

WSR 25-05-073
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed February 18, 2025, 9:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-18-015.

Title of Rule and Other Identifying Information: Chapter 388-843 WAC, Youth transitional care facility.

Hearing Location(s): On March 25, 2025, at 10:00 a.m., virtually via Teams or call in. See the department of social and health services (DSHS) website at <https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings> for the most current information.

Date of Intended Adoption: Not earlier than March 26, 2025.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, beginning noon on February 19, 2025, by 5:00 p.m. on March 25, 2025.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on March 11, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The developmental disabilities administration (DDA) is proposing a new chapter of rules to operationalize services at Lake Burien as directed by the Washington state legislature in the 2023-2025 supplemental operating budget (ESSB 5950, section 203 (1)(nn); ESSB 5950, section 227(44)).

Reasons Supporting Proposal: In the 2024 legislative session, the legislature has authorized and directed DSHS/DDA "to operate a staff-secure, voluntary, and transitional treatment facility specializing in services for adolescents over the age of 13 who have complex developmental, intellectual disabilities, or autism spectrum disorder and may also have a mental health or substance use diagnosis." These rules operationalize that program.

Statutory Authority for Adoption: RCW 71A.12.030.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, 360-790-4732; Implementation and Enforcement: Jenifer Forrest, P.O. Box 45310, Olympia, WA 98504-5310, 564-200-3833.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-790-4732, TTY 711 relay service, email chantelle.diaz@dshs.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: Services are provided at a state-operated facility and do not impose costs to external entities.

Scope of exemption for rule proposal:

Is fully exempt.

February 18, 2025
Katherine I. Vasquez
Rules Coordinator

SHS-5052.4

**Chapter 388-843 WAC
YOUTH TRANSITIONAL CARE FACILITY**

PURPOSE

NEW SECTION

WAC 388-843-0010 What is a youth transitional care facility? A youth transitional care facility is a staff-secure, voluntary, and transitional treatment facility that:

- (1) Specializes in services for youth who:
 - (a) Must have an intellectual or developmental disability, or autism spectrum disorder;
 - (b) Must have a severe psychiatric diagnosis; and
 - (c) May have a substance use diagnosis;
- (2) Supports youth who require intensive behavioral supports and who may also need behavioral health services; and
- (3) Provides services in a way that supports the youth to transition to a less restrictive community-based setting.

DEFINITIONS

NEW SECTION

WAC 388-843-0015 What definitions apply to this chapter? **Admission team** means an interdisciplinary group at a youth transitional care facility who reviews a youth's application and supporting documentation to determine if there is capacity to safely serve the youth at the facility and to establish an admission date.

Behavioral health services means a range of services intended to prevent, diagnose, and treat mental health and substance use conditions.

Behavioral supports means a set of strategies intended to support youth with complex behaviors to successfully participate in their communities.

DCYF means the department of children, youth, and families.

DDA means the developmental disabilities administration within the department of social and health services.

Dedicated review committee means a committee of subject matter experts that reviews a youth's eligibility for specialized treatment at a youth transitional care facility.

Genetic condition means a condition that is the result of variants in the genome and impairs the cognitive or developmental growth or abilities of the youth.

Habilitation means services that are intended to help a client acquire, retain, or improve upon the self-help, socialization, and adaptive skills necessary to reside successfully in a community-based setting.

Individualized treatment plan means a detailed plan that documents treatment activities that uses the youth's strengths and protective factors (e.g., community and family supports, coping strategies, skills) to support treatment activities, therapies, training, and future planning customized to address the youth's needs as a whole person. The individualized treatment plan is continuously reassessed and changed based on the youth's treatment progress and evolving needs.

Neurological condition means a neurological condition that affects the brain, spinal cord, or system, and impairs the cognitive or developmental growth or abilities of the youth.

Neurodevelopmental disorder means types of disorders that influence how the brain functions and alters neurological development, causing difficulties in social, cognitive, and emotional functioning.

Psychiatric diagnosis means a clinically significant condition that affects the person's ability to think, regulate their emotions or behaviors, and represents a dysfunction in psychological, biological, or developmental processes underlying their mental functioning. Clinically trained professionals evaluate conditions and make diagnostic determinations consistent with the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition Text Revision (DSM-5-TR) or the International Classification of Diseases, 10th Edition (ICD-10) or their successors.

Specialized treatment means adapted mental health modalities and habilitative interventions through an interdisciplinary approach to support eligible youth.

Youth transitional care facility or **facility** means the staff-secure and voluntary facility offering specialized treatment and habilitative interventions for eligible youth.

ELIGIBILITYNEW SECTION

WAC 388-843-0020 Who is eligible for specialized treatment at a youth transitional care facility? (1) A youth is eligible for specialized treatment at a youth transitional care facility if the dedicated review committee determines or verifies the youth:

(a) Is DDA-eligible under chapter 388-823 WAC or is assessed to have a diagnosed neurodevelopmental disorder, or another neurological condition or other genetic condition;

(b) Is over age 13 but under age 18;

(c) Has accessed all appropriate and available less restrictive services and the youth's assessed health care needs exceed what is available in the community;

(d) Has a severe psychiatric diagnosis;

(e) Experiences a severity, intensity, and frequency of behavior that:

(i) Significantly impairs the youth's functioning; and

(ii) Prevents the youth from being safely supported in a less restrictive setting; and

(f) Needs and is likely to benefit from specialized treatment.

(2) For the purposes of this section, "appropriate" means a less restrictive service recommended by the youth's treating professional.

(3) The facility will not admit or detain a youth who declines or refuses to be voluntarily admitted to the facility.

NEW SECTION

WAC 388-843-0025 If a youth is determined eligible for specialized treatment, how will the admission team at the facility determine if they are able to support the youth? (1) To determine if the facility is able to support the youth, the admission team will review:

(a) The application and supporting documentation to evaluate the youth's treatment needs;

(b) Staffing needed to meet the youth's assessed treatment needs; and

(c) Bed capacity.

(2) Eligibility for services at a youth transitional care facility does not entitle an individual to services at the facility.

(3) The facility will not admit or detain a youth who declines or refuses to be voluntarily admitted to the facility.

NEW SECTION

WAC 388-843-0030 When may a facility deny admission of an eligible youth? A youth transitional care facility may deny admission of an eligible youth if:

- (1) The youth or legal representative does not engage in the pre-admission evaluation or admission process; or
- (2) The youth has a treatment recommendation for a level of care that is unavailable at the facility.

RIGHTS AND RESPONSIBILITIESNEW SECTION

WAC 388-843-0100 What is the parent or legal representative's responsibility while a youth is receiving services at a youth transitional care facility? While a youth receives services at a youth transitional care facility, the youth's parent or legal representative must:

- (1) Collaborate with the facility and local school district to support timely access to appropriate educational services, including: Enroll the youth in the local school district where the facility is located or collaborate with the district to continue their enrollment in their school of origin and consent to continued exchange of information with the school district;
- (2) Participate in the development and ongoing assessment of the youth's individual educational plan and maintain regular communication with the facility and school representatives;
- (3) Provide consent to administer prescribed psychotropic medications following discussion with treating provider of risks and benefits;
- (4) Attend and participate in:
 - (a) The development of the individualized treatment plan;
 - (b) Treatment team meetings;
 - (c) The DDA annual assessment, if applicable, including the person-centered service plan; and
 - (d) Implementation of the individualized treatment plan when the interdisciplinary team has determined that a parent or a legal representative's involvement is necessary to achieve a youth's treatment goals and facilitate transition to a less restrictive setting;
- (5) Manage, or appoint a representative payee to manage, the youth's social security or supplemental security income in accordance with federal social security rules, including ensuring that the youth is not over federal resource limits; and
- (6) Arrange for transportation to and from the facility when Medicaid transportation is not available.

NEW SECTION

WAC 388-843-0110 What are the responsibilities of the department of children, youth, and families while a dependent youth is receiving services at a youth transitional care facility? While a dependent youth receives services at a youth transitional care facility, the department of children, youth, and families (DCYF) must:

(1) Collaborate with the facility, the relevant school districts, and the youth's educational decision maker to support continuous access to education, either through continued enrollment in the youth's school of origin, or through immediate enrollment in the school district where the facility is located.

(2) Identify the educational decision maker, which, under WAC 392-172A-01125, may be the parent, or a court-ordered educational liaison. The educational decision maker has the right to receive notice and participate in individualized education program meetings, provide informed consent, or not, for evaluation and initiation of special education services. The court-ordered educational liaison must sign documents for school and participate in meetings, including individual education plan meetings, unless the parent is serving in that capacity.

(3) Before admission, provide the following documentation of authority to administer psychotropic medications if prescribed:

- (a) Consent from the youth's parent or legal representative; or
- (b) Court-ordered approval.

(4) Identify a DCYF representative who is able to make decisions on behalf of the youth to attend medical and dental appointments and provide consents.

(5) Attend and participate in:

- (a) The development and implementation of the individualized treatment plan;
- (b) Treatment team meetings; and
- (c) The DDA annual assessment, if applicable, including the person-centered service plan.

(6) Manage, or appoint a representative payee to manage, the youth's social security or supplemental security income in accordance with federal social security rules, including ensuring that the youth is not over federal resource limits.

(7) Notify DDA before any change to a youth's dependency status.

NEW SECTION

WAC 388-843-0120 What are the responsibilities of a youth transitional care facility when a youth is approved for admission? When a youth is approved for admission to the youth transitional care facility, the facility must:

(1) Provide adequate staff to meet the youth's assessed treatment needs;

(2) Develop and implement an individualized treatment plan;

(3) Collaborate with the school, legal representative, and parent or educational liaison to ensure timely and continuous access to a free and appropriate public education in the least restrictive environment;

(4) Maintain regular communication with school representatives and attend school-related meetings;

- (5) Participate in the youth's individualized education program;
- (6) Maintain regular communication with the youth's legal representative;
- (7) Maintain a youth rights policy in accordance with chapter 71A.26 RCW; and
- (8) Support the youth in maintaining contact with their parent or legal representative.

DISCHARGE AND TERMINATION

NEW SECTION

- WAC 388-843-0160 When may a youth transitional care facility discharge a youth?** (1) The youth transitional care facility may discharge a youth if:
- (a) The youth turns 18; or
 - (b) The youth or the youth's legal representative requests discharge.
- (2) The youth transitional care facility may discharge a youth if the facility determines:
- (a) The youth no longer requires specialized treatment under the direction of a physician;
 - (b) The youth has achieved the treatment goals established at admission;
 - (c) The youth presents a health or safety risk to self or others in the treatment environment; or
 - (d) The facility is unable to meet the youth's assessed treatment needs.

ADMINISTRATIVE HEARING RIGHTS

NEW SECTION

WAC 388-843-0170 May a youth or legal representative appeal a DDA decision regarding specialized treatment? If DDA determines a youth is not eligible to receive specialized treatment at a youth transitional care facility, the youth or legal representative can appeal the specialized treatment eligibility determination by requesting a hearing through the office of administrative hearings as described in WAC 388-825-120 through WAC 388-825-165.

NEW SECTION

WAC 388-843-0180 May a youth or legal representative appeal a youth transitional care facility decision? A youth or legal representative does not have a right to appeal a facility:

- (a) Denial due to lack of capacity or staffing; or
- (b) Discharge determination under WAC 388-843-0160(2).