belong to another.

(b) Plagiarism includes, but is not limited to, presenting or submitting another person's ideas, words, or other work in an instructional course without properly crediting that person.

(c) Academic dishonesty includes, but is not limited to, presenting or submitting in an instructional course either information that is known to be false (while concealing that falsity) or work that is substantially the same as that previously submitted in another course (without the current instructor's approval).

(2) Any other acts of dishonesty. Such acts include, but are not limited to:

(a) Forgery, alteration, submission of falsified documents or misuse of any college document, record, or instrument of identification;

(b) Tampering with an election conducted by or for college students; or

(c) Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a college officer or employee.

(3) Obstruction or disruption of:

(a) Any instruction, research, administration, disciplinary proceeding, or other college activity; or

(b) Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

(4) Assault, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, stalking or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property. For purposes of this subsection:

(a) Bullying is physical or verbal abuse, repeated over time, and involving a power imbalance between the aggressor and victim.

(b) Stalking is intentional and repeated harassment or repeated following of another person, which places that person in reasonable fear that the stalker intends to injure the person, another person, or the property of the person or another person, and the stalker either intends to frighten, intimidate, or harass the person, or knows or reasonably should know that the person is frightened, intimidated or harassed, even if the stalker lacks such an intent. The person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or property of the person or of another person. The feeling of fear must be one that a reasonable person in the same situation would experience under all the circumstances.

(5) Cyberstalking, cyberbullying, or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites, to harass, abuse, bully or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's e-mail communications directly or through spyware, sending threatening e-mails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third-parties using another's e-mail identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

(6) Attempted or actual damage to, or theft or misuse of, real or personal property or money of:

(a) The college or state;

(b) Any student or college officer, employee, or organization; or

(c) Any other person or organization, or possession of such property or money after it has been stolen.

(7) Failure to comply with the direction of a college officer or employee who is acting in the legitimate performance of his or her duties, including failure to properly identify oneself to such a person when requested to do so.

(8) Participation in any activity which unreasonably disrupts the operations of the college or infringes on the rights of

another member of the college community, or leads or incites another person to engage in such an activity.

(9) Weapons: Possession of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device or any other weapon apparently capable of producing bodily harm, unless previously authorized by the vice-president of instruction and student services. See board policy 7800 for additional details.

(10) Hazing. Hazing includes, but is not limited to, any initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student.

(11) Tobacco, electronic cigarettes, and related products: The use of tobacco, electronic cigarettes, and related products in any building owned, leased or operated by the college or in any location where such use is prohibited, or in any location other than the parking lots, including twenty-five feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased or operated by the college. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, and snuff.

(12) Alcohol: The use, possession, delivery, sale, or being visibly under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(13) Marijuana: The use, possession, delivery, sale, or being visibly under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.

(14) Being observably under the influence of any legend drug, narcotic drug or controlled substance as defined in chapters 69.41 and 69.50 RCW, or otherwise using, possessing, delivering, or selling any such drug or substance, except in accordance with a lawful prescription for that student by a licensed health care professional.

(15) Obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity.

(16) Conduct which is disorderly, lewd, or obscene.

(17) Breach of the peace.

(18) Discriminatory conduct: Discriminatory conduct which harms or adversely affects any member of the college community because of her or his race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification.

(19) Sexual violence: The term "sexual violence" incorporates the definition of "sexual harassment" and means a physical sexual act perpetrated without clear, knowing, and voluntary consent, such as committing a sexual act against a person's will, exceeding the scope of consent, or where the person is incapable of giving consent, including rape, sexual assault, sexual battery, sexual coercion, sexual exploitation, gender- or sex-based stalking. The term further includes acts of dating or domestic violence and dating violence.

(a) Domestic violence: Includes (i) physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; (ii) sexual assault of one family or household member by another; or (iii) stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member. Pursuant to chapter 10.99 RCW, domestic violence also includes, but is not limited to, the following crimes when committed by one family or household member against another: Assault; drive-by shooting; reckless endangerment; coercion; burglary; criminal trespass; malicious mischief; kidnapping; unlawful imprisonment; and violation of a restraining order, no-contact order or protection order.

(b) Dating violence: Violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

(c) Stalking: Intentional and repeatedly harassing or following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated or harassed, even if the perpetrator lacks such intent. In addition to any other form of communication or conduct, the sending of an electronic communication may constitute stalking.

(d) Consent: At the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

(20) Sexual harassment: Conduct includes, but is not limited to, engaging in unwelcome sexual advances, requests for sexual favors, or other sexual conduct, including verbal, nonverbal, electronic or social media communication, or physical touching that would substantially interfere with a reasonable person's work or educational performance, or to create an intimidating, hostile, or offensive educational environment.

(21) Harassment: Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification. See supplemental definitions: "Sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic media.

(22) Theft or other misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:

(a) Unauthorized use of such resources or opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of such time or resources to interfere with someone else's work;

(e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;

(f) Use of such time or resources to interfere with normal operation of the college's computing system or other electronic information resources;

(g) Use of such time or resources in violation of applicable copyright or other law;

(h) Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization; or

(i) Failure to comply with the college's electronic use policy.

(23) Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property.

(24) Abuse or misuse of any of the procedures relating to student complaints or misconduct including, but not limited to:

(a) Failure to obey a subpoena or order to appear at a hearing;

(b) Falsification or misrepresentation of information;

(c) Disruption, or interference with the orderly conduct, of a proceeding;

(d) Interfering with someone else's proper participation in a proceeding;

(e) Destroying or altering potential evidence, or attempting to intimidate or otherwise improperly pressure a witness or potential witness;

(f) Attempting to influence the impartiality of, or harassing or intimidating, a student disciplinary committee member; or

(g) Failure to comply with any disciplinary sanction(s) imposed under this student conduct code.

(25) Operation of any motor vehicle on college property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person.

(26) Violation of any federal, state, or local law, rule, or regulation or other college rules or policies, including college traffic and parking rules.

(27) Ethical violation: The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.

(28) Aiding, abetting, inciting, encouraging, or assisting another person to commit any of the foregoing acts of misconduct.

In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state or local laws to civil and criminal authorities for disposition. The college shall proceed with

student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-063 Disciplinary sanctions. ((If any student is found to have violated any of the offenses enumerated at WAC 132-04-057, one or more of the following sanctions may be imposed against the student or student organization. Failure to comply with any imposed sanctions may result in additional sanctions:

(1) Minor disciplinary sanction:

(a) "Disciplinary warning." Formal action censoring a student for unacceptable conduct or violation of college rules or regulations. The student is notified in writing of this action. Warnings imply that further unacceptable conduct or violation of rules will result in one of the more serious actions described below.

(b) "Disciplinary probation." Formal action placing condition on the student's continued attendance for violation of specified regulations. The disciplinary probation shall specify, in writing, the period of probation and the conditions which may include conditions such as limiting the student's participation in college-related privileges or extracurricular activities or enforcing a "no contact" order which would prohibit direct or indirect physical and/or verbal contact with specific individuals or groups. Disciplinary probation further shall give the student notice that any further misconduct will automatically raise the question of suspension from the college. Disciplinary probation shall be for a specified period of time.

(c) "Educational activities." Activities designed to foster student development may include, but are not limited to, community service, attendance at educational programs, or written assignments.

(d) "Restitution." Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

(e) "Assessment." Referral for drugs/alcohol or psychological assessment may be required. Results of the assessment may lead to the determination that conditions of treatment and further assessment apply to either continued attendance or return after a period of suspension.

(2) Major disciplinary sanction:

(a) "Disciplinary suspension." Formal action taken by authorized personnel (the president or anyone authorized to act in the absence of the president) dismissing a student temporarily from the college for unacceptable conduct or violation of college rules or regulations. Suspension may be for a stated or for an indefinite period, but the implication of the action is that the student may eventually return if evidence or other assurance is presented that the unacceptable conduct will not be repeated. The notification suspending the student must state the conditions to be met and whether the action is to be noted permanently on the student's record. The student and vice-president of student services are notified in writing of the action taken, the terms of the suspension and any conditions involved, and the dean of enrollment services is requested to enter the action on the student's academic record.

No fees will be refunded for the quarter in which the action is taken.

(b) "Disciplinary expulsion." Discretionary action by authorized personnel dismissing a student permanently for flagrantly unacceptable conduct or violation of college rules or regulations. Unlike suspension, no term is involved, the action always becomes effective on notice. Expulsion must have the prior approval of the president. The student is notified in writing of the action taken, and the dean of enrollment services is requested to enter the action permanently on the student's academic record.

(c) "Hold" (administrative). Attachment of a student's record to assure compliance with college rules, procedures, or obligations. The "hold" may be placed on the student's record by the authorized college office responsible for enforcement of the rule, procedure, or obligation involved. The authorized office must request the dean of enrollment services in writing to place a "hold" on the student's record. The student will not be permitted to register for any subsequent quarter nor to obtain a transcript of his/her record except on the written release of the office which placed the "hold."

(d) "Registration canceled" (administrative). Privileges of attendance withdrawn, effective immediately on notice.

(i) By order of the business office for financial delinquencies. (Handled as a withdrawal for recording purposes.)

(ii) By order of the vice president of student services for failure to comply with rules, regulations or instructions.

The order canceling a registration must be addressed to the student involved in writing. The registration office automatically will place a "hold" on the student's record to prevent registration for future quarters and the issuance of transcripts.)) **Sanctions.** Disciplinary actions include, but are not limited to, the following sanctions that may be imposed upon students according to the procedure outlined in WAC 132R-04-057.

(1) Warning: A verbal statement to a student that there is a violation and that continued violation may be cause for further disciplinary action.

(2) Reprimand: Notice in writing that the student has violated one or more terms of this code of conduct and that continuation of the same or similar behavior may result in more severe disciplinary action.

(3) Disciplinary probation: Formal action placing specific conditions and restrictions upon the student's continued attendance depending upon the seriousness of the violation and which may include a deferred disciplinary sanction. If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction, which may include, but is not limited to, a suspension or a dismissal from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation. Probation may be for a limited period of time or may be for the duration of the student's attendance at the college. Other conditions and restrictions may include, but not be limited to, restrictions from being present on certain parts of the campus or in certain college buildings; restriction from attending certain college activities; orders of no contact between the student under

probation and other students, college employees, or other persons.

A student who is on disciplinary probation may be deemed "not in good standing" with the college. If so the student shall be subject to the following restrictions:

(a) Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college.

(b) Ineligible to represent the college to anyone outside the college community in any way, including representing the college at any official function, or any forms of intercollegiate competition or representation.

(4) Restitution: Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, or other compensation.

(5) Suspension: Dismissal from the college and from the student status for a stated period of time. There will be no refund of tuition or fees for the quarter in which the action is taken.

(6) Professional evaluation: Referral for drug, alcohol, psychological or medical evaluation by an appropriately certified or licensed professional may be required. The student may choose the professional within the scope of practice and with the professional credentials as defined by the college. The student will sign all necessary releases to allow the college access to any such evaluation. The student's return to college may be conditioned upon compliance with recommendations set forth in such a professional evaluation. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.

(7) Dismissal: The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or controlled facilities without any possibility of return. There will be no refund of tuition or fees for the quarter in which the action is taken.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-064 ((Interim discipline.)) Summary suspension. (((1) Disciplinary actions of the college will be implemented by the president, except as such implementation may be delegated by the president or the board of trustees. Ordinarily, the disciplinary authority of the college will be invoked only after completion of the procedures established for the review of disciplinary cases and after the student, if he/she so wishes, has availed himself/herself of the appeal procedures. However, in situations where there is cause to believe that the student or the student organization poses an immediate threat to himself or herself, to others or to property, or is incapable of continuing as a student for medical or psychological reasons, or where it is believed that the student's continued attendance or presence may cause disorder or substantially interfere with or impede the lawful activities

of others or imperil the physical or mental health and safety of members of the college community, interim actions may be taken immediately without prior notice or hearing. These actions, taken by the president or the president's designee, may include:

(a) Interim restrictions, including, but not limited to, assignment to alternate college housing or removal from college housing, limitation of access to college facilities, or restriction of communication with specific individuals or groups;

(b) Interim suspension, including temporary total removal from the college or restriction of access to campus;

(c) Mandatory medical/psychological assessment, including referral to outside, medical professionals and/or to the mental health advisory board for assessment of the student's capability to remain in the college.

(2) Each instructor is authorized to implement interim suspension when necessary to preserve order and to maintain effective cooperation of the class in fulfilling the objective of the course. An instructor imposing an interim suspension shall report such action, in writing, to the division chair, vice-president of student services, and vice-president of instruction.

(3) In all cases of interim discipline, the student or student organization is entitled to personally appeal before the vice-president of student services or designee as soon as is reasonably possible. The student disciplinary review request must be submitted in writing no later than ten working days from the date of said disciplinary action.

(4) The vice-president of student services shall conduct a meeting with the student within five working days after receipt of the disciplinary review request. As a result of the meeting between the vice-president of student services and the student, the vice-president may recommend to the president or the president's designee either continuation or termination of the interim discipline and/or initiate disciplinary procedures in accordance with WAC 132R-04-112 through 132R-04-160.)) (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The vice-president of instruction and student services (or designee) may impose a summary suspension if there is probable cause to believe that the respondent:

(a) Has violated any provision of the code of conduct; and

(b) Presents an immediate danger to the health, safety, or welfare of members of the college community; or

(c) Poses an ongoing threat of disruption of, or interference with, the operations of the college.

(3) Notice. Any respondent who has been summarily suspended shall be served with written notice or oral notice of the summary suspension at the time of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two business days of the oral notice.

(4) The written notification shall be entitled "Notice of Summary Suspension Proceedings" and shall include:

(a) The reasons for imposing the summary suspension, including reference to the provisions of the student conduct code or the law allegedly violated;

(b) The date, time, and location when the respondent must appear before the chair of the student disciplinary committee for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included that warns the student that his or her privilege to enter into or remain on college premises has been withdrawn, that the respondent shall be considered trespassing and subject to arrest for criminal trespass if the respondent enters the college campus other than to meet with the student conduct officer or designee, or to attend a disciplinary hearing.

(5)(a) The conduct review officer or designee shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension. The hearing will be conducted as a brief adjudicative proceeding.

(b) During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.

(c) The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.

(d) If the notice of summary suspension proceedings has been served upon the respondent in accordance with these rules and the student fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.

(e) As soon as practicable following the hearing, the conduct review officer shall issue a written decision, which shall include a brief statement of findings of fact and conclusions of law, the policy reasons justifying imposition of the summary suspension. If summary suspension is upheld and/or other discipline imposed, the order shall inform the respondent of the duration of the summary suspension or the nature of the disciplinary action(s), conditions under which the summary suspension may be terminated or modified, and procedures by which the order may be appealed.

(f) The interim suspension shall not replace the regular discipline process, which shall proceed as quickly as feasible in light of the interim suspension.

(g) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices whom may be bound or protected by it.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-067 ((Readmission after major discipline)) Appeal from disciplinary action. ((Any petition for readmission by a student suspended or expelled for disci-

iplinary reasons other than poor scholarship must be addressed to the office of the vice-president of student services. Such a petition must be in writing and must state in detail the reasons why the penalty should be reconsidered. Since the president of the college or his/her designee participates in disciplinary decisions suspending/expelling students from the college, decisions on such petitions for readmission must be reviewed and approved by the president before being announced to the petitioner.)) (1) The respondent may appeal the results of a disciplinary action by filing a written notice of appeal with the conduct review officer within twenty days of service of the discipline order. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's order shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(3) The parties to an appeal shall be the respondent and the conduct review officer.

(4) A respondent, who timely appeals a disciplinary action or whose case is referred to the student disciplinary committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(5) The Administrative Procedure Act, chapter 34.05 RCW, governs committee proceedings and controls in the event of any conflict with these rules.

(6) The college hereby adopts the Model rules of procedure, chapter 10-08 WAC, by reference. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control.

(7) Imposition of discipline for violation of the student conduct code shall be stayed pending appeal, unless respondent has been summarily suspended.

(8) The student disciplinary committee shall hear appeals from:

(a) Suspensions in excess of ten instructional days;

(b) Dismissals; and

(c) Discipline cases referred to the committee by the student conduct officer.

(9) Student conduct appeals involving the following disciplinary actions shall be heard as brief adjudicative proceedings:

(a) Suspensions of ten instructional days or less;

(b) Disciplinary probation;

(c) Reprimands; and any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-100 ((Delegation of disciplinary)) Authority. ((The board, acting pursuant to RCW 28B.50.140(14), do by written order delegate to the president of the college authority to administer the disciplinary action prescribed in WAC 132R-04-150. All disciplinary actions in which there is a recommendation that a student be suspended or expelled, shall be acted upon by the president or his/her designee as listed in the Big Bend Community College board of trustees policy book, section BP 1004.5.)) The Big Bend Community College (BBCC) board of trustees, acting according to RCW 28B.50.140(14), delegates to the presi-

dent of the college the authority to administer disciplinary action. Administration of the disciplinary procedures is the responsibility of the vice-president of instruction and student services. The vice-president of instruction and student services will serve as the student conduct officer, or appoint a designee. The student conduct officer shall serve as the principal investigator and administrator for alleged violations of this code.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-112 ((Discipline statement.)) Initiation of disciplinary action. ((1) The vice president of student services is the primary agent for the administration of discipline for unacceptable conduct or infraction of college rules except those which are the responsibility of divisions and instructors as hereafter described.

(a) The division chair and faculty of each division are responsible for the administration of discipline for infraction of rules and regulations of the college or for unacceptable conduct by students in matters relating to their academic progress.

(b) The instructor is responsible for the maintenance of order and proper conduct in the classroom. He/she is authorized to impose interim suspension as may be necessary to preserve order and to maintain the effective cooperation of the class in fulfilling the objectives of the course.

(2) The instructor of each course shall be responsible for the maintenance of order and proper student conduct in a classroom. Each instructor is authorized to impose interim suspension in order to preserve order and to maintain effective cooperation of the class in fulfilling the objective of the course. In the event of disruptive classroom conduct, academic misconduct, and/or dishonesty, the instructor may take any and all reasonable action against any student. A course of action might include, but not be limited to:

(a) Issuing a failing grade on a particular test, paper, assignment, or course.

(b) Dismissing the student(s) from class pending a hearing with the vice president of student services.

(c) Dropping the student from the course.

(d) Referring the case to local authorities for civil action.

(3) An instructor taking action against any student for an act of disruptive classroom conduct, academic misconduct, and/or dishonesty, shall report such action in writing to the division chair, appropriate dean, vice president of student services, and vice president of instructional services as soon as possible. Any student subject to action of an instructor for a code of conduct violation may seek review of that action by the vice president of student services. The student disciplinary review request must be submitted in writing to the vice president of student services within ten working days from the date of said disciplinary action.)) (1) Disciplinary proceedings will be initiated by the vice-president of instruction and student services or a designee. If that officer is the subject of a complaint initiated by the respondent, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complainant.

(2) A student accused of violating any provision of the conduct code (the respondent) shall be notified of an initial meeting with the vice-president of instruction and student services. The notice shall briefly describe the factual allegations, the provision(s) of the conduct code the respondent is charged with violating, the range of possible sanctions for the alleged violation(s), and specify the time and location of the meeting. At the meeting, the student conduct officer will present the allegations to the respondent and the respondent shall be afforded an opportunity to explain what took place. If the respondent fails to appear after proper notification, the student conduct officer may take disciplinary action based upon the available information.

(3) Within ten days of the initial disciplinary meeting, and after considering the evidence in the case, including any facts or argument presented by the respondent, the vice-president of instruction and student services shall serve the respondent with a written order setting forth the facts and conclusions supporting his or her decision, the specific student conduct code provisions found to have been violated, the discipline imposed (if any), and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal.

(4) The vice-president of instruction and student services, acting in the role of student conduct officer, may take any of the following actions:

(a) Terminate the proceeding, exonerating the respondent;

(b) Dismiss the case after providing appropriate counseling and advice to the respondent. Such action is final and is not subject to review on appeal;

(c) Issue a verbal warning to the respondent directly. Such action is final and is not subject to review on appeal;

(d) Impose additional sanctions of reprimand, disciplinary probation, suspension or dismissal. Such actions are subject to review on appeal as provided in this chapter; refer the matter directly to the student disciplinary committee for such action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the disciplinary committee, with a copy served on the respondent.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-115 ((Disciplinary action)) Brief adjudicative proceedings. (((1) A student charged with unacceptable conduct is entitled to a fair hearing. The procedures set forth below shall be interpreted and administered in such a way as to accomplish this objective. Disciplinary proceedings are not to be construed as judicial trials; care will be taken to comply as fully as possible with the spirit and intent of procedural safeguards relative to the rights of the individual concerned.

(a) When disciplinary action is initiated by a faculty member for disruptive classroom conduct, academic misconduct, and/or dishonesty, a written report of the occurrence shall be filed with the division chair, appropriate dean, vice-president of student services, and vice-president of instruction.

(b) All other instances of misconduct shall be reported to the vice-president of student services.

(c) Any student accused of violating any provisions of the rules of student conduct shall be called for an initial conference with the vice-president of student services or his/her designated representative, and shall be informed of what provision of the rules of student conduct have been violated, and the maximum penalties, if any, which might result from initiation of a disciplinary proceeding.

(2) After considering the evidence in the case and interviewing the student or students accused of violating the rules of student conduct, the vice-president of student services or his/her designated representative may take any of the following actions:

(a) Terminate the proceedings, exonerating the student or students;

(b) Dismiss the case after whatever counseling and advice may be appropriate;

(c) Impose minor sanctions directly (warning or reprimand);

(d) Refer the case to the disciplinary committee.

(3) Should a disciplinary committee hearing be necessary, the student shall be notified **in writing** as to the date, time, place of the hearing, and charge(s), including reference to the particular sections of the rules of student conduct involved. He/she shall be permitted to examine the evidence against him/her and where pertinent shall be given the names of those who will be witnesses against him/her. In the hearing he/she may present evidence, testimonial or documentary, in his/her behalf.

(4) The president or vice-president of student services shall notify the student in writing of the final determination on any charge of unacceptable conduct. In the case of a student under eighteen years of age who is expelled, suspended or placed on disciplinary probation, the parents or guardian of the student shall also be notified in writing. (This does not apply to emancipated minors.))

(1) **Brief Adjudicative Proceedings.** This rule is adopted in accordance with RCW 34.05.482 through 34.05.494. Brief adjudicative proceedings shall be used, unless provided otherwise by another rule or determined otherwise in a particular case by the president, or a designee, in regard to:

(a) Parking violations.

(b) Outstanding debts owed by students or employees.

(c) Use of college facilities.

(d) Residency determinations.

(e) Use of library - Fines.

(f) Challenges to contents of education records.

(g) Loss of eligibility for participation in institution sponsored athletic events.

(h) Student conduct appeals involving the following disciplinary actions:

(i) Suspensions of ten instructional days or less;

(ii) Disciplinary probation;

(iii) Written reprimands; and

(iv) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(i) Appeals of decisions regarding mandatory tuition and fee waivers.

Brief adjudicative proceedings are informal hearings and shall be conducted in a manner which will bring about a prompt fair resolution of the matter.

(2) **Brief Adjudicative Proceedings - Initial Hearing.** The initial hearing (also known as a brief adjudicative proceeding) is an initial and less formal process designed to resolve disputes and address concerns on the part of students, faculty, or other college personnel.

(a) Brief adjudicative proceedings shall be conducted by the appropriate dean or the associate vice-president of student services, acting as the presiding officer. The presiding officer shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(b) Before taking action, the presiding officer shall conduct an informal hearing and provide each party (i) an opportunity to be informed of the college's view of the matter and (ii) an opportunity to explain the party's view of the matter.

(c) The presiding officer shall serve an initial order upon both the parties within ten days of consideration of the initial hearing. The initial order shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial order. If no request for review is filed within twenty-one days of service of the initial order, the initial order shall be deemed the final order.

(d) If the conduct review officer upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student disciplinary committee for a disciplinary hearing. The conduct review officer may enter an interim order suspending the student until a hearing can be held by the student disciplinary committee. The interim order shall provide a brief explanation as to facts supporting the interim order of suspension and give the necessary notices that the case has been referred to the student disciplinary committee.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-117 **Student disciplinary committee.** ((1) The committee shall be a standing committee composed of one administrator appointed by the president, two faculty members selected by the college faculty association and two students selected by the student government.

(2) If any member of the committee is unable to consider a particular disciplinary proceeding for any reason including a conflict of interest, such member shall be temporarily replaced by a student or faculty member as appropriate pursuant to the procedure established in this section.

(3) The disciplinary committee shall conduct such hearing within twenty working days after disciplinary action has been referred to such committee and shall give the student charged with violation of the rules of student conduct a minimum notice of five working days of said hearing as specified within the following section. With the mutual agreement of the parties, the hearing date may be continued beyond the

twenty working day limit.)) (1) The student disciplinary committee shall consist of five members:

(a) Two full-time students appointed by the student government;

(b) Two faculty members recommended by the faculty association and appointed by the president;

(c) One member of the administration appointed by the president at the beginning of the academic year. The chair shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.

(2) The member of the administration shall serve as the chair of the committee and may take action on preliminary hearing matters prior to the appointment of the committee. The chair shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.

(3) Hearings may be heard by a quorum of three members of the committee so long as one faculty member and one student are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(4) Members of the student disciplinary committee shall not participate in any case in which they are a party, complainant, or witness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition for disqualification of a committee member pursuant to RCW 34.05.425(4).

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-130 **Student disciplinary committee ((procedures)) process.** (((1) The hearing panel will hear, de novo, and make recommendations to the president of the college on all disciplinary cases referred to it by the vice president of student services.

(2) The student has a right to a fair and impartial hearing before the disciplinary committee on any charge of violating the rules of student conduct. The student's failure to cooperate with the hearing procedures hereinafter outlined, however, shall not preclude the disciplinary committee from making its findings of fact, conclusions and recommendations as provided herein.

(3) The student shall be given written notice of the time and place of the hearing before the disciplinary committee by personal service or registered mail and be afforded not less than five working days notice thereof. Said notice shall contain:

(a) A statement of the time, place and nature of the disciplinary proceeding.

(b) A statement of the charges against him/her including reference to the particular sections of the rules of student conduct involved.

(4) The student shall be entitled to hear and examine the evidence against him/her and be informed of the identity of its source; he/she shall be entitled to present evidence in his/her own behalf and cross-examine witnesses testifying against him as to factual matters.

(5) The student has the right to be assisted by any (one) advisor he/she may choose, at his/her own expense. The advisor may be an attorney. The student is responsible for presenting his/her own case and, therefore, advisors are not permitted to speak or to participate directly in a hearing. The accused student can, however, speak with his/her advisor during the hearing. If the student utilizes an attorney as an advisor, the student shall give the vice-president of student services three days' notice of intent to do so.

(6) In all disciplinary proceedings, the college may be represented by a designee appointed by the vice-president of student services; said designee may then present the college's case against the student accused of violating the rules of student conduct, provided that in those cases in which the student elects to have a licensed attorney act as his/her advisor, the vice-president of student services may elect to have the college represented by an assistant attorney general.

(7) If, at the conclusion of the hearing, the committee finds that the student has committed one or more violations, and that such violations are in fact violations of a rule or rules of student conduct, the committee shall make such a finding and recommend such disciplinary action as they shall deem appropriate against the student. Prior acts of misconduct may be considered in making the recommendation for disciplinary action.

(8) During the course of the proceeding an adequate summary of all the evidence and facts will be taken. A copy shall be available at the office of the vice-president of student services.) (1) **Student Disciplinary Committee Process.**

(a) The committee chair shall serve all parties with written notice of the hearing not less than seven days in advance of the hearing date, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause.

(b) The committee chair is authorized to conduct pre-hearing conferences and/or to make prehearing decisions concerning the extent and forms of any discovery, issuance of protective orders, and similar procedural matters.

(c) Upon request filed at least five days before the hearing by either party or at the direction of the committee chair, the parties shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present in their respective cases. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, unless the party can show good cause for such failure.

(d) The committee chair may provide to the committee members in advance of the hearing copies of (i) the conduct officer's notification of imposition of discipline (or referral to the committee) and (ii) the notice of appeal (or any response to referral) by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(e) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of

these admissible exhibits to the committee members before the hearing.

(f) The vice-president of instruction and student services (or designee) shall provide reasonable assistance to the respondent, upon request, in obtaining relevant and admissible evidence that is within the college's control.

(g) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate; any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(h) Each party may be accompanied at the hearing by a nonattorney assistant of his or her choice. A respondent may elect to be represented by an attorney at his or her own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the student conduct officer. The committee will ordinarily be advised by an assistant attorney general. If the respondent is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened assistant attorney general.

(2) Student Disciplinary Committee Hearings - Presentation of Evidence.

(a) Upon the failure of any party to attend or participate in a hearing, the committee may either (i) proceed with the hearing and issuance of its order or (ii) serve an order of default in accordance with RCW 34.05.440.

(b) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings should be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(c) The chair shall cause the hearing to be recorded by a method that he or she selects, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to the respondent upon request. The chair shall assure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by the respondent. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(d) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(e) The vice-president of instruction and student services or a designee (unless represented by an assistant attorney general) shall present the case for disciplinary action. The facts justifying any such action must be established by a preponderance of the evidence.

(f) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(3) Supplemental Sexual Misconduct Procedures. Both the respondent and the complainant in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters,

including the right to participate in the initial discipline action and to appeal the student conduct officer's disciplinary order.

Application of the following procedures is limited to student conduct code proceedings involving allegations of sexual misconduct. In such cases, these procedures shall supplement the student disciplinary procedures. In the event of conflict between the sexual misconduct procedures and the student disciplinary procedures, the sexual misconduct procedures shall prevail.

(4) Supplemental Definitions. For purposes of student conduct code proceedings involving sexual misconduct, the following definitions apply:

(a) The "complainant" is the alleged victim of sexual misconduct. Complainant also refers to the college when the college files the complaint.

(b) "Sexual misconduct" is a sexual or gender-based violation of the student conduct code including, but not limited to:

(i) Sexual activity for which clear and voluntary consent has not been given in advance;

(ii) Sexual activity with someone who is incapable of giving valid consent because, for example, she or he is underage, sleeping or otherwise incapacitated due to alcohol or drugs;

(iii) Sexual harassment;

(iv) Sexual violence which includes, but is not limited to, sexual assault, domestic violence, intimate violence, and sexual- or gender-based stalking;

(v) Nonphysical conduct such as sexual- or gender-based digital media stalking, sexual- or gender-based online harassment, sexual- or gender-based cyberbullying, nonconsensual recording of a sexual activity, and nonconsensual distribution of a recording of a sexual activity.

(5) Supplemental Complaint Process. The following supplemental procedures shall apply with respect to complaints or other reports of alleged sexual misconduct by a student.

(a) The college's Title IX compliance officer shall investigate complaints or other reports of alleged sexual misconduct by a student. Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for disciplinary action.

(b) Informal dispute resolution shall not be used to resolve sexual misconduct complaints without written permission from both the complainant and the respondent. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time. In no event shall mediation be used to resolve complaints involving allegations of sexual violence.

(c) College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done without unreasonably risking the health, safety and welfare of the complainant or other members of the college community or compromising the college's duty to investigate and process sexual harassment and sexual violence complaints.

(d) The student conduct officer, prior to initiating disciplinary action, will make a reasonable effort to contact the complainant to discuss the results of the investigation and possible disciplinary sanctions and/or conditions (if any) that

may be imposed upon the respondent if the allegations of sexual misconduct are found to have merit.

(e) The student conduct officer, on the same date that a disciplinary decision is served on the respondent, will serve a written notice informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including disciplinary suspension or dismissal of the respondent. The notice will also inform the complainant of his or her appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the complainant to ensure prompt notice of the protective disciplinary sanctions and/or conditions.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-140 Student disciplinary committee ((~~decision~~))—Initial order. ((Upon conclusion of the disciplinary hearing, the disciplinary committee shall consider all the evidence therein presented and decide by majority vote as to the specific findings and conclusions required pursuant to WAC 132R-04-130, and whether to recommend to the president any of the following actions:

(1) That the college terminate the proceedings and exonerate the student or students;

(2) That the president or his/her designee impose any of the disciplinary action as provided in WAC 132R-04-150.))

(1) At the conclusion of the hearing, the committee shall permit the parties to make closing arguments in whatever form it wishes to receive them. The committee also may permit each party to propose findings, conclusions, and/or an order for its consideration.

(2) Within twenty days following the conclusion of the hearing or the committee's receipt of closing arguments (whichever is later), the committee shall issue an initial decision in accordance with RCW 34.05.461 and WAC 10-08-210. The initial decision shall include findings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(3) The committee's initial decision shall also include a determination on appropriate discipline, if any. If the matter was referred to the committee by the student conduct officer, the committee shall determine any disciplinary sanction or conditions authorized herein. If the matter is an appeal by the respondent, the committee may affirm, reverse, or modify the discipline imposed by the student conduct officer and/or impose any other disciplinary sanction or conditions authorized herein.

(4) The committee chair shall provide copies of the initial order to the parties and any legal counsel who have appeared. The committee chair shall also promptly transmit a copy of the order and the record of the committee's proceedings to the college president and the vice-president of instruction and student services.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

**WAC 132R-04-150 (~~Imposition of discipline.~~)
Appeal from student disciplinary committee initial order.**

~~((1) The college president or his/her designee shall review all hearings for which the disciplinary committee has recommended disciplinary action and determine whether or not disciplinary action shall be imposed against the said student. With the exception of interim discipline as authorized by WAC 132R-04-064, the college president or his/her designee shall have no authority to impose any disciplinary action on a student unless disciplinary action has been recommended by the disciplinary committee against such student or unless such student has waived his/her right to a hearing before such disciplinary committee.~~

~~(2) In determining whether or not to impose disciplinary action against a student, the president shall review the summary of the evidence and facts presented to the disciplinary committee and the recommendation of the disciplinary committee, the college president shall then determine whether or not to impose disciplinary action in any form. Prior acts of misconduct may be considered in making a decision.~~

~~(3) Discipline may be imposed by the college president or his/her designee for violations of the rules of conduct, not only in those instances where the disciplinary committee has made recommendations after a hearing, but also in cases where the student has waived his/her right to such a hearing. Sanctions available to the president are described in WAC 132R-04-056 and 132R-04-063.)~~ **(1) Appeal From Student Disciplinary Committee Initial Order.**

(a) A respondent who is aggrieved by the findings or conclusions issued by the student disciplinary committee may appeal the committee's initial order to the president by filing a notice of appeal with the president's office within twenty days of service of the committee's initial order.

(b) The notice of appeal must assign error to specific findings of fact and/or conclusions of law in the initial order and must contain argument regarding why the appeal should be granted. The president's review on appeal shall be limited to a review of those issues and arguments raised in the notice of appeal. Review shall be restricted to the record created below.

(c) The president shall provide a written order to all parties within forty-five days after receipt of the notice of appeal. The president's decision shall be final.

(d) The president may, at his or her discretion, suspend any disciplinary action pending review of the merits of the findings, conclusions, and disciplinary actions imposed.

(e) The president shall not engage in an ex parte communication with any of the parties regarding an appeal.

(2) Supplemental Appeal Rights.

(a) The following actions by the student conduct officer may be appealed by the complainant:

(i) The dismissal of a sexual misconduct complaint; or

(ii) Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary warning.

(b) A complainant may appeal a disciplinary decision by filing a notice of appeal with the conduct review officer within twenty days of service of the notice of the discipline

decision provided for in WAC 132R-04-140. The notice of appeal may include a written statement setting forth the grounds of appeal. Failure to file a timely notice of appeal constitutes a waiver of this right and the disciplinary decision shall be deemed final.

(c) If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the complainant of the appeal, and provide the complainant an opportunity to intervene as a party to the appeal.

(d) Except as otherwise specified in this supplemental procedure, a complainant who timely appeals a disciplinary decision or who intervenes as a party to respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent.

(e) Respondent and complainant shall have the right to be accompanied by a nonattorney assistant of their choosing during the appeal process. Complainant may choose to be represented at the hearing by an attorney at his or her own expense, but will be deemed to have waived that right unless, at least four business days before the hearing, he or she files a written notice of the attorney's identity and participation with the committee chair, and with copies to the respondent and the student conduct officer.

(f) During the proceedings, complainant and respondent shall not directly question or cross examine one another. All questions shall be directed to the chair, who will act as an intermediary and pose questions on the parties' behalf.

(g) Hearings involving sexual misconduct allegations shall be closed to the public, unless respondent and complainant both waive this requirement in writing and request that the hearing be open to the public. Complainant, respondent and their respective nonattorney assistants and/or attorneys may attend portions of the hearing where argument, testimony and/or evidence are presented to the student conduct committee.

(h) The student conduct committee will serve complainant a written notice indicating that an initial order has issued on the same date that the initial order is served on respondent. This notice shall inform the complainant whether the sexual misconduct allegations were found to have merit and describe any sanctions and/or conditions imposed upon the respondent for complainant's protection. The notice shall also provide directions on how the complainant can appeal the decision to the president.

(i) Complainant may appeal the student conduct committee's initial order to the president subject to the same procedures and deadlines applicable to other parties.

(j) The president will serve complainant a written notice indicating that the appeal has been resolved on the same date that the final order is served upon the respondent. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-160 ((Student appeal)) Brief adjudication proceedings—Review of an initial order. ((Any student feeling aggrieved by the recommendations of the disciplinary committee or the order of the college president or his/her designee imposing disciplinary action may appeal the same in writing by directing an appeal to the college president or his/her designee within fifteen days following receipt of the order of the president or his/her designee imposing disciplinary action. The college president or his/her designee may, at his/her discretion, suspend any disciplinary action pending determination of the merits of the findings, conclusions and disciplinary action imposed.)) (1) An initial order is subject to review by the president or his or her designee, provided the respondent files a written request for review with the conduct review officer within twenty-one days of service of the initial order.

(2) The president or designee shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(3) During the review, the president or designee shall give each party an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to ascertain whether the proceedings must be referred to the student disciplinary committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within twenty business days of the initial order or of the request for review, whichever is later. The order on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the reviewing officer does not make a disposition of the matter within twenty days after the request is submitted.

(5) If the president or designee upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student disciplinary committee for a disciplinary hearing. The president or designee may enter an interim order suspending the student until a hearing can be held by the student disciplinary committee. The interim order shall provide a brief explanation as to facts supporting the interim order of suspension and give the necessary notices that the case has been referred to the student disciplinary committee.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-165 ((Maintenance of disciplinary records.)) Brief adjudication proceedings—Agency record. ((1) ~~The vice president of student services shall keep records of all disciplinary cases. The division chair shall report to the vice president of student services and appropriate dean, in writing, all cases in which disciplinary action is taken.~~

(2) ~~The vice president of student services shall notify the chair and the dean of the division in which the student is enrolled and the dean of enrollment services of any disciplinary action taken, which is to be recorded on the student's official record, and shall keep accurate records of all disciplinary cases handled by, or reported to, his/her office.~~

(3) ~~The vice president of student services shall receive and maintain certain records of all disciplinary action taken by any college employee. These records should be consulted by disciplinary authorities for records of previous misconduct before taking disciplinary action in any case.~~ The agency record for brief adjudicative proceedings shall consist of any documents regarding the matter that were considered or prepared by the presiding officer for the brief adjudicative proceeding or by the reviewing officer for any review. These records shall be maintained as the official record of the proceedings.

WSR 16-15-013

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed July 8, 2016, 12:40 p.m., effective October 1, 2016]

Effective Date of Rule: October 1, 2016.

Purpose: WAC 246-940-990 Certified animal massage practitioner, 246-841-990 Nursing assistant, and 246-830-990 Massage, fees and renewal cycle, the adopted rules increase credentialing fees for these professions to address budget deficits and build reserves to cover unanticipated events that may occur, such as increased disciplinary costs. The adopted rules also make formatting changes to make it easier for licensees to identify the fees they are required to pay.

Citation of Existing Rules Affected by this Order: Amending WAC 246-940-990, 246-841-990, and 246-830-990.

Statutory Authority for Adoption: RCW 43.70.250 and 43.70.280.

Adopted under notice filed as WSR 16-06-084 on February 26, 2016.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: July 5, 2016.

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 12-19-088, filed 9/18/12, effective 11/1/12)

WAC 246-830-990 Massage fees and renewal cycle.

(1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Written examination and reexamination	\$65.00
Practical examination and reexamination	50.00

Original application

<u>Application and initial license</u>	(90.00) <u>125.00</u>
--	-------------------------------------

<u>UW online access fee (HEAL-WA)</u>	<u>16.00</u>
---------------------------------------	--------------

Active license renewal

Renewal	((65.00)) <u>90.00</u>
---------	--------------------------------------

Late renewal penalty	50.00
----------------------	-------

Expired license reissuance	50.00
----------------------------	-------

<u>UW online access fee (HEAL-WA)</u>	<u>16.00</u>
---------------------------------------	--------------

Inactive license renewal

Inactive license renewal	50.00
--------------------------	-------

Expired inactive license reissuance	50.00
-------------------------------------	-------

<u>UW online access fee (HEAL-WA)</u>	<u>16.00</u>
---------------------------------------	--------------

(Certification) <u>Verification of license</u>	10.00
--	-------

Duplicate license	10.00
--------------------------	-------

Intraoral massage endorsement	25.00
--------------------------------------	-------

(UW online access fee (HEAL-WA))	16.00
---	------------------

AMENDATORY SECTION (Amending WSR 12-24-015, filed 11/27/12, effective 7/1/13)

WAC 246-841-990 Nursing assistant—Fees and renewal cycle. (1) Credentials must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged for registration credentials:

Title of Fee	Fee
Application - Registration	\$(48.00) <u>65.00</u>
Renewal of registration	((53.00)) <u>70.00</u>
Duplicate registration	10.00
Registration late penalty	((53.00)) <u>50.00</u>

Title of Fee	Fee
Expired registration reissuance	52.00

(3) The following nonrefundable fees will be charged for certification credentials:

Title of Fee	Fee
Application for certification	\$(48.00) <u>65.00</u>
Certification renewal	((53.00)) <u>70.00</u>
Duplicate certification	10.00
Certification late penalty	((53.00)) <u>50.00</u>
Expired certification reissuance	52.00

(4) The following nonrefundable fees will be charged for medication assistant endorsement credentials:

Title of Fee	Fee
Application for endorsement	\$25.00
Endorsement renewal	10.00

AMENDATORY SECTION (Amending WSR 11-14-026, filed 6/24/11, effective 7/25/11)

WAC 246-940-990 Certified animal massage practitioner—Fees and renewal cycle. (1) Certification must be renewed every year on or before the animal massage practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged for certification:

Title of Fee	Fee
Application for large animal certification	\$(200.00) <u>250.00</u>
Application for small animal certification	\$(200.00) <u>250.00</u>
Renewal of certification for large animal certification	((150.00)) <u>190.00</u>
Renewal of certification for small animal certification	((150.00)) <u>190.00</u>
Late renewal penalty fee per certification	((75.00)) <u>95.00</u>
Expired credential reissuance fee per certification	((75.00)) <u>95.00</u>
Duplicate credential per certification	30.00
(Certification) <u>Verification of credential per certification</u>	30.00

WSR 16-15-014
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed July 8, 2016, 12:41 p.m., effective August 8, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 246-470-030, 246-470-040, 246-470-050, 246-470-060, and 246-470-090, the department amended its rule to add tribal officials to the list of appropriate law enforcement or prosecutors who can access the prescription monitoring program (PMP) for bona fide specific investigations. Other amendments were made to improve PMP procedures and processes.

Citation of Existing Rules Affected by this Order: Amending WAC 246-470-030, 246-470-040, 246-470-050, 246-470-060, and 246-470-090.

Statutory Authority for Adoption: RCW 70.225.020, 70.225.025, and 70.225.040.

Adopted under notice filed as WSR 16-04-055 on January 28, 2016.

A final cost-benefit analysis is available by contacting Gary Garrety, P.O. Box 47852, Olympia, WA 98504, phone (360) 236-4802, fax (360) 236-4802, e-mail prescription.monitoring@doh.wa.gov.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 4, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 0.

Date Adopted: April 29, 2016.

John Wiesman, DrPH, MPH
 Secretary

AMENDATORY SECTION (Amending WSR 14-07-099, filed 3/18/14, effective 4/18/14)

WAC 246-470-030 Data submission requirements for dispensers. (1) A dispenser shall provide to the department the dispensing information required by RCW 70.225-020 and this section for all scheduled II, III, IV, and V controlled substances and for drugs identified by the pharmacy quality assurance commission under WAC 246-470-020. Only drugs dispensed for more than one day use must be reported.

(2) Dispenser identification number. A dispenser shall acquire and maintain an identification number issued to dispensing pharmacies by the National Council for Prescription Drug Programs or a prescriber identifier issued to authorized

prescribers of controlled substances by the Drug Enforcement Administration, United States Department of Justice.

(3) Submitting data. A dispenser shall submit data to the department electronically, not later than one (~~week~~) business day from the date of dispensing, and in the format required by the department. When the dispenser has not dispensed any drugs during a business day which require reporting, then within seven days the dispenser shall report that no drugs requiring reporting were dispensed. The notification shall be in a format established by the department.

(a) A dispenser shall submit for each dispensing the following information and any additional information required by the department:

(i) Patient identifier. A patient identifier is the unique identifier assigned to a particular patient by the dispenser;

(ii) Name of the patient for whom the prescription is ordered including first name, middle initial, last name, and generational suffixes, if any;

(iii) Patient date of birth;

(iv) Patient address;

(v) Patient gender and species code;

(vi) Drug dispensed;

(vii) Date of dispensing;

(viii) Quantity and days supply dispensed;

(ix) Refill and partial fill information;

(x) Prescriber identifiers including the National Provider Identifier and the Drug Enforcement Administration number including any suffix used;

(xi) Prescription issued date;

(xii) Dispenser identifiers including the Drug Enforcement Administration number and the National Provider Identifier;

(xiii) Prescription fill date and number;

(xiv) Source of payment indicated by one of the following:

(A) Private pay (cash, change, credit card, check);

(B) Medicaid;

(C) Medicare;

(D) Commercial insurance;

(E) Military installations and veterans affairs;

(F) Workers compensation;

(G) Indian nations;

(H) Other; (~~and~~)

(xv) When practicable, the name of the person picking up or dropping off the prescription(;) as verified by valid photographic identification(-); and

(xvi) The prescriber's and dispenser's business phone numbers.

(b) A nonresident, licensed pharmacy that delivers controlled substances, as defined in RCW 18.64.360, is required to submit only the transactions for patients with a Washington state zip code.

(c) Data submission requirements do not apply to:

(i) The department of corrections or pharmacies operated by a county for the purpose of providing medications to offenders in state or county correctional institutions who are receiving pharmaceutical services from a state or county correctional institution's pharmacy. A state or county correctional institution's pharmacy must submit data to the program related to each offender's current prescriptions for controlled

substances upon the offender's release from a state or county correctional institution.

(ii) Medications provided to patients receiving inpatient services provided at hospitals licensed under chapter 70.41 RCW or patients of such hospitals receiving services at the clinics, day surgery areas, or other settings within the hospital's license where the medications are administered in single doses; or medications provided to patients receiving outpatient services provided at ambulatory surgical facilities licensed under chapter 70.230 RCW.

AMENDATORY SECTION (Amending WSR 11-16-041, filed 7/27/11, effective 8/27/11)

WAC 246-470-040 Patient access to information from the program. A patient(~~(s)~~) or a patient's personal representative (~~((authorized under Title 11 RCW (Probate and trust law) and Title 7 RCW (Special proceedings and actions);))~~) may obtain a report listing all prescription monitoring information that pertains to the patient.

(1) Procedure for obtaining information. A patient or a patient's personal representative requesting information pursuant to this section shall submit a written request in person at the department, or at any other place specified by the department. The written request must be in a format established by the department.

(2) Identification required. The patient or the patient's personal representative must provide valid photographic identification prior to obtaining access to the information requested in this section.

(3) Proof of personal representation. Before obtaining access to the information pursuant to this section, a personal representative shall provide either:

(a) An official attested copy of the judicial order granting them authority to gain access to the health care records of the patient;

(b) In the case of parents or legal guardian(s) of a minor child, a certified copy of the birth certificate of the minor child or other certified legal documents establishing parentage or guardianship; or

(c) In the case of persons holding power of attorney, the original document establishing the power of attorney.

(4) The department may verify the patient authorization by any reasonable means prior to providing the information to the patient's personal representative.

AMENDATORY SECTION (Amending WSR 11-16-041, filed 7/27/11, effective 8/27/11)

WAC 246-470-050 Pharmacist, prescriber or other health care practitioner access to information from the program. A pharmacist, prescriber, or licensed health care practitioner authorized by a prescriber or pharmacist may obtain prescription monitoring information relating to their patients, for the purpose of providing medical or pharmaceutical care.

(1) Registration for access. A pharmacist, prescriber, or licensed health care practitioner authorized by a prescriber or pharmacist shall register with the department in order to receive an authentication to access the electronic system. The registration process shall be established by the department.

(2) Verification by the department. The department shall verify the authentication and identity of the pharmacist, prescriber, or licensed health care practitioner authorized by a prescriber or pharmacist before allowing access to any prescription monitoring information.

(3) Procedure for accessing prescription information. A pharmacist, prescriber, or licensed health care practitioner authorized by a prescriber or pharmacist may access information from the program electronically, using the authentication issued by the department or the department's designee.

(4) A pharmacist, prescriber, or licensed health care practitioner authorized by a prescriber or pharmacist may alternately submit a written request via mail or facsimile transmission in a manner and format established by the department.

(5) Reporting lost or stolen authentication. If the authentication issued by the department is lost, missing, or the security of the authentication is compromised, the pharmacist, prescriber, or licensed health care practitioner authorized by a prescriber or pharmacist shall notify the (~~(department)~~) department's designee by telephone and in writing as soon as reasonably possible.

(6) All requests for, uses of, and disclosures of prescription monitoring information by authorized persons must be consistent with the program's mandate as outlined in RCW 70.225.040 and this chapter.

AMENDATORY SECTION (Amending WSR 11-16-041, filed 7/27/11, effective 8/27/11)

WAC 246-470-060 Law enforcement, prosecutorial officials, coroners, and medical examiners' access to information from the program. Local, state, federally recognized tribe, or federal law enforcement (~~((officers))~~) officials and prosecutorial officials may obtain prescription monitoring information for a bona fide specific investigation involving a designated person. A local, state, federally recognized tribe, or federal coroner or medical examiner may obtain prescription monitoring information for a bona fide specific investigation to determine cause of death.

(1) Registration for access. Local, state, federally recognized tribe, or federal law enforcement (~~((officers))~~) officials, prosecutorial officials, coroners, and medical examiners shall register with the department in order to receive an authentication to access information from the program. The registration process shall be established by the department.

(2) Verification by the department. The department shall verify the authentication and identity of local, state, federally recognized tribe, or federal law enforcement (~~((officers))~~) officials, prosecutorial officials, coroners, and medical examiners before allowing access to any prescription monitoring information.

(3) Procedure for accessing prescription information. Local, state, federally recognized tribe, or federal law enforcement (~~((officers))~~) officials, prosecutorial officials, coroners and medical examiners may access information from the program electronically using the authentication issued by the department.

(4) Local, state, federally recognized tribe, or federal law enforcement (~~((officers))~~) officials and prosecutorial officials

shall electronically attest that the requested information is required for a bona fide specific investigation involving a designated person prior to accessing prescription monitoring information.

(5) Local, state, federally recognized tribe, or federal coroner or medical examiners shall electronically attest that the requested information is required for a bona fide specific investigation to determine cause of death prior to accessing prescription monitoring information.

(6) Local, state, federally recognized tribe, or federal law enforcement (~~(officers)~~) officials, prosecutorial officials, coroners and medical examiners may alternately submit a written request via mail or facsimile transmission in a format established by the department. The written request must contain an attestation that the requested information is required for a bona fide specific investigation involving a designated person or for a bona fide specific investigation to determine cause of death.

(7) Reporting lost or stolen authentication. If the authentication issued by the department is lost, missing, or the security of the authentication is compromised, the local, state, federally recognized tribe, and federal law enforcement (~~(officers)~~) officials, prosecutorial officials, coroners or medical examiners shall notify the department by telephone and in writing as soon as reasonably possible.

(8) All requests for, uses of, and disclosures of prescription monitoring information by authorized persons must be consistent with the program's mandate as outlined in RCW 70.225.040 and this chapter.

AMENDATORY SECTION (Amending WSR 11-16-041, filed 7/27/11, effective 8/27/11)

WAC 246-470-090 Confidentiality. Under RCW 70.225.040, prescription monitoring information is confidential, and maintained in compliance with chapter 70.02 RCW and federal health care information privacy requirements. Prescription monitoring information that has been disclosed to a health care provider under the provisions of RCW 70.225.040 is health care information under chapter 70.02 RCW and federal privacy laws. Health care providers may retain prescription monitoring information with the patient's health care records which are protected by state and federal law.

AMENDATORY SECTION (Amending WSR 15-18-029, filed 8/25/15, effective 9/8/15)

WAC 220-40-027 Salmon—Willapa Bay fall fishery. From August 16 through December 31 of each year, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

Fishing periods:

(1) Gillnet gear may be used to fish for coho salmon, chum salmon, and Chinook salmon:

Area	Time	Date(s)	Maximum Mesh Size
2M, 2N, 2R	((6:00)) <u>7:00</u> a.m. through ((6:00)) <u>7:00</u> p.m.	((9/8, 9/10)) <u>9/6, 9/7</u>	((6.5")) <u>4.25"</u>
<u>2M, 2R</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/8</u>	<u>4.25"</u>

WSR 16-15-029
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 16-176—Filed July 12, 2016, 1:43 p.m., effective August 12, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amends rules for commercial salmon fishing in Willapa Bay, includes WAC 220-40-027 Salmon—Willapa Bay fall fishery. These rules incorporate recommendations of the North of Falcon subgroup of the Pacific Fisheries Management Council for taking harvestable numbers of salmon during the commercial salmon fisheries in Willapa Bay, while protecting species of fish listed as endangered.

Citation of Existing Rules Affected by this Order: Amending WAC 220-40-027.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, 77.12.047, and 77.04.055.

Adopted under notice filed as WSR 16-11-100 on May 18, 2016.

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

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

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

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

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

Date Adopted: July 11, 2016.

J. W. Unsworth
 Director

Area	Time	Date(s)	Maximum Mesh Size
2T	6:00 a.m. through 6:00 p.m.	((9/16, 9/17, 9/18, 9/19)) <u>9/16, 9/17</u>	6.5"
2M, ((2N,)) 2R	6:00 a.m. through 6:00 p.m.	<u>9/11, 9/12, 9/13, 9/14, ((9/15,)) 9/16, 9/17((9/18, 9/19))</u>	6.5"
<u>2N</u>	<u>6:00 a.m. through 6:00 p.m.</u>	<u>9/11, 9/12, 9/13, 9/16, 9/17</u>	<u>6.5"</u>
2U	6:00 a.m. through 6:00 p.m.	9/16 ((, 9/17, 9/18, 9/19))	4.25"
2T	((6:30)) <u>6:00</u> a.m. through ((6:30)) <u>6:00</u> p.m.	<u>9/19, 9/20, 9/21, 9/22((, 9/23, 9/24, 9/25, 9/26,))</u>	6.5"
2U	((6:30)) <u>6:00</u> a.m. through ((6:30)) <u>6:00</u> p.m.	<u>9/19, 9/20, 9/21, 9/22, 9/23</u>	4.25"
((2U)) <u>2N</u>	((6:30)) <u>6:00</u> a.m. through ((6:30)) <u>6:00</u> p.m.	<u>9/20, 9/21, 9/22, 9/23, 9/24((, 9/25, 9/26,))</u>	6.5"
2M, ((2N,)) 2R	((6:30)) <u>6:00</u> a.m. through ((6:30)) <u>6:00</u> p.m.	<u>9/18, 9/19, 9/20, 9/21, 9/22, 9/23((, 9/24, 9/25, 9/26,))</u>	6.5"
<u>2M, 2N, 2R, 2T</u>	7:00 a.m. through 7:00 p.m.	<u>9/27, 9/28, 9/29, 9/30, 10/1((, 10/2, 10/3,))</u>	6.5"
2U	7:00 a.m. through 7:00 p.m.	9/27, 9/28, 9/29, <u>9/30, 10/1</u>	4.25"
2U	7:00 a.m. through 7:00 p.m.	((10/1, 10/2,)) 10/3, <u>10/4, 10/5, 10/6</u>	((6.5")) <u>4.25"</u>
2M, 2N, 2R	7:00 a.m. through 7:00 p.m.	((9/28, 9/29, 9/30, 10/1, 10/2,)) 10/3, <u>10/4, 10/5, 10/6</u>	6.5"
2U	((7:30)) <u>7:00</u> a.m. through ((7:30)) <u>7:00</u> p.m.	((10/5)) <u>10/9, 10/10, 10/11, 10/12, 10/13, 10/14</u>	((6.5")) <u>4.25"</u>
((2M, 2N 2R	7:30 a.m. through 7:30 p.m.	10/5, 10/6, 10/7, 10/8, 10/9	6.5"
<u>2R</u>	<u>7:30 a.m. through 7:30 p.m.</u>	<u>10/5, 10/6</u>	<u>6.5"))</u>
2M, 2N, 2R, 2T, 2U	12:01 a.m. through 11:59 p.m.	((11/2, 11/3,)) <u>11/1 through 11/4((, 11/5, 11/6))</u>	6.5"
2M, 2N, 2R, 2T, 2U	12:01 a.m. through 11:59 p.m.	((11/9, 11/10, 11/11, 11/12, 11/13)) <u>11/7 through 11/11</u>	6.5"
2M, 2N, 2R, 2T, 2U	12:01 a.m. through 11:59 p.m.	((11/16, 11/17,)) <u>11/14 through 11/18((, 11/19, 11/20))</u>	6.5"
2M, 2N, 2R, 2T, 2U	12:01 a.m. through 11:59 p.m.	((11/23, 11/24,)) <u>11/21 through 11/25((, 11/26, 11/27))</u>	6.5"

((Note: Those waters of 2T north of a line from Toke Point channel marker 3 easterly through Willapa Harbor channel marker 13 (green), then northeasterly to the power transmission pole located at 46°43.1907'N; 123°50.83134'W are closed through September 30.))

Gear:

(2) Gillnet gear restrictions - All areas:

(a)~~((+))~~ Drift gillnet gear only. It is unlawful to use set net gear.

(b) It is permissible to have on board a commercial vessel more than one net, provided the nets are of a mesh size that is legal for the fishery, and the length of any one net does not exceed one thousand five hundred feet in length.

~~((+))~~ (c) It is unlawful to use a gillnet to fish for salmon if the lead line weighs more than two pounds per fathom of net as measured on the cork line.

(d) It is permissible to have a gillnet with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or transiting through Willapa

Bay, provided the net is properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope that is 3/8 (0.375) inches or greater.

~~((+))~~ (c) From 12:01 a.m. September ~~((8))~~ 6 through November 30: Mesh size must not exceed six and one-half inches stretched, except mesh size must not exceed four and one-quarter inches stretched in Areas 2M, 2N, 2R on September 6, 7, and 8 and in Area 2U on September 16, ~~((17, 18,))~~ 19, 20, 21, 22, 23, 27, 28, ~~((and))~~ 29, 30, October 1, 3, 4, 5, 6, 9, 10, 11, 12, 13, and 14.

Other:

(3) Recovery boxes and soak time limits described in this section are required from 12:01 a.m. September ((8)) 6 through 11:59 p.m. October ((40)) 14:

(a) Each boat must have two operable recovery boxes or one box with two chambers on board when fishing in Willapa Bay Areas 2M, 2N, 2R, 2T, and 2U.

(i) Each box and chamber must be operating during any time the net is being retrieved or picked. The flow in the recovery box must be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute.

(ii) Each chamber of the recovery box must meet the following dimensions as measured from within the box:

(A) The inside length measurement must be at or within 39-1/2 inches to 48 inches;

(B) The inside width measurements must be at or within 8 to 10 inches; and

(C) The inside height measurement must be at or within 14 to 16 inches.

(iii) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1-3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river/bay water into each chamber.

(b) All steelhead and wild (unmarked) Chinook must be placed in an operating recovery box, which meets the requirements in (a) of this subsection prior to being released to the river/bay as set forth in (c) of this subsection. From September ((8)) 6 through October ((3)) 1, all chum must be placed in an operating recovery box which meets the requirements in (a) of this subsection prior to being released to the river/bay as set forth in (c) of this subsection.

(c) All fish placed in recovery boxes must remain until they are not lethargic and not bleeding and must be released to the river/bay prior to landing or docking.

(d) Soak time must not exceed 45 minutes. Soak time is defined as the time elapsed from when the first of the gillnet web is deployed into the water until the gillnet web is fully retrieved from the water.

(4) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "direct retail endorsement." According to WAC 220-69-240(14), reports must be made by 10:00 a.m. the day following landing.

(5) Retention prohibitions:

(a) All green and white sturgeon and all steelhead, except as provided in subsection (3) of this section, must be handled with care to minimize injury to the fish and must be released immediately to the river/bay.

(b) Retention of any species other than coho salmon, chum salmon, or Chinook is prohibited.

(c) From 12:01 a.m. September ((8)) 6 through 11:59 p.m. October ((3)) 1, retention of any species other than coho

salmon or hatchery Chinook marked by a healed scar at the site of the adipose fin is prohibited.

(d) From 12:01 a.m. October ((4)) 2 through 11:59 p.m. October ((40)) 14, retention of any species other than coho salmon, chum salmon, or hatchery Chinook marked by a healed scar at the site of the adipose fin is prohibited.

(6) Report ALL encounters of green sturgeon, steelhead, and wild (unmarked) Chinook (your name, date of encounter, and number of species encountered) to the quick reporting office via phone at 866-791-1280, fax at 360-249-1229, or e-mail at harborfishtickets@dfw.wa.gov. Fishers may have wholesale dealers use the "buyer only" portion of the fish ticket and have encounters included with each day's quick reporting.

(7) Do NOT remove tags from white sturgeon. Please obtain available information from tags without removing tags. Submit tag information to the Washington Department of Fish and Wildlife, 48 Devonshire Rd., Montesano, WA 98563.

(8) Those waters of Area 2T north of a line from Toke Point channel marker 3 easterly through Willapa Harbor channel marker 13 (green), then northeasterly to the power transmission pole located at 46°43.1907'N, 123°50.83134'W are CLOSED from 6:00 a.m. September 16, 2016 through 11:59 p.m., September 30, 2016.

(9) It is unlawful to fish with gillnet gear in Areas 2M, 2N, 2R, 2T, and 2U unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and has in their possession a department-issued certification card.

((9)) (10) Fishers must take department observers if requested by department staff when participating in these openings. Fishers also must provide notice of intent to participate by contacting quick reporting by phone, fax or e-mail. Notice of intent must be given prior to 12:00 p.m. on September 1.

~~((10) Fishers must provide notice of intent to participate in 2U on September 16, 17, 18, 19, 20, 21, 22, 27, 28, and 29 by contacting quick reporting by phone, fax, or e-mail. Notice of intent must be given prior to 12:00 p.m. on September 1. Fishers must take department observers when participating in these openings.)~~

WSR 16-15-030**PERMANENT RULES****HEALTH CARE AUTHORITY**

(Washington Apple Health)

[Filed July 13, 2016, 9:08 a.m., effective August 13, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The agency is revising this section to include standard resolution of appeals for noncrisis services provided by the behavioral health-administrative services organization and to more fully describe the timing for both expedited and standard resolution notices.

Citation of Existing Rules Affected by this Order: Amending WAC 182-538C-110.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 16-12-090 on May 31, 2016.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

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

Date Adopted: July 13, 2016.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-05-051, filed 2/11/16, effective 4/1/16)

WAC 182-538C-110 Grievance system for behavioral health administrative services organizations (BH-ASOs). (1) This section applies to the behavioral health administrative service organization (BH-ASO) grievance system for ~~((individuals))~~ people within fully integrated managed care (FIMC) regional service areas.

(a) The BH-ASO must have a grievance system to allow ~~((an individual))~~ a person to file a grievance and ~~((seek))~~ request a review of a BH-ASO action as defined in this chapter.

(b) The agency's hearing rules in chapter 182-526 WAC apply to administrative hearings requested by ~~((an individual))~~ a person to review the resolution of an appeal of a BH-ASO action.

(c) If a conflict exists between the requirements of this chapter and other rules, the requirements of this chapter take precedence.

(d) The BH-ASO must maintain records of grievances and appeals.

(e) The BH-ASO is not obligated to continue services pending the results of an appeal or subsequent administrative hearing.

(2) The BH-ASO grievance system. The BH-ASO grievance system includes:

(a) A process for addressing ~~((a))~~ complaints about any matter that is not an action, which is called a grievance;

(b) An appeals process to address ~~((an individual's))~~ a person's request for a review of a BH-ASO action as defined in this chapter; and

(c) Access to the agency's administrative hearing process for ~~((an individual to seek))~~ a person to request a review of a BH-ASO's resolution of an appeal.

(3) The BH-ASO grievance process.

(a) ~~((An individual or an individual's))~~ A person or a person's authorized representative may file a ~~((complaint))~~

grievance with a BH-ASO. A provider may not file a ~~((complaint))~~ grievance on behalf of ~~((an individual))~~ a person without the written consent of the person or the person's authorized representative.

(b) There is no right to an agency administrative hearing ~~((in regards to the disposition of a complaint))~~ regarding the BH-ASO's decision on a grievance, since a grievance is not an action.

(c) The BH-ASO must notify ~~((individuals))~~ a person of the ~~((disposition of))~~ decision regarding the person's grievance(s) within five business days of ~~((determination))~~ the decision.

(4) The BH-ASO appeals process.

(a) ~~((An individual, the individual's))~~ Parties to the appeal include:

(i) The person and the person's authorized or legal representative; or

(ii) The authorized representative of the deceased person's estate.

(b) A person, the person's authorized representative, or the provider acting with the ~~((individual's))~~ person's written consent may appeal a BH-ASO action.

~~((b))~~ (c) A BH-ASO must treat oral inquiries about appealing an action as an appeal in order to establish the earliest possible filing date for the appeal. ((The))

(d) The BH-ASO must confirm any oral appeal ((must be confirmed)) in writing ((by the BH-ASO.

~~((e))~~ to the person or provider acting on behalf of the person.

(e) The person or provider acting on behalf of the person must file an appeal, either orally or in writing, within ninety calendar days of the date on the BH-ASO's notice of action.

(f) The BH-ASO must acknowledge receipt of each appeal to both the ((individual)) person and the provider requesting the service within three calendar days of receipt. The appeal acknowledgment letter sent by the BH-ASO serves as written confirmation of an appeal filed orally by ((an individual)) a person.

~~((d))~~ An appeal of a BH-ASO action must be filed within ninety calendar days of the date of the notice of action.

~~((e))~~ The BH-ASO will not be obligated to continue services pending the results of an appeal or subsequent administrative hearing.

~~((f))~~ (g) If the person requests an expedited appeal for a crisis-related service, the BH-ASO must make a decision on whether to grant the person's request for expedited appeal and provide written notice as expeditiously as the person's health condition requires, within three calendar days after the BH-ASO receives the appeal. The BH-ASO must make reasonable efforts to provide oral notice.

(h) The BH-ASO appeals process:

(i) Provides the ~~((individual))~~ person a reasonable opportunity to present evidence and allegations of fact or law ~~((both in person and))~~ in writing ~~((;))~~.

(ii) Provides the ~~((individual))~~ person and the ~~((individual's))~~ person's authorized representative opportunity before and during the appeals process to examine the ~~((individual's))~~ person's case file, including medical records and any other documents and records considered during the appeals process ~~((; and~~

(iii) Includes as parties to the appeal:

(A) The individual;

(B) The individual's legal representative; or

(C) The authorized representative of the deceased individual's estate.

~~(g))~~.

(iii) If the person requests an expedited appeal, the BH-ASO must inform the person that it may result in the person having limited time to review records and prepare for the appeal.

(i) The BH-ASO ensures the ~~((individuals))~~ staff making decisions on appeals:

(i) Were not involved in any previous level of review or decision making; and

(ii) Are health care professionals with appropriate clinical expertise in treating the ~~((individual's))~~ person's condition or disease if deciding any of the following:

(A) An appeal of an action; or

(B) ~~((A grievance or))~~ An appeal that involves any clinical issues.

~~((h))~~ (j) Time frames for standard resolution of appeals.

(i) ~~((A BH-ASO resolves each appeal and provides notice as expeditiously as the individual's health condition requires and no longer than three calendar days after the BH-ASO receives the appeal.~~

(ii) ~~The BH-ASO may extend the time frame by fourteen additional calendar days if:~~

(A) ~~The individual requests the extension; or~~

(B) ~~The BH-ASO determines additional information is needed and the delay is in the interests of the individual.~~

(i) ~~For appeals involving termination, suspension, or reduction of previously authorized noncrisis services, the BH-ASO must make a decision within fourteen calendar days after receipt of the appeal.~~

(ii) ~~If the BH-ASO cannot resolve an appeal within fourteen calendar days, the BH-ASO must notify the person that an extension is necessary to complete the appeal.~~

(k) Time frames for expedited appeals for crisis-related services or behavioral health prescription drug authorization decisions.

(i) ~~The BH-ASO must resolve the expedited appeal and provide notice of the decision no later than three calendar days after the BH-ASO receives the appeal.~~

(ii) ~~The BH-ASO may extend the time frame by fourteen additional calendar days if:~~

(A) ~~The person requests the extension; or~~

(B) ~~The BH-ASO determines additional information is needed and the delay is in the interests of the person.~~

(iii) ~~If the BH-ASO denies a request for expedited resolution of a noncrisis related service appeal, it must:~~

(A) ~~Process the appeal based on the time frame for standard resolution;~~

(B) ~~Make reasonable efforts to give the person prompt oral notice of the denial; and~~

(C) ~~Follow-up within two calendar days of the oral notice with a written notice of denial.~~

(l) ~~Extension of a standard resolution or expedited appeal not requested by the person.~~

(i) ~~The BH-ASO must notify the person in writing of the reason for the delay, if not requested by that person.~~

(ii) ~~The extension cannot delay the decision beyond twenty-eight calendar days of the request for appeal, without the informed written consent of the person.~~

(iii) ~~The appeal determination must not exceed forty-five calendar days from the day the BH-ASO receives the appeal.~~

(m) ~~Notice of resolution of appeal. The notice of the resolution of the appeal must:~~

(i) Be in writing and be sent to the ~~((individual))~~ person and the provider requesting the services;

(ii) Include the results of the resolution process and the date it was completed; and

(iii) Include notice of the right to request an agency administrative hearing and how to do so as provided in the agency hearing rules in chapter 182-526 WAC, if the appeal is not resolved wholly in favor of the ~~((individual))~~ person.

(5) ~~Agency administrative hearings.~~

(a) ~~Only ((an individual or an individual's)) a person or a person's authorized representative may request an agency administrative hearing. A provider may not request a hearing on behalf of ((an individual)) a person.~~

(b) ~~If ((an individual)) a person does not agree with the BH-ASO's resolution of an appeal, the ((individual)) person may file a request for an agency administrative hearing based on this section and the agency hearing rules in chapter 182-526 WAC.~~

(c) ~~The BH-ASO is an independent party and responsible for its own representation in any agency administrative hearing, appeal to the board of appeals, and any subsequent judicial proceedings.~~

(d) ~~((An individual)) A person must exhaust the appeals process within the BH-ASO's grievance system before requesting an administrative hearing with the agency.~~

(6) ~~Effect of reversed resolutions of appeals. If the BH-ASO's decision not to provide services is reversed on appeal by the BH-ASO ((on appeal)) or through a final order from the agency administrative hearing process, the BH-ASO must authorize or provide the disputed services promptly and as expeditiously as the ((individual's)) person's health condition requires.~~

(7) ~~Grievance system termination. When available resources are exhausted, any appeals or administrative hearing process related to a request for authorization of a noncrisis service will be terminated, since noncrisis services cannot be authorized without funding, regardless of medical necessity.~~

WSR 16-15-045

PERMANENT RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 16-182—Filed July 14, 2016, 1:52 p.m., effective August 14, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this proposal is to retain general season deer hunting opportunity for 2016. In addition, the purpose of the proposal is to balance the hunting opportunity between user groups. The proposal also increases hunting opportunity when deer populations allow, and reduces the

opportunity when declining deer numbers warrant a change. Current proposed changes will reduce antlerless deer hunting opportunity for archery and muzzleloader hunters in several game management units in northeastern Washington.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-357.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.150, 77.12.240, 77.12.800, 77.32.090, 77.32.155.

Adopted under notice filed as WSR 16-10-120 on May 4, 2016.

Changes Other than Editing from Proposed to Adopted Version: **General Note:** *Minor technical changes were made throughout the proposed rules to adjust grammar and formatting concerns.*

WAC 232-28-357 2015-2017 Deer general seasons and definitions.

Differences between the text of the proposed rule and the rule as adopted.

Change: Under Early Archery General, Eastern Washington White-tailed Deer, Sept. 1-30, 2016 and Sept. 1-29, 2017, change the Legal Deer in GMUs 101, 105, 108, 111, 113, 117, and 121 from "Any white-tailed deer" to "White-tailed, any buck."

Under Late Archery General, Eastern Washington White-tailed Deer, change the dates and Legal Deer from "Nov. 23-Dec. 15, 2016 and Nov. 22-Dec. 15, 2017 Any white-tailed deer" to "Nov. 23-Dec. 9, 2016 and Nov. 22-Dec. 9, 2017 White-tailed any buck; and Dec. 10-15, 2016 and Dec. 10-15, 2017 Any white-tailed deer" in GMUs 105, 108, 117, and 121.

Under Early Muzzleloader, Eastern Washington White-tailed Deer, Oct. 1-9, 2016 and Sept. 30-Oct. 8, 2017, change the Legal Deer in GMUs 101, 105, 108, 111, 113, 117, and 121 from "Any white-tailed deer" to "White-tailed, any buck."

Rationale: All of these changes are proposed in response to the white-tailed deer population in these GMUs experiencing a hemorrhagic disease outbreak in late summer-early fall. The recommended adjustment is a more conservative season structure directed at antlerless hunting opportunity because the antlerless portion of the population has direct influence over population growth or decline.

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

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

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

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

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

Date Adopted: June 10, 2016.

Brad Smith, Chair
Fish and Wildlife Commission

AMENDATORY SECTION (Amending WSR 15-10-059, filed 4/30/15, effective 5/31/15)

WAC 232-28-357 2015-2017 Deer general seasons and definitions. It is unlawful to fail to comply with the bag, possession, and season limits described below. Violations of this section are punishable under RCW 77.15.410(7) Unlawful hunting of big game—Penalty.

Bag Limit: One (1) deer per hunter during the license year except where otherwise permitted by department rule.

Hunting Method: Hunters must select one of the hunting methods: Modern firearm, archery, or muzzleloader.

Any Buck Deer Seasons: Open only to the taking of deer with visible antlers (buck fawns illegal).

Antler Point: To qualify as an antler point, the point must be at least one inch long, measured on the longest side.

Antler Restrictions: APPLIES TO ALL HUNTERS DURING ANY GENERAL SEASON AND DESIGNATED SPECIAL PERMIT SEASONS. Buck deer taken in antler restricted game management units (GMUs) must meet minimum antler point requirements. Minimum antler point requirements are antler points on one side only. Eye guards are antler points when they are at least one inch long.

3-point Minimum GMUs: All mule deer in 100, 200, and 300 series GMUs; white-tailed deer in GMUs 127, 130, 133, 136, 139, 142, 145, 149, 154, 162, 163, 166, 169, 172, 175, 178, 181, 186, and black-tailed deer in GMU 578.

Permit-only Units: The following GMUs require a special permit to hunt deer: 157 (Mill Creek Watershed), 290 (Desert), 329 (Quilomene), 371 (Alkali), and 485 (Green River).

GMUs Closed to Deer Hunting: 490 (Cedar River) and 522 (Loo-wit).

Types of deer that a person may legally hunt in Washington:

Black-tailed Deer: Any member of black-tailed/mule deer (species *Odocoileus hemionus*) found west of a line drawn from the Canadian border south on the Pacific Crest Trail and along the Yakama Indian Reservation boundary in Yakima County to the Klickitat River; south down Klickitat River to the Columbia River.

Mule Deer: Any member of black-tailed/mule deer (species *Odocoileus hemionus*) found east of a line drawn from the Canadian border south on the Pacific Crest Trail and along the Yakama Indian Reservation boundary in Yakima County to the Klickitat River; south down Klickitat River to the Columbia River.

White-tailed Deer: Any white-tailed deer (member of the species *Odocoileus virginianus*), except the Columbian whitetail deer (species *Odocoileus virginianus leucurus*).

MODERN FIREARM DEER SEASONS

License Required: A valid big game hunting license, which includes a deer species option.

Tag Required: A valid modern firearm deer tag for the area hunted.

Hunting Method: Modern firearm deer tag hunters may use rifle, handgun, shotgun, bow, crossbow, or muzzleloader, but only during modern firearm seasons.

Hunt Season	2015 Dates	2016 Dates	2017 Dates	Game Management Units (GMUs)	Legal Deer
HIGH BUCK HUNTS					
	Sept. 15-25	Sept. 15-25	Sept. 15-25	Alpine Lakes, Mount Baker, Glacier Peak, Pasayten, Olympic Peninsula, and Henry Jackson Wilderness Areas and Lake Chelan Recreation Area	3 pt. min.
GENERAL SEASON					
Western Washington Black-tailed Deer	Oct. 17-31	Oct. 15-31	Oct. 14-31	407, 418, 426, 437, 448, 450, 454, 460, 466, 501 through 520, 524 through 556, 560, 568, 572, 574, 601 through 621, 624 (except Deer Area 6020), 627 through 654, 658 through 699	Any buck
				410, 411, 412, 413, 414, 415, 416, 417, 419, 420, 421, 422, 564, 655, Deer Area 6020	Any deer
				578	3 pt. min.
Eastern Washington White-tailed Deer	Oct. 17-30	Oct. 15-28	Oct. 14-27	101, 105, 108, 111, 113, 124	Any white-tailed buck
	Oct. 17-27	Oct. 15-25	Oct. 14-24	203 through 284	Any white-tailed buck
	Oct. 17-27	Oct. 15-25	Oct. 14-24	127 through 154, 162 through 186 (except Deer Area 1040)	White-tailed, 3 pt. min.
	Oct. 17-27	Oct. 15-25	Oct. 14-24	373, 379, 381	Any white-tailed deer
Eastern Washington White-tailed Deer in GMUs 117 and 121	Oct. 17-30	Oct. 15-28	Oct. 14-27	117, 121	Any white-tailed buck
Eastern Washington Mule Deer	Oct. 17-27	Oct. 15-25	Oct. 14-24	101 through 154, 162 through 169, 172 (except Deer Area 1040), 175 through 186, 203 through 284, 328, 330 through 368, 372, 373, 379, 381, 382, 388	Mule deer, 3 pt. min.
					((Mule deer, 3 pt. min.))
LATE GENERAL SEASON					
Western Washington Black-tailed Deer	Nov. 19-22	Nov. 17-20	Nov. 16-19	407, 454, 466, 501 through 520, 524 through 560, 568, 572, 601 through 621, 624 (except Deer Area 6020), 627 through 654, 658 through 699	Any buck
	Nov. 19-22	Nov. 17-20	Nov. 16-19	410, 411, 412, 413, 414, 415, 416, 417, 419, 420, 421, 422, 564, 655, Deer Area 6020	Any deer
Eastern Washington White-tailed Deer	Nov. 7-19	Nov. 5-19	Nov. 11-19	105, 108, 111, 113, 124	Any white-tailed buck
Eastern Washington White-tailed Deer in GMUs 117 and 121	Nov. 7-19	Nov. 5-19	Nov. 11-19	117, 121	Any white-tailed buck
HUNTERS 65 AND OVER, DISABLED, OR YOUTH GENERAL SEASONS					
Eastern Washington White-tailed Deer	Oct. 17-30	Oct. 15-28	Oct. 14-27	((101, 105, 108, 111, 113,)) 124	Any white-tailed deer
		Oct. 20-23	Oct. 19-22	101, 105, 108, 111, 113, 117, 121	Any white-tailed deer
	Nov. 7-19	Nov. 5-19	Nov. 11-19	Deer Area 1050	Any white-tailed deer
	Nov. 7-19	Nov. 5-19	Nov. 11-19	Deer Areas 1060, 1070, 1080	White-tailed, antlerless only

Hunt Season	2015 Dates	2016 Dates	2017 Dates	Game Management Units (GMUs)	Legal Deer
	Oct. 17-27	Oct. 15-25	Oct. 14-24	127 through 142, 145, 149, 154, Deer Area 1010, and 178	White-tailed, 3 pt. min. or antlerless
((HUNTERS 65 AND OVER AND DISABLED					
Eastern Washington White-tailed Deer	Oct. 17-30	Oct. 15-28	Oct. 14-27	117, 121	Antlerless white-tailed deer
YOUTH GENERAL SEASONS					
Eastern Washington White-tailed Deer in GMUs 117 and 121	Oct. 17-30	Oct. 15-28	Oct. 14-27	117, 121	Any white-tailed-deer))

ARCHERY DEER SEASONS

License Required: A valid big game hunting license, which includes a deer species option.

Tag Required: A valid archery deer tag for the area hunted.

Special Notes: Archery tag holders can only hunt during archery seasons with archery equipment (WAC 232-12-054).

Hunt Area	2015 Dates	2016 Dates	2017 Dates	Game Management Units (GMUs)	Legal Deer
EARLY ARCHERY GENERAL DEER SEASONS					
Western Washington Black-tailed Deer	Sept. 1-30	Sept. 1-30	Sept. 1-29	407 through 426, 437, 448, 450, 454, 466, 501, 504, 505, 524, 554, 564, 568, 621 through 636, 648 through 652, 654 through 673, 684	Any deer
				460, 503, 574, 601 through 618, 638, 642, 653, 681 and 699	Any buck
				578	3 pt. min.
	Sept. 1-27	Sept. 1-25	Sept. 1-24	510, 513, 516, 520, 556 506, 530, 550, 560, 572	Any deer Any buck
Eastern Washington Mule Deer	Sept. 1-30	Sept. 1-30	Sept. 1-29	105 through 121, 166, 169, 172 (except Deer Area 1040), 175, 181, 243, 334	3 pt. min.
				124 through 142, 145, 149, 186, 244 through 247, 249, 250, 260, 372, 373, 379, 381, 382, 388, Deer Area 3334	3 pt. min. or antlerless
	Sept. 1-27	Sept. 1-25	Sept. 1-24	154, 162, 163, 178	3 pt. min. or antlerless
	Sept. 1-27	Sept. 1-25	Sept. 1-24	((162, 163,)) 251, 328, 335, 336, 340, 346, 352, 356, 360, 364, 368	3 pt. min.
	Sept. 1-15	Sept. 1-15	Sept. 1-15	101, 204 through 242, 248, 254, 262, 266, 269, 272, 278, 284	3 pt. min.
Sept. 16-30	Sept. 16-30	Sept. 16-29	101, 204 through 242, 248, 254, 262, 266, 269, 272, 278, 284	3 pt. min. or antlerless	
Eastern Washington White-tailed Deer	Sept. 1-30	Sept. 1-30	Sept. 1-29	101, 105, 108, 111, 113, 117, 121	((Any white-tailed-deer)) White-tailed, any buck
	Sept. 1-30	Sept. 1-30	Sept. 1-29	124, 204 through 250, 254 through 284, 373, 379, 381	Any white-tailed deer
	Sept. 1-30	Sept. 1-30	Sept. 1-29	127 through 149, 166, 172 (except Deer Area 1040), 181, 186	White-tailed, 3 pt. min. or antlerless
	Sept. 1-27	Sept. 1-25	Sept. 1-24	154, 162, 163, 178	White-tailed, 3 pt. min. or antlerless
	Sept. 1-27	Sept. 1-25	Sept. 1-24	169, 175	White-tailed, 3 pt. min.
((Eastern Washington White-tailed Deer in GMUs 117 and 121	Sept. 1-30	Sept. 1-30	Sept. 1-29	117, 121	Any white-tailed-deer))

Hunt Area	2015 Dates	2016 Dates	2017 Dates	Game Management Units (GMUs)	Legal Deer
LATE ARCHERY GENERAL DEER SEASONS					
Western Washington Black-tailed Deer	Nov. 25 - Dec. 15	Nov. 23 - Dec. 15	Nov. 22 - Dec. 15	437, 466, 510 through 520, 524((-556))	Any deer
	Nov. 25 - Dec. 15	Nov. 23 - Dec. 15	Nov. 22 - Dec. 15	448, 460, 506, 530, 560, 572, 601, 603 through 618, 638, 642, 681, and 699	Any buck
	Nov. 25 - Dec. 31	Nov. 23 - Dec. 31	Nov. 22 - Dec. 31	407, 410, 411, 412, 413, 414, 415, 416, 417, 419, 420, 421, 422, 454, 505, 564, 624, 627, 636, 648, 652, 654, 655, 660 through 672	Any deer
Eastern Washington Mule Deer	Nov. 21-30	Nov. 21-30	Nov. 21-30	209, 215, 233, 243, 250	3 pt. min.
	Nov. 25 - Dec. 8	Nov. 23 - Dec. 8	Nov. 22 - Dec. 8	336, 342, 346, 352, 364, 388, Deer Area 3682	3 pt. min.
	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	145, 163, 178, 272, 278, 373, <u>Deer Area 3372</u>	3 pt. min. or antlerless
	Dec. 9-31	Dec. 9-31	Dec. 9-31	Deer Area 1021	Antlerless only
Eastern Washington White-tailed Deer	Nov. 10 - Dec. 15	Nov. 10 - Dec. 15	Nov. 10 - Dec. 15	101	Any white-tailed deer
		<u>Nov. 21-30</u>	<u>Nov. 21-30</u>	<u>204, 209</u>	<u>Any white-tailed deer</u>
	Nov. 25 - Dec. 15	Nov. 25 - Dec. 15	Nov. 25 - Dec. 15	124	Any white-tailed deer
	Nov. 25 - Dec. 15	Nov. 25 - Dec. 15	Nov. 25 - Dec. 15	127	White-tailed, 3 pt. min. or antlerless
	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	145, 163, 178, 272, 278	White-tailed, 3 pt. min. or antlerless
	Nov. 25 - Dec. 15	Nov. 23 - Dec. 15	Nov. 22 - Dec. 15	((405, 108, 204, 209,)) 215, 233, 243, 373	Any white-tailed deer
		<u>Nov. 23 - Dec. 9</u>	<u>Nov. 22 - Dec. 9</u>	<u>105, 108, 117, 121</u>	<u>White-tailed, any buck</u>
		<u>Dec. 10-15</u>	<u>Dec. 10-15</u>	<u>105, 108, 117, 121</u>	<u>Any white-tailed deer</u>
((Eastern Washington White-tailed Deer in GMUs 117 and 121	Nov. 25 - Dec. 15	Nov. 23 - Dec. 15	Nov. 22 - Dec. 15	117, 121	Any white-tailed deer))

MUZZLELOADER DEER SEASONS

License Required: A valid big game hunting license, which includes a deer species option.

Tag Required: A valid muzzleloader deer tag for the area hunted.

Hunting Method: Muzzleloader only.

Special Notes: Muzzleloader tag holders can only hunt during muzzleloader seasons and must hunt with muzzleloader equipment (WAC 232-12-051) or archery equipment (WAC 232-12-054).

Hunt Area	2015 Dates	2016 Dates	2017 Dates	Game Management Units (GMUs)	Legal Deer
High Buck Hunts	Sept. 15-25	Sept. 15-25	Sept. 15-25	Alpine Lakes, Glacier Peak, Pasayten, Mount Baker, Olympic Peninsula, and Henry Jackson Wilderness areas, and Lake Chelan Recreation Area	3 pt. min.
EARLY MUZZLELOADER GENERAL DEER SEASONS					
Western Washington Black-tailed Deer	Oct. 3-11	Oct. 1-9	Sept. 30 - Oct. 8	407, 418, 426, 437, 448, 450, 501, 503, 504, 505, 506, 510, 513, 516, 520, 530, 550, 554, ((556)) 560, 568, 572, 574, 603, 607, 612, 615, 624 (except Deer Area 6020), 636, 638, 642, 648, 660, 663, 672, 673	Any buck
				410, 411, 412, 413, 414, 415, 416, 417, 419, 420, 421, 422, 454, 564, 627, 652, 655, 666, 684, and Deer Area 6020	Any deer
				578	3 pt. min.
Eastern Washington White-tailed Deer	Oct. 3-11	Oct. 1-9	Sept. 30 - Oct. 8	101, 105, 108, 111, 113, 117, 121, 203, 204, 209, 215, 231, 233, 239, 242, 243, 244, 245, 246, 248, 250, 251, 260, 272, 278, 284	White-tailed, any buck
				((101, 105, 108, 111, 113,)) 124	Any white-tailed deer

Hunt Area	2015 Dates	2016 Dates	2017 Dates	Game Management Units (GMUs)	Legal Deer
				127, 142, 145, 149	White-tailed, 3 pt. min. or antlerless
				130, 133, 136, 139, 175, 181, 186	White-tailed, 3 pt. min.
				373, 379	Any white-tailed((-)) deer
(Eastern Washington White-tailed Deer in GMUs 117 and 121)	Oct. 3-11	Oct. 1-9	Sept. 30 - Oct. 8	117, 121	Any white-tailed-deer))
Eastern Washington Mule Deer	Oct. 3-11	Oct 1-9	Sept. 30 - Oct. 8	101 through 149, 175, 181, 186, 203, 204, 209, 215, 231, 233, 239, 242, 243, 244, 245, 246, 248, 250, 251, 254, 260, 262, 266, 269, 272, 278, 284, 328, 330 through 342, 352 through 368, 373, 379	Mule deer, 3 pt. min.
<u>Eastern Washington Mule Deer</u>	<u>Oct. 3-11</u>	<u>Oct. 1-9</u>	<u>Sept. 30 - Oct. 8</u>	<u>Deer Areas 3334 and 3372</u>	<u>3 pt. min. or antlerless</u>
LATE MUZZLELOADER GENERAL DEER SEASONS					
Western Washington Black-tailed Deer	Nov. 25 - Dec. 15	Nov. 23 - Dec. 15	Nov. 22 - Dec. 15	407, 410, 411, 412, 413, 414, 415, 416, 417, 419, 420, 421, 422, 454, ((501+)) 504, 564, 633, 666, 684, and Deer Area 6020	Any deer
				448, 460, ((550)) 501, 602, 621, 651, 654, 658, 667, and 673	Any buck
Eastern Washington White-tailed Deer	Nov. 25 - Dec. 8	Nov. 23 - Dec. 8	Nov. 22 - Dec. 8	113	Any white-tailed buck
	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	130, 133, 136, 139	White-tailed, 3 pt. min. or antlerless
	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	172 (except Deer Area 1040), 181	White-tailed, 3 pt. min. or antlerless
	Nov. 20-30	Nov. 20-30	Nov. 20-30	379, 381	Any white-tailed deer
Eastern Washington Mule Deer	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	130	Antlerless
	Nov. 20-30	Nov. 20-30	Nov. 20-30	381, <u>Deer Area 3372</u>	3 pt. min. or antlerless
	Nov. 20-30	Nov. 20-30	Nov. 20-30	379, 382	3 pt. min.

**WSR 16-15-057
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD**

[Filed July 18, 2016, 8:46 a.m., effective August 18, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amends WAC 181-77-041 by adding American sign language (ASL) assessment inadvertently left off when rule was adopted May 2015.

Citation of Existing Rules Affected by this Order: Amending WAC 181-77-041.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 16-10-101 on May 4, 2016.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 400, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

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

Date Adopted: July 18, 2016.

David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 16-07-096, filed 3/18/16, effective 4/18/16)

WAC 181-77-041 Requirements for candidates seeking career and technical education certification on the basis of business and industry work experience. Candidates for certification who have not completed approved programs set forth in WAC 181-82-322 shall complete the following requirements in addition to those set forth in WAC 181-79A-150 (1) and (2) and 181-79A-155 (1) and (2).

(1) Initial.

(a) Candidates for the initial certificate shall provide documentation of paid occupational experience in the specific career and technical education subcategory for which certification is sought: Provided, That individuals seeking the initial certification for the sole purpose of instruction of American sign language who are deaf, hard of hearing per RCW 43.20A.720, or who's primary method of communication is American sign language, may have the requirements for interpreter experience waived by the certification office of the superintendent of public instruction.

(i) Three years (six thousand hours) is required.

(ii) One year (two thousand hours) must be within the past six years.

(iii) If all or part of the two thousand hours is more than six years old, an additional three hundred hours of recent (occurring in the last two years) occupational experience is required.

(iv) Individuals seeking this certification solely for teaching American sign language must also hold or earn the national interpreter certification, certified deaf interpreter certificate, the American sign language teachers association certificate, the American sign language performance interview, or meet the standard required of interpreters for the deaf per RCW 28A.410.271.

(b) Candidates for the initial certificate shall complete a professional educator standards board approved program under WAC 181-77A-029 in which they demonstrate competence in the general standards for all career and technical education teacher certificate candidates pursuant to WAC 181-77A-165, which include but are not limited to knowledge and skills in the following areas:

(i) General and specific safety;

(ii) Career and technical education teaching methods;

(iii) Occupational analysis;

(iv) Course organization and curriculum design;

(v) Philosophy of vocational education;

(vi) Personal student development and leadership techniques.

(c) Candidates for the initial certificate shall also demonstrate knowledge and skills in the following areas:

(i) School law;

(ii) Issues related to abuse as specified in WAC 181-77A-165(7).

(d) In addition, candidates for initial certification in career choices or coordinator of worksite learning shall demonstrate competency in knowledge and skills described in WAC 181-77A-180.

(2) Initial renewal. Candidates for renewal of the initial certificate must complete three quarter hours of credit or thirty clock hours of career and technical education educator

training in the subject matter certified to teach since the initial certificate was issued or renewed.

(3) Continuing.

(a) Candidates for the continuing certificate shall have in addition to the requirements for the initial certificate at least nine quarter hours or ninety clock hours of career and technical education educator training in the career and technical education subject matter to be certified completed subsequent to the issuance of the initial certificate.

(b) Candidates for the continuing certificate shall provide as a condition for the issuance of a continuing certificate documentation of two years of teaching/coordination in the career and technical education subject matter certified to teach with an authorized employer-i.e., school district(s) or skills center(s).

(4) Continuing certificate renewal.

(a) Candidates for renewal of the continuing certificate shall complete since the previous continuing certificate was issued one of the following:

(i) Six quarter hours or sixty clock hours of career and technical education educator training;

(ii) Three quarter hours or thirty clock hours of career and technical education educator training and three quarter hours or thirty clock hours of technical education/upgrading;

(iii) Three quarter hours or thirty clock hours of career and technical education educator training and three hundred hours of occupational experience;

(iv) Provided, beginning September 1, 2014, continuing education or professional growth plans for teachers at the elementary and secondary levels in STEM-related subjects must include a specific focus on the integration of science, mathematics, technology, and engineering instruction as per RCW 28A.410.2212. This renewal requirement applies to career and technical education endorsements. ~~((Certificates with a renewal date of June 30, 2019))~~ Applications for renewal dated September 1, 2018, and beyond must demonstrate completion of at least fifteen continuing education credit hours, or at least one goal from an annual professional growth plan, with an emphasis on the integration of science, technology, engineering and mathematics.

(b) Beginning January 2018, renewal of continuing certificates under this section specifically for teaching American sign language will require the national interpreter certification, certified deaf interpreter certificate, the American sign language teachers association certificate, or meet the standard required of interpreters of the deaf per RCW 28A.410-271.

WSR 16-15-067

PERMANENT RULES

OLYMPIC REGION

CLEAN AIR AGENCY

[Filed July 18, 2016, 3:11 p.m., effective August 18, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Changing the ending date creates an additional two-week period for burning in the early fall and simplifies the message to the public by aligning the ending date with

other counties in the Olympic Region Clean Air Agency (ORCAA) jurisdiction. Early fall typically has weather that will disperse the pollutants sufficiently and the woody debris should be dryer than it would be later in the fall which improves combustion and reduces pollutants. The end of the summer burn restriction will align with seasonal bans declared in Clallam and Jefferson counties.

Citation of Existing Rules Affected by this Order: Amending ORCAA Regulations Rule 6.2.4.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 16-12-004 on May 18, 2016.

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

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

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

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

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

Date Adopted: July 13, 2016.

Francea L. McNair
Executive Director

AMENDED SECTION

Rule 6.2.4 Summer Burn Restrictions

No residential or land clearing burning is allowed in Thurston County from July 15th through (~~October 15th~~) September 30th.

WSR 16-15-074
PERMANENT RULES
DEPARTMENT OF
NATURAL RESOURCES

[Filed July 19, 2016, 10:09 a.m., effective August 19, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To provide policies and procedures that clarify how the committee on geographic names determines what proposed names from the public are sent to the board on geographic names with the committee's approval.

Statutory Authority for Adoption: RCW 43.30.293.

Adopted under notice filed as WSR 16-07-043 on March 14, 2016.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 11, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: July 5, 2016.

Kyle Blum
Deputy Supervisor
for State Uplands

Chapter 332-160 WAC

COMMITTEE ON GEOGRAPHIC NAMES AND GEOGRAPHIC NAMES POLICIES AND PROCEDURES

NEW SECTION

WAC 332-160-010 Purpose and importance of geographic names. Geographic names help identify and distinguish geographic features, places, or areas. The board of geographic names with assistance from the committee on geographic names is the Washington state agency that officially approves names for geographic features in Washington state.

The designation of a name is often an important issue for a community or a proponent. Due to the official and lasting nature of geographic names, designation should only occur after careful consideration of available information relating to the policies in these rules. Continuity in the use of geographic names is important for clarity in verbal and written communications and emergency situations; consequently, changes in existing names should not be made without a compelling reason.

NEW SECTION

WAC 332-160-020 Definitions. "Board on geographic names" refers to the board that is created by the Washington legislature to, in part, establish the procedure to retain existing geographic names and to either name or rename geographic features within the state of Washington consistent with RCW 43.30.291 through 43.30.295. The board of natural resources serves as the board of geographic names.

"Commemorative name" refers to a name or proposed name of a geographic feature, which incorporates a person's name in his or her honor.

"Committee on geographic names" refers to the committee created by the board on geographic names to help the board carry out its duties and to provide broader public and tribal participation in naming features. The committee's duties are more fully described in RCW 43.30.292 through 43.30.293.

"Diacritical marks" are symbols added to letters or names to indicate a special phonetic value or to distinguish words that are otherwise spelled the same way.

"Geographic features" include lakes, mountains, streams, places, towns and other similar features located within the state. For purposes of RCW 43.30.291, geographic features do not include human-made features or administrative areas such as parks, game reserves, and dams, but do include human-made lakes.

"Name change" means formally changing the proper name of a place, feature, or area in Washington state.

"Wilderness areas" refers to federally owned areas that are designated as wilderness areas under the Wilderness Act of 1964 (Public Law 88-577, 78 Stat. 890).

NEW SECTION

WAC 332-160-030 Proposal requirements and consideration process. How are complete proposals submitted and generally reviewed? The board on geographic names is responsible for establishing official Washington state geographic names. A geographic name becomes official after the board approves a recommendation made by the committee on geographic names. The committee on geographic names considers name proposals that are submitted to it rather than acting on its own motion.

(1) Timing and form of geographic name proposals:

(a) Proponents may submit geographic name proposals to the committee on geographic names at any time throughout the year. The committee has two regularly scheduled committee meetings each year. To be considered at an upcoming regular committee meeting, the proposal must be received at least thirty days prior to that meeting.

(b) Proposals should be submitted on the Committee on Geographic Names' Proposal Form and be electronically submitted to bogn@dnr.wa.gov or mailed to:

Washington State Committee on Geographic Names
P.O. Box 47030
Olympia, WA 98504

(c) Proposals should be consistent with the form and substance expressed in this chapter and may be returned or ultimately denied for being inconsistent. The committee may accept for consideration proposals on a United States Board of Geographic Names Form when the proposal is forwarded by the U.S. board.

(2) Adequacy of proposal information: The burden to gather and submit information regarding a proposal is on the proponent. Proponents are encouraged to contact the landowner or agency that the geographic feature is located on.

(a) The committee may, in its discretion, request proponents to submit more information and defer further committee action pending receipt.

(b) The committee and staff may, at their discretion, independently pursue information related to any proposal.

(3) Committee denial or recommendation to approve: The committee may deny a proposal at any meeting, or recommend its approval after the proposal has been considered at two or more meetings and the committee has conducted careful deliberation of all available information. The factors to be considered by the committee are described elsewhere in this chapter, especially WAC 332-160-040 and 332-160-050. If the committee decides to recommend approval to the

board, all proposal materials and the committee's recommendation to approve will be forwarded onto the Washington state board on geographic names.

(4) Board on geographic names review and decision: The board of natural resources will indicate (agenda/other notice) when it will consider geographic name proposals in its capacity as the board on geographic names. The board will consider the information forwarded by the committee on geographic names and may entertain additional statements on specific proposals consistent with the board of natural resources business rules. After deliberation on a proposal, the board on geographic names may approve a proposal or refer a proposal back to the committee on geographic names for further consideration. Upon referring a proposal back to the committee, the board may include instructions for the committee to seek additional information or to reconsider its recommendation to approve in light of other information/issues/proposals. The board on geographic names' approval of a proposal is final and is not subject to administrative review. Proposals to name a geographic feature that has been named by the board on geographic names will only be considered by either the committee or the board under the circumstances described in WAC ***.

NEW SECTION

WAC 332-160-040 Factors to consider for all name proposals. What factors will the committee and board on geographic names consider when reviewing geographic name proposals? There can be no set formula applied to determine whether a specific proposal should be approved or denied; however, there are certain factors that should be considered. This section describes considerations of the board and committee on geographic names as well as how these factors influence the naming decision.

(1) Proposals containing the following characteristics are generally favored:

(a) Dominant local usage - Names that are in dominant local usage and are strongly supported by local residents will be favored. Proponents should submit appropriate evidence of local usage and resident support for their proposal.

(b) Historical significance - Names that are significant to the early history of Washington state, such as names of prominent Native Americans or pioneers, or pertinent foreign origin will be favored. Proponents should provide appropriate evidence of the historical significance of the proposed name as well as its relationship to the geographic feature.

(c) Use of the Roman alphabet - Proposed geographic names must be written in the Roman alphabet as normally used for writing the English language. Diacritical marks, however, may be added to names as specified below. Proposed names should be as short as possible and easily pronounced. The pronunciation should be apparent from the spelling.

(2) Proposals containing the following factors will be disfavored:

(a) Derogatory names - The committee on geographic names will deny any proposal that it deems to be derogatory toward any racial, ethnic, gender, or religious group.

(b) Diacritical marks - The use of diacritical marks in proposed names is disfavored because they are almost never used in English and because they are not easily reproducible on maps, signs, or other documents. On the other hand, diacritical marks may be especially important if their omission would result in a significant change in the meaning of the name in the parent language. A spelling that includes diacritical marks might be approved if, in the judgment of the committee, there is substantial evidence of active local use, such as official records, maps, and signs, in the area where the feature is located, or overriding significance.

(c) Duplicate names - The use of duplicate names for similar types of geographic features within a county or in close proximity to each other should be minimized or avoided unless overridden by other considerations such as dominant local usage.

(d) Commercial names - Proposals containing clear commercial overtones are strongly disfavored, including names proposed to improve advertising of a site for an individual, group, or organization.

(e) Hyphens and apostrophes - Hyphens and apostrophes are not easily reproducible on signs, maps, and other documents and thus are disfavored. These symbols should only be retained when necessary for the meaning of a name. Apostrophes suggesting possession or association are not to be used within the body of a proper geographic name (Longs Pond: Not Long's Pond). One example of an exception might be where an apostrophe is necessary to preserve correct spelling of family names (e.g., O'Brian Creek), but the committee will consider each proposal on a case-by-case basis.

(f) Long names - If the length of a name makes it difficult or cumbersome to use in written or spoken form, the proposed name will be disfavored and will not be approved unless there are overriding considerations. Full commemorative names may be approved by the committee and board where more than just the surname is necessary to make it unambiguous who the referent is. And, when naming a branch of a stream (or segment of any other geographic feature), reference to the name of the main geographic feature along with the branch name might be necessary for clarity.

(g) Wilderness names - A goal of federal wilderness area administration is to minimize the impacts and traces of people, including the naming of features. Within wilderness areas, proposals will not be approved unless an overriding need exists, such as for purposes of safety or area administration. Proponents of an unnamed feature in a wilderness area must attempt to coordinate their proposal with the federal agency responsible for the administration of the area. The application for a name change should include the result of this effort, including any documentation supporting a federal agency finding of overriding need.

(3) Commemorative names: Proposals assigning the name or nickname of a deceased person to geographic features will be considered by the committee on geographic names and will be neither favored nor disfavored as a general class. These proposals will be assessed in consideration of all other naming factors. Additionally, commemorative name proposals must be consistent with the following standards:

(a) The person being commemorated must be deceased for at least five years before a proposal will be considered;

(b) The person being honored should have had either some direct or long-term association with the feature or have made a significant contribution to the area in which it is located unless the commemorated person had an outstanding and significant national or international reputation;

(i) Examples of "direct or long-term association" or "significant contribution" include early or long-term settlers of more than twenty years, donor of land to the state or federal government, or a person who played a large part in protecting the land for the public benefit;

(ii) A person's ownership of or death on land where a feature is located will normally not be sufficient on its own to satisfy the "direct or long-term association" criterion.

(c) Proposed commemorative names that may be construed to commemorate a living person are disfavored;

(d) Proposals to commemorate living or deceased pets are disfavored; and

(e) As part of a commemorative name proposal, proponents should submit evidence of local support for the name, provide evidence of historical significance when applicable, and design their proposal to address the other decision factors in this rule.

(4) Names located on tribal reservations: The committee will not review name proposals where a geographic feature is located entirely on a tribal reservation, instead deferring to the tribal government.

(5) Generic terms: When a proposed geographic name includes both a specific and generic element, the generic term (creek, ridge, lake, etc.) should be appropriate to the feature and should normally be consistent with generic terms already used and understood in the area in which the feature is located.

NEW SECTION

WAC 332-160-050 Name changes. When is the change of an existing geographic name appropriate? Stability in the use of geographic names is important to reduce confusion and to minimize costs associated with changing names; thus, changes in existing geographic names should only occur where a proponent provides substantial evidence of a compelling reason for the change. Proposals to change names that have recently (less than five years) been adopted by the board on geographic names will very rarely be considered by the committee on geographic names. Generally, the following three classes of proposals may justify the change of an existing official name:

(1) Proposals made to bring existing official names into agreement with dominant local usage;

(2) Proposals made to eliminate existing name problems, as in the case of derogatory names, name duplication creating confusion within a county, and officially recognized names that were based on incorrect information; or

(3) Proposals made at the request of persons or organizations for commemorative purposes.

Committee decisions to change a name or to adopt any specific name will consider all relevant factors regarding name proposals as well as other committee policies, documented usage, population density, and state, tribal and local government needs.

NEW SECTION

WAC 332-160-060 Multiple proposals for the same geographic feature. How will the committee process multiple proposals for the same geographic feature? When the committee has received multiple proposals relating to the same geographic feature, the committee may, in its discretion, delay deliberation on a proposal so as to make simultaneous deliberations and one recommendation. Once the committee recommends approval of a proposal, the committee will not consider other proposals for the same geographic feature unless the board refers the proposal back to the committee for further consideration. The board may, in its discretion, either approve a proposal or refer the proposal to the committee for one recommendation in consideration of all proposals for a geographic feature.

NEW SECTION

WAC 332-160-070 Reconsideration of proposals. When may a denied proposal be resubmitted to the committee on geographic names? The Washington state committee on geographic names will not reconsider a denied proposal unless one of the following applies:

- (1) Significant new information supporting the proposal under these policies is presented to the committee.
- (2) The proposal is referred back to the committee by the board with a recommendation to review.

NEW SECTION

WAC 332-160-080 Committee membership. Who serves on the committee on geographic names? The Washington state committee on geographic names is comprised of a seven member committee.

- (1) Membership: In compliance with RCW 43.30.292, the Washington state committee on geographic names shall consist of:
 - (a) The Washington state commissioner of public lands or representative. The commissioner or the commissioner's representative shall serve as chair of the committee.
 - (b) The Washington state librarian or the librarian's designee.
 - (c) The director of the Washington state department of archaeology and historic preservation or the director's designee.
 - (d) A representative of the Washington state tribes, to be appointed by the commissioner from nominations made by Washington's recognized tribal governments.
 - (e) Three members from the public to be appointed by the commissioner.
- (2) Delegation: No member may delegate their position to another, except as authorized by RCW 43.30.292 to provide a representative or designee, or as otherwise authorized by law.

NEW SECTION

WAC 332-160-090 Committee member terms. How long do committee on geographic names members serve?

Committee members shall serve on the committee until a successor is appointed.

- (1) The tribal representative serves a three-year term.
- (2) Initial appointments of the public members appointed shall be as follows:
 - (a) One member for a one-year term.
 - (b) One member for a two-year term.
 - (c) One member for a three-year term. Thereafter, each public member shall be appointed for a three-year term.

NEW SECTION

WAC 332-160-100 Meeting format. How are committee meetings conducted? Active participation by the public and committee members is important for a successful meeting.

- (1) General: In compliance with RCW 43.30.293, all Washington state committee on geographic names meetings are to be open to the public.
- (2) Meeting schedule: The Washington state committee on geographic names shall meet at least twice a year. Special meetings can be called by the chair of the committee, or by a majority of the committee members.
- (3) Quorum: A quorum exists so long as at least four committee members are present. The existence of a quorum is not affected by the recusal or abstention of a member so long as they remain present at the meeting.
- (4) Majority vote: Committee decisions will be decided by a majority vote of those members who vote. Proxies are not permissible.
- (5) Meeting format:
 - (a) Call to order - The meeting is called to order by the chair of the committee.
 - (b) Adoption of past minutes - The minutes from the last committee meetings are put to a vote to adopt them, with any corrections from the committee members.
 - (c) Names for final consideration - The committee will hear proposals that are up for final consideration (or have been deferred for final consideration at a past meeting). These proposals have been accepted for final consideration at a past committee meeting, and have gone through the comment solicitation phase. The committee can send the proposal to the board on geographic names with the committee's recommendation to approve, it can deny the proposal, or defer the proposal if the committee members feel they need more information from the proponent or from individuals or organizations that have commented on the proposal.
 - (d) Names for initial consideration - The committee will hear proposals that are up for initial consideration (or have been deferred for initial consideration at a past meeting). These proposals have not appeared before the committee. The committee may accept the proposal for final consideration, deny the proposal, or defer the proposal if the committee members feel they need more information from the proponent.
 - (e) Order - The chair of the committee may, in his or her discretion, use *Robert's Rules of Order* to help maintain orderly conduct at meetings.
 - (f) Committee business - If there are any business items pending, the committee will hear them at this time.

(g) Adjourn meeting - If all business and items on the agenda have been heard, the chair of the committee will adjourn the meeting.

NEW SECTION

WAC 332-160-110 Public comment for geographic name proposals. How does one comment on proposals? If a proposal is accepted for final consideration at a meeting, the committee will solicit opinions from local and tribal governments and other organizations or individuals who may have an interest in the proposed name. Because of the difficulty in contacting everyone who may be familiar with a particular geographic feature, the committee relies upon comments submitted by the public.

There are two preferred ways to comment on a geographic name proposal, and comments can be submitted at any time in the proposal process, up to ten days prior to a meeting:

(1) People who want to comment on a proposal prior to a meeting can do so by sending electronic comments to the committee at bogn@dnr.wa.gov or send written comments to:

Washington State Committee on Geographic Names
P.O. Box 47030
Olympia, WA 98504

(2) Individuals may comment on their proposal(s) of interest during a committee meeting. Committee staff will individually announce a geographic name proposal and identified speakers. Each speaker will have two minutes to testify plus additional time allowed by the committee chair to answer committee member questions. The committee chair may announce more or less time for speakers at the beginning of the meeting to accommodate the agenda.

WSR 16-15-083

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed July 19, 2016, 2:13 p.m., effective August 19, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 246-247-035 National standards adopted by reference for sources of radionuclide emissions, this rule making updates the publication date from 2015 to the most recently adopted 2016 version of rules previously adopted by reference. This rule making does not make changes to any requirements previously adopted. This publication update is required for the department of health to receive full delegation of the Radionuclide Air Emissions Program from the Environmental Protection Agency.

Citation of Existing Rules Affected by this Order: Amending WAC 246-247-035.

Statutory Authority for Adoption: RCW 70.98.050 and 70.98.080.

Adopted under notice filed as WSR 16-11-009 on May 5, 2016.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: July 19, 2016.

Clark Halvorson
Assistant Secretary

AMENDATORY SECTION (Amending WSR 16-06-003, filed 2/17/16, effective 3/19/16)

WAC 246-247-035 National standards adopted by reference for sources of radionuclide emissions. (1) The following federal standards, as in effect on July 1, (~~2015~~) 2016, are adopted by reference except as provided in subsections (2) and (3) of this section.

These standards apply in addition to other requirements of this chapter.

(a) For federal facilities:

(i) 40 C.F.R. Part 61, Subpart A - General Provisions.

(ii) 40 C.F.R. Part 61, Subpart H - National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities.

(iii) 40 C.F.R. Part 61, Subpart I - National Emission Standards for Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H.

(iv) 40 C.F.R. Part 61, Subpart Q - National Emission Standards for Radon Emissions From Department of Energy Facilities.

(b) For nonfederal facilities:

(i) 40 C.F.R. Part 61, Subpart A - General Provisions.

(ii) 40 C.F.R. Part 61, Subpart B - National Emission Standards for Radon Emissions From Underground Uranium Mines.

(iii) 40 C.F.R. Part 61, Subpart K - National Emission Standards for Radionuclide Emissions From Elemental Phosphorus Plants.

(iv) 40 C.F.R. Part 61, Subpart R - National Emissions Standards for Radon from Phosphogypsum Stacks.

(v) 40 C.F.R. Part 61, Subpart T - National Emission Standards for Radon Emissions From the Disposal of Uranium Mill Tailings.

(vi) 40 C.F.R. Part 61, Subpart W - National Emission Standards for Radon Emissions From Operating Mill Tailings.

(2) References to "Administrator" or "EPA" in 40 C.F.R. Part 61 include the department of health except in any section of 40 C.F.R. Part 61 for which a federal rule or delegation indicates that the authority will not be delegated to the state.

(3) Any change or alternative to standards, emission monitoring and test procedures, compliance and reporting requirements, or recordkeeping requirements must be approved by EPA.

WSR 16-15-100
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 20, 2016, 11:04 a.m., effective August 20, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This amendment to provisions of chapter 392-160 WAC broadens the rules' language referencing the state's English language assessment. The purpose of the rule amendment is to align the rules with assessments currently used for English language learners.

Citation of Existing Rules Affected by this Order: Amending chapter 392-160 WAC.

Statutory Authority for Adoption: RCW 28A.180.060.

Adopted under notice filed as WSR 16-12-106 on July 6 [June 1], 2016.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

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

Date Adopted: July 8, 2016.

Randy Dorn
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 08-19-039, filed 9/10/08, effective 10/11/08)

WAC 392-160-015 Identification of eligible students.

(1) District procedures—Identification of primary language required: Every school district board of directors shall adopt written procedures governing the identification of each student's primary language and the determination of which students with a primary language other than English are eligible students. Such procedures shall include:

(a) A home language survey, completed by the student and the student's parent(s) or guardian(s), which identifies the student's primary language as other than English; and

(b) Provisions for testing students on the state-approved ~~((Washington language proficiency placement test))~~ screeener.

(2) Deadline for determining eligibility of newly enrolled students: The primary language and eligibility of each newly enrolled student shall be established no later than the tenth school day after the date upon which the student registers and commences attendance at a particular school district. Provided that no eligible student shall be required to participate in a transitional bilingual instructional program or an alternative instructional program, if the parent/guardian chooses to opt the student out of program services.

(3) Annual reassessment of all (eligible) students is required: Each school year each school in which an eligible student is enrolled shall conduct an evaluation of the overall academic progress and English language development of the student. This evaluation must include, but not be limited to, the administration of a standardized test in reading, writing, listening and speaking in English as set forth in WAC 392-160-035.

AMENDATORY SECTION (Amending WSR 09-04-014, filed 1/23/09, effective 2/23/09)

WAC 392-160-020 Approved test for determining initial eligibility—English proficiency scores. Approved English proficiency test ~~((Washington language proficiency placement test (WLPT)))~~ as established by the office of superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 08-09-071, filed 4/16/08, effective 5/17/08)

WAC 392-160-035 Program exit requirements—Testing. (1) No student shall continue to be entitled to a transitional bilingual instructional program or alternative instructional program after the student has received instruction in a transitional bilingual instructional program or alternative instructional program conducted pursuant to this chapter within any one or more school districts for a period of three consecutive school years (i.e., 540 school days or portions thereof): Unless the student has not yet met exit criteria on ~~((Washington))~~ the English language proficiency ~~((test))~~ assessment as established by the office of superintendent of public instruction.

(2) The approved test for measurement of improvement in English language skills for purposes of exit from the transitional bilingual instructional program or alternative instructional programs shall be the ~~((Washington))~~ English language proficiency ~~((test))~~ assessment.

(3) No student shall be eligible for continued funding in the transitional bilingual instructional program or alternative program upon meeting or exceeding the state standards as measured by the ~~((WLPT))~~ English language proficiency assessment. As provided for in this section and WAC 392-160-015, the parent/guardian retains the option to refuse program services for the eligible student.

WSR 16-15-103
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed July 20, 2016, 11:36 a.m., effective August 20, 2016]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 246-105-040, the rule makes school and child care immunization requirements consistent with national standards by referencing the 2016 advisory committee on immunization practices (ACIP) recommended childhood and adolescent immunization schedule.

Citation of Existing Rules Affected by this Order: Amending WAC 246-105-040.

Statutory Authority for Adoption: RCW 28A.210.140.

Other Authority: RCW 28A.210.060.

Adopted under notice filed as WSR 16-08-017 on March 28, 2016.

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

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

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

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

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

Date Adopted: July 20, 2016.

John Wiesman, DrPH, MPH
 Secretary

AMENDATORY SECTION (Amending WSR 14-06-037, filed 2/25/14, effective 3/28/14)

WAC 246-105-040 Requirements based on national immunization guidelines. The department shall develop and distribute implementation guidelines for schools and child care centers that are consistent with the national immunization guidelines described in this section and the requirements in WAC 246-105-090.

(1) Unless otherwise stated in this section, a child must be vaccinated against each vaccine-preventable disease listed in WAC 246-105-030 at ages and intervals according to the national immunization guidelines in the "*Advisory Committee on Immunization Practices (ACIP) Recommended Immunization Schedule for Persons Aged 0 Through 18 Years, United States ((2013)) 2016*"; as published in the *Morbidity and Mortality ((Week)) Weekly Report (MMWR) ((2013;62(01): 2-8)) 2016;65(04): 86-87*.

(2) In addition to the ages and intervals required by subsection (1) of this section, the following vaccine administration guidelines shall apply. Schools and child care centers may accept one of the following as proof of a child's immunization status against varicella:

- (a) Documentation on the CIS form that the child received age appropriate varicella vaccine; or
- (b) Diagnosis or verification of a history of varicella disease by a health care provider acting within his or her scope of practice; or
- (c) Diagnosis or verification of a history of herpes zoster by a health care provider acting within his or her scope of practice; or
- (d) Serologic proof of immunity against varicella; or
- (e) Documentation by the parent that a child has a history of varicella. This type of proof will be accepted only for certain grade levels described in the department's implementation guidelines according to WAC 246-105-090(2).