

WSR 25-08-014

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed March 24, 2025, 8:29 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-20-032.

Title of Rule and Other Identifying Information: Behavioral health agency (BHA) rules concerning reporting information about early release of individuals receiving substance use disorder (SUD) treatment. The department of health (department) is proposing amendments to WAC 246-341-1108 to implement 2SSB 6228 (chapter 366, Laws of 2024), that requires BHAs providing voluntary SUD treatment services to report to the department specific data on individuals who are voluntarily or involuntarily released from treatment early.

Hearing Location(s): On May 6, 2025, at 10:00 a.m., via Zoom. Register in advance for this webinar at https://us02web.zoom.us/webinar/register/WN_7pJoye34QQ6mwwQ8Fn49FQ. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: May 13, 2025.

Submit Written Comments to: Dan Overton, P.O. Box 47843, Olympia, WA 98504-7843, email dan.overton@doh.wa.gov, <https://fortress.wa.gov/doh/policyreview/>, beginning the date and time of this filing, by May 6, 2025, 11:59 p.m.

Assistance for Persons with Disabilities: Contact Dan Overton, phone 360-236-2953, TTY 711, email dan.overton@doh.wa.gov, by April 29, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing updates to WAC 246-341-1108. The purpose of the proposed updates is to alleviate barriers that prevent individuals from completing SUD treatment by requiring BHAs to report to the department each instance an individual is released prior to completion of the clinical determination of treatment. The proposed updates require BHAs to report the circumstances that led to the early release, including if the early release was voluntary or involuntary, efforts made to avoid the early release, and efforts made to establish a safe discharge plan.

Reasons Supporting Proposal: 2SSB 6228 directs the department to adopt a model policy for BHAs providing SUD treatment services to consider when adopting policies related to the transfer or discharge of a person without the person's consent. The bill also directs the department to adopt rules to implement the reporting requirement, using a standardized form. The goal of 2SSB 6228 is to support individuals in accessing and completing SUD treatment by preventing providers from forcing individuals to leave treatment early and removing barriers to insurance authorization.

Statutory Authority for Adoption: RCW 71.24.037 and 71.24.847.

Statute Being Implemented: RCW 71.24.847.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Dan Overton, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2953.

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

A cost-benefit analysis is not required under RCW 34.05.328. Proposed rule is exempt under RCW 34.05.328 (5)(b)(v), a rule where the content of which is explicitly and specifically dictated by statute. Portions of the rule are also considered procedural under RCW 34.05.328 (5)(c)(i).

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(3) as the rule content is explicitly and specifically dictated by statute.

Explanation of exemptions: The rule is exempt under RCW 34.05.310 (4)(e) because it is dictated by statute without substantial changes. The rule adds clarifying language by adding a timeline for reporting, with no additional costs.

Scope of exemption for rule proposal:

Is fully exempt.

March 24, 2025
 Kristin Peterson, JD
 Chief of Policy
 for Jessica Todorovich, MS
 Acting Secretary of Health

RDS-6142.1

AMENDATORY SECTION (Amending WSR 22-24-091, filed 12/6/22, effective 5/1/23)

WAC 246-341-1108 Residential and inpatient substance use disorder treatment services—Service standards. Residential substance use disorder treatment services provide substance use disorder treatment for an individual in a facility with 24 hours a day supervision.

(1) An agency providing residential and inpatient substance use disorder treatment services must:

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

- (i) Substance use disorders;
- (ii) Relapse prevention;
- (iii) Bloodborne pathogens;
- (iv) Tuberculosis (TB);
- (v) Emotional, physical, and sexual abuse; and
- (vi) Nicotine use disorder;

(b) 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; and

(c) Develop and implement written procedures for:

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

and

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

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

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

- (b) Provide referral information to applicable resources; and

(c) Provide education on the impact of substance use during pregnancy, risks to the developing fetus, and the importance of informing medical practitioners of substance use during pregnancy.

(3) 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 246-341-0820.

(4) Inform individuals of their treatment options so they can make individualized choices for their treatment. This includes, as applicable, the initiation, continuation, or discontinuation of medications for substance use disorders.

(5) For individuals choosing to initiate or continue medications for their substance use disorder, make available on-site or facilitate off-site access to continue or initiate Federal Drug Administration (FDA)-approved medication for any substance use disorder, when clinically appropriate, as determined by a medical practitioner.

(6) Provide continuity of care that allows individuals to receive timely and appropriate follow up services upon discharge and, if applicable, allows the individual to continue medications with no missed doses.

(7) In addition to the requirements in WAC 246-341-0640, document in the individual service record:

(a) The individual being informed of their treatment options, including the use of medications for substance use disorder;

(b) The continuation or initiation of FDA-approved medication for substance use disorder treatment that has been provided on-site or facilitated off-site, if applicable;

(c) Referrals made to behavioral health providers, including documentation that a discharge summary was provided to the receiving behavioral health provider as allowed under 42 C.F.R. Part 2; and

(d) Contact or attempts to follow up with the individual post-discharge, including the date of correspondence.

(8) An agency may not deny admission based solely on an individual taking FDA-approved medications, under the supervision of a medical provider, for their substance use disorder or require titration of dosages in order to be admitted or remain in the program.

(9) All behavioral health agencies providing voluntary inpatient or residential substance use disorder treatment services or withdrawal management services shall submit a report to the department for each instance in which a person receiving services either:

(a) Was transferred or discharged from the facility by the agency without the person's consent including, but not limited to, when the person was:

(i) Administratively discharged against their will;

(ii) Discharged or transferred after completing treatment against their will;

(iii) Transferred to another facility against their will;

(iv) Discharged or transferred due to financial reasons against their will; or

(b) Released the person's self from the facility prior to a clinical determination that the person had completed treatment.

(10) All reports required in subsection (9) of this section must be submitted within 30 calendar days of occurrence on the department approved form and include the following information as applicable to a person's discharge or transfer:

(a) Whether the departure was voluntary or involuntary;

(b) The extent to which a therapeutic progressive disciplinary process was applied;

(c) The person's self-reported understanding of the reasons for discharge;

(d) The efforts that were made to avert the discharge; and

(e) The efforts that were made to establish a safe discharge or transfer plan prior to the person leaving the facility.

(11) Subsections (9) and (10) of this section do not apply to hospitals licensed under chapter 70.41 RCW and psychiatric hospitals licensed under chapter 71.12 RCW.