



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Department of Social and Health Services, Health and Recovery Services Administration, Mental Health Division

- Preproposal Statement of Inquiry was filed as WSR 09-03-098; or
- Expedited Rule Making--Proposed notice was filed as WSR _____; or
- Proposal is exempt under RCW 34.05.310(4).

- Original Notice
- Supplemental Notice to WSR
- Continuance of WSR

Title of rule and other identifying information: (Describe Subject)

The department is amending WAC 388-865-0245, Administration of the Involuntary Treatment Act; WAC 388-865-0275, Management information system; WAC 388-865-0405, Competency Requirements for Staff; WAC 388-865-0452, Emergency Crisis Intervention Services – Additional Standards; WAC 388-865-0456, Case Management Services – Additional Standards; WAC 388-865-0466, Community Support Outpatient Certification – Additional Standards; WAC 388-865-0468, Emergency Crisis Intervention Services Certification – Additional Standards.

Hearing location(s):

Blake Office Park East – Rose Room
4500 – 10th Ave. SE
Lacey, Washington 98503
(One block north of the intersection of Pacific Ave. SE and Alhadeff Lane. A map or directions are available at <http://www.dshs.wa.gov/msa/rpau/docket.html> or by calling 360-664-6094)

Date: **August 25, 2009** Time: **10:00 a.m.**

Submit written comments to:

Name: DSHS Rules Coordinator
Address: PO Box 45850, Olympia WA, 98504-5850
Delivery: 4500 – 10th Ave. SE, Lacey, Washington 98503
E-mail: DSHSRPAURulesCoordinator@dshs.wa.gov
Fax: (360) 664-6185

by

5 p.m. on August 25, 2009

Assistance for persons with disabilities: Contact Jennisha Johnson, DSHS Rules Consultant by August 11, 2009
TTY (360) 664-6178 or (360) 664-6094 or
by e-mail at johnsjl4@dshs.wa.gov

Date of intended adoption: Not sooner than August 26, 2009
(Note: This is **NOT** the **effective** date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

Chapter 360, Laws of 2007 (SHB 1456) established certain safety requirements for mental health professionals who conduct home visits to stabilize persons in crisis. The purpose of this rule-making action is to codify those requirements.

Reasons supporting proposal: To comply with state law.

Statutory authority for adoption: RCW 71.05.560, 71.05.700, 71.05.705, 71.05.710, 71.05.715, 71.05.720, and 71.24.035.

Statute being implemented: RCW 71.05.560, 71.05.700, 71.05.705, 71.05.710, 71.05.715, 71.05.720, and 71.24.035.

Is rule necessary because of a:

- Federal Law? Yes No
- Federal Court Decision? Yes No
- State Court Decision? Yes No

If yes, CITATION:

DATE

July 10, 2009

NAME (type or print)

Stephanie Schiller

SIGNATURE

TITLE

DSHS Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 14, 2009

TIME: 8:03 AM

WSR 09-15-083

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:
None

Name of proponent: (person or organization) Department of Social and Health Services

- Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Kevin Sullivan	P.O. Box 45504, Olympia WA 98504-5504	(360) 725-1344
Implementation.... David Kludt	P.O. Box 45320, Olympia WA 98504-5320	(360) 902-0786
Enforcement..... Pete Marburger	P.O. Box 45320, Olympia WA 98504-5320	(360) 902-0837

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ()

fax ()

e-mail

No. Explain why no statement was prepared.

Per RCW 19.85.025(3), no statement is required for rules incorporating state statutes by reference without material change.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone ()

fax ()

e-mail

No: Please explain:

RCW 34.05.328(5)(b)(iii) exempts rules that are incorporating by reference Washington State statute.

AMENDATORY SECTION (Amending WSR 06-17-114, filed 8/18/06, effective 9/18/06)

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

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

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

(a) Ensuring periodic evaluation of each committed consumer for release from or continuation of an involuntary treatment order.

Evaluations must be recorded in the clinical record, and must occur at least monthly for ninety and one hundred eighty-day commitments.

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

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

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

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

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

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

AMENDATORY SECTION (Amending WSR 06-17-114, filed 8/18/06, effective 9/18/06)

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

(1) Operate an information system and ensure that information

about consumers who receive publicly funded mental health services is reported to the state mental health information system according to mental health division guidelines.

(2) Ensure that the information reported is:

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

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

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

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

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

(c) Comply with the requirements of RCW 71.05.715.

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

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

AMENDATORY SECTION (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

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

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

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

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

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

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

(a) Is a child as defined in WAC ~~((866-865-0150 [388-865-0150]))~~ 388-865-0150;

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

(c) Is a member of a racial/ethnic group as defined in WAC ~~((866-865-0105))~~ 388-865-0105 and as reported:

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

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

(iii) Through other means.

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

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

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

(iii) Through other means.

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

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

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

(b) The requirements of RCW 71.05.720.

AMENDATORY SECTION (Amending WSR 06-17-114, filed 8/18/06, effective 9/18/06)

WAC 388-865-0440 Availability of consumer information. (1) Consumer individualized crisis plans as provided by the consumer must be available twenty-four hours a day, seven days a week to ~~((designated mental health professionals, crisis teams, and voluntary and involuntary inpatient evaluation and treatment facilities))~~ the following, as consistent with confidentiality statutes~~((7))~~ and without unduly delaying a crisis response:

(a) Designated mental health professionals;

(b) Crisis teams; and

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

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

AMENDATORY SECTION (Amending WSR 06-17-114, filed 8/18/06,

effective 9/18/06)

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

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

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

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

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

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

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

~~((+2))~~ (3) Written procedures for visits to homes and other private locations in accordance with the requirements of RCW 71.05.700 through 71.05.715.

(4) Crisis telephone screening;

~~((+3))~~ (5) Mobile outreach and stabilization services with trained staff available to provide in-home or in-community stabilization services, including flexible supports to the person where he/she lives.

~~((+4))~~ (6) Provide access to necessary services including:

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

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

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

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

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

~~((+5))~~ (7) Document all telephone and face-to-face crisis response contacts, including:

(a) Source of referral;

(b) Nature of crisis;

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

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

~~((+6))~~ (8) The provider must have a written protocol for

referring consumers to a voluntary or involuntary inpatient evaluation and treatment facility for admission on a seven-day-a-week, twenty-four-hour-a-day basis, including arrangements for contacting the designated mental health professional and transporting consumers.

AMENDATORY SECTION (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

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

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

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

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

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

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

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

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

AMENDATORY SECTION (Amending WSR 06-17-114, filed 8/18/06, effective 9/18/06)

WAC 388-865-0466 Community support outpatient certification--Additional standards. In order to provide services to consumers on a less restrictive alternative court order, providers must be licensed to provide the psychiatric and medical service component of community support services and be certified by the mental health division to provide involuntary treatment services consistent with WAC 388-865-0484. In addition, the provider must:

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

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

(i) To receive adequate care and individualized treatment;

(ii) To make an informed decision regarding the use of

antipsychotic medication and to refuse medication beginning twenty-four hours before any court proceeding that the consumer has the right to attend;

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Transporting consumers.

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

AMENDATORY SECTION (Amending WSR 06-17-114, filed 8/18/06, effective 9/18/06)

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

WAC 388-865-0484. In addition, the provider must:

- (1) Be available seven-days-a-week, twenty-four-hours-per-day;
- (2) Follow a written protocol for holding a consumer and contacting the designated mental health professional;
- (3) Provide or have access to necessary medical services;
- (4) Have a written agreement with a certified inpatient evaluation and treatment facility for admission on a seven day a week, twenty-four hour per day basis; (~~and~~)
- (5) Follow a written protocol for transporting individuals to inpatient evaluation and treatment facilities; and
- (6) Maintain written procedures for home visits in accordance with the requirements of RCW 71.05.700 through 71.05.715.