



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (August 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 08, 2017

TIME: 1:05 PM

WSR 17-17-026

Agency: Department of Social and Health Services, Behavioral Health Administration

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose: The department is putting certification requirements into rule to create the ability for mental health and substance use disorder service providers to provide supportive housing and supported employment behavioral health services. Programs for supportive housing services and supported employment services are included as part of Washington State's Medicaid Transformation Waiver, which was approved on January 9, 2017. RCW 71.24.385 authorizes a supportive housing services program and a supported employment services program to be developed to serve individuals receiving behavioral health services. These rules will allow the department to certify these services when a licensed behavioral health agency applies and qualifies for certification. This permanent rule, when it becomes effective, will supersede emergency rules filed as WSR 17-11-075 filed on May 18, 2017.

Citation of rules affected by this order:

New: WAC 388-877A-0335, WAC 388-877B-0700, WAC 388-877B-0710, WAC 388-877B-0720, WAC 388-877B-0730, WAC 388-877B-0740

Repealed:

Amended: WAC 388-877A-0100, WAC 388-877A-0300, WAC 388-877A-0330

Suspended:

Statutory authority for adoption: RCW 43.20A.550, RCW 71.05.560, RCW 71.24.035(5)(m), RCW 71.24.037, RCW 71.24.520(4), RCW 74.04.050

Other authority: RCW 71.24.385

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 17-11-073 on May 18, 2017 (date).

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Stephanie Vaughn

Address: PO Box 45330, Olympia, WA 98504-5330

Phone: 360-725-1342

Fax:

TTY:

Email: stephanie.vaughn@dshs.wa.gov

Web site:

Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	<u>6</u>	Amended	<u>3</u>	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
-----	-----	---------	-----	----------	-----

The number of sections adopted in the agency's own initiative:

New	___	Amended	___	Repealed	___
-----	-----	---------	-----	----------	-----

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
-----	-----	---------	-----	----------	-----

The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	<u>6</u>	Amended	<u>3</u>	Repealed	___

Date adopted: August 8, 2017

Name: Bill Moss

Title: DSHS Acting Secretary

Signature:



WAC 388-877A-0100 Outpatient mental health services—General.

The rules in this section apply to behavioral health agencies that provide outpatient mental health services. The definitions in WAC 388-877-0200 also apply to outpatient 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) Outpatient mental health services are intended to improve ~~((and/or))~~ or reduce symptoms~~((τ))~~ and ~~((resolve))~~ help facilitate resolution of situational disturbances for individuals in the areas of ~~((relational, occupational and/or vocational concerns))~~ relationships, employment, and community integration.

(2) Outpatient mental health services include:

(a) Individual treatment services ~~((+see))~~ as described in WAC 388-877A-0138~~((+))~~;

(b) Brief intervention treatment services ~~((+see))~~ as described in WAC 388-877A-0140~~((+))~~;

(c) Group therapy services ~~((+see))~~ as described in WAC 388-877A-0150~~((+))~~;

(d) Family therapy services ~~((+see))~~ as described in WAC 388-877A-0155~~((+))~~;

(e) Case management services ~~((+see))~~ as described in WAC 388-877A-0170~~((+))~~;

(f) The optional mental health services described in subsection (3) of this ~~((subsection))~~ section; and

(g) The recovery support services described in subsection (4) of this ~~((subsection))~~ section.

(3) A behavioral health agency that provides certified ~~((for))~~ outpatient mental health services may choose to provide optional outpatient mental health services. Optional outpatient mental health services require additional program-specific certification by the department's division of behavioral health and recovery (DBHR) and include the following:

(a) Psychiatric medication services ~~((+see))~~ as described in WAC 388-877A-0180~~((+))~~;

(b) Day support services ~~((+see))~~ as described in WAC 388-877A-0190~~((+))~~;

(c) Less restrictive alternative (LRA) support services ~~((+see))~~ as described in WAC 388-877A-0195~~((+))~~; and

(d) Services provided in a residential treatment facility ~~((+see))~~ as described in WAC 388-877A-0197~~((+))~~.

(4) A behavioral health agency that provides certified ~~((for))~~ outpatient mental health services may also provide recovery support services. Recovery support services require program-specific certification and include the following:

(a) Supported employment services ~~((+see))~~ as described in WAC 388-877A-0330~~((+))~~;

(b) Supportive housing services as described in WAC 388-877A-0335;

(c) Peer support services ~~((+see))~~ as described in WAC 388-877A-0340~~((+))~~;

~~((e))~~ (d) Wraparound facilitation services ~~((see))~~ as described in WAC 388-877A-0350((+));

~~((d))~~ (e) Medication support services ~~((see))~~ as described in WAC 388-877A-0360((+)); and

~~((e))~~ (f) Applied behavior analysis (ABA) services ~~((see))~~ as described in WAC 388-877A-0370((+)).

(5) An agency ~~((providing))~~ that provides outpatient mental health services to individuals 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~~((-))~~; and

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

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

(ii) Applicable program-specific requirements for each outpatient mental health service provided~~((-))~~ and each optional and recovery support service requiring program-specific certification that the agency elects to provide; and

(iii) Department of corrections access to confidential mental health information requirements in WAC 388-865-0600 through 388-865-0640.

(6) At the ~~((verbal))~~ oral or written request of the individual, the behavioral health agency must, if applicable:

(a) Include the individual's family members, significant others, and other relevant treatment providers in the clinical services provided to the individual by the agency; and

(b) Document the request in the individual's clinical record.

(7) If an individual has a crisis plan, the crisis plan must be:

(a) Placed in the individual's clinical record; and

(b) Subject to state and federal confidentiality rules and laws, ~~made available to the following((-, subject to state and federal confidentiality rules and laws))~~:

(i) Designated mental health professionals;

(ii) Crisis team members; and

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

(8) ~~((An))~~ A behavioral health agency that provides services at an established off-site location(s) must:

(a) Maintain a list of each established off-site location where services are provided~~((-))~~; and

(b) Include, for each established off-site location:

(i) The name and address of the location the services are provided;

(ii) The primary purpose of the off-site location;

(iii) The service(s) provided; and

(iv) The date off-site services began at that location.

(9) ~~((An))~~ A behavioral health agency providing in-home services or services in a public setting must:

(a) Implement and maintain a written protocol of how services will be offered in a manner that promotes individual ~~((and))~~ staff member, and community safety; and

(b) For the purpose of emergency communication~~((-))~~ and as required by RCW 71.05.710, provide a wireless telephone~~((-))~~ or comparable device~~((-))~~ to any mental health professional who makes home visits to individuals.

(10) ~~((An))~~ A behavioral health agency must:

(a) Maintain an individual's confidentiality at the off-site location;

(b) Securely transport confidential information and individual records between the licensed agency and the off-site location, if applicable;

(c) ~~((Be certified to provide))~~ Ensure the type of mental health service offered at each off-site location is certified by DBHR in accordance with chapter 388-877A WAC; and

(d) Ensure the mental health services provided at off-site locations meet the requirements of all applicable local, state, and federal rules and laws.

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

WAC 388-877A-0300 Recovery support services ~~((requiring))~~ that require program-specific certification—General. The rules in this section apply to behavioral health agencies that provide one or more recovery support services that require program-specific certification by the department's division of behavioral health and recovery. The definitions in WAC 388-877-0200 also apply to these 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) Recovery support services are intended to promote an individual's socialization, recovery, self-advocacy, development of natural support, and maintenance of community living skills.

(2) Recovery support services ~~((requiring))~~ that require program-specific certification include:

(a) Supported employment services ~~((see))~~ as described in WAC 388-877A-0330~~((+))~~;

(b) Supportive housing services as described in WAC 388-877A-0335;

(c) Peer support services ~~((see))~~ as described in WAC 388-877A-0340~~((+))~~;

~~((e+))~~ (d) Wraparound facilitation services ~~((see))~~ as described in WAC 388-877A-0350~~((+))~~;

~~((d+))~~ (e) Medication support services ~~((see))~~ as described in WAC 388-877A-0360~~((+))~~; and

~~((e+))~~ (f) Applied behavior analysis (ABA) services ~~((see))~~ as described in WAC 388-877A-0370~~((+))~~.

(3) ~~((An))~~ A behavioral health agency ~~((providing))~~ that provides any recovery support service ~~((requiring))~~ that requires program-specific certification 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~~((+))~~; and

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

- (i) General requirements in chapter 388-877 WAC; and
- (ii) Applicable program-specific requirements.

(4) An agency that provides any recovery support service (~~requiring~~) that requires program-specific certification may operate through an agreement with a behavioral health agency that provides certified (~~for an~~) outpatient mental health (~~service~~) services listed in WAC 388-877A-0100(2). The agreement must specify the responsibility for initial assessments, the determination of appropriate services, individual service planning, and the documentation of these requirements.

(5) When providing any recovery support service requiring program-specific certification, (~~an~~) a behavioral health agency must:

(a) Have an assessment process to determine the appropriateness of the agency's services, based on the individual's needs and goals(~~-~~);

(b) Refer an individual to a more intensive level of care when appropriate(~~-~~); and

(c) With the consent of the individual, include the individual's family members, significant others, and other relevant treatment providers(~~-~~) as necessary to provide support to the individual.

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

WAC 388-877A-0330 Recovery support services (~~requiring~~) that require program-specific certification—Supported employment services. Supported employment services are ((a)) recovery support (~~service~~) services that (~~requires~~) require program-specific certification by the department's division of behavioral health and recovery. These services assist in (~~training,~~) job search, (~~and~~) placement services (~~in order~~), and training to help individuals find competitive jobs in their local communities.

(1) (~~An~~) A behavioral health agency (~~providing~~) that provides supported employment services must have knowledge of and provide individuals access to employment and education opportunities by coordinating efforts with one or more entities that provide other rehabilitation and employment services, such as:

(a) The department's division of vocational rehabilitation (DVR). DVR provides supported employment under WAC 388-891-0840 by community rehabilitation program contract as described in WAC 388-892-0100;

(b) The department's community services offices;

(c) Community, trade, and technical colleges;

(~~e~~) (d) The business community;

(~~d~~) (e) WorkSource, Washington state's official site for on-line employment services;

(~~e~~) (f) Washington state department of employment security; and

(~~f~~) (g) Organizations (~~providing~~) that provide job placement within the community.

(2) (~~An~~) A behavioral health agency (~~providing~~) that provides supported employment services must:

(a) Ensure all staff members (~~providing~~) who provide direct services for employment are knowledgeable and familiar with services

provided by the department's division of vocational rehabilitation((-));

(b) Conduct and document a vocational assessment in partnership with the individual that includes work history, skills, training, education, and personal career goals((-));

(c) Assist the individual to create an individualized job ((and/or)) and career development plan that focuses on the individual's strengths and skills((-));

(d) Assist the individual to locate employment opportunities that are consistent with the individual's skills, goals, and interests((-));

(e) Provide and document any outreach, job coaching, and support at the individual's worksite((τ)) when requested by the individual ((and/or)) or the individual's employer((-)); and

(f) If the employer makes a request, provide information regarding the requirements of reasonable accommodations, consistent with the Americans with Disabilities Act (ADA) of 1990((τ)) and ((the)) Washington state anti-discrimination law.

NEW SECTION

WAC 388-877A-0335 Recovery support services that require program-specific certification—Supportive housing services. Supportive housing services are recovery support services that require program-specific certification by the department's division of behavioral health and recovery. Supportive housing services support an individual's transition to community integrated housing and support the individual to be a successful tenant in a housing arrangement.

(1) A behavioral health agency that provides supportive housing services must have knowledge of and provide housing related collaborative activities to assist individuals in identifying, coordinating, and securing housing or housing resources with entities such as:

(a) Local homeless continuum of care groups or local homeless planning groups;

(b) Housing authorities that operate in a county or city in the behavioral health organization's (BHO) regional service area;

(c) Community action councils that operate in a county or region in the BHO's regional service area;

(d) Landlords of privately owned residential homes; and

(e) State agencies that provide housing resources.

(2) A behavioral health agency that provides supportive housing services must:

(a) Ensure all staff members who provide direct services for supportive housing are knowledgeable and familiar with fair housing laws;

(b) Conduct and document a housing assessment in partnership with the individual that includes housing preferences, affordability, and barriers to housing;

(c) Conduct and document a functional needs assessment in partnership with the individual that includes independent living skills and personal community integration goals;

(d) Assist the individual to create an individualized housing acquisition and maintenance plan that focuses on the individual's choice in housing;

(e) Assist the individual to locate housing opportunities that are consistent with the individual's preferences, goals, and interests;

(f) Provide any outreach, tenancy support, and independent living skill building supports at a location convenient to the individual;

(g) Provide the individual with information regarding the requirements of the Fair Housing Act, Americans with Disabilities Act (ADA) of 1990, and Washington state anti-discrimination law, and post this information in a public place in the agency; and

(h) Ensure the services are specific to each individual and meant to assist in obtaining and maintaining housing in scattered-site, clustered, integrated, or single-site housing as long as the individual holds a lease or sub-lease.

SECTION SEVEN—SUBSTANCE USE DISORDER RECOVERY SUPPORT SERVICES THAT REQUIRE PROGRAM-SPECIFIC CERTIFICATION

NEW SECTION

WAC 388-877B-0700 Substance use disorder recovery support services that require program-specific certification—General. The rules in WAC 388-877B-0700 through 388-877B-0740 apply to behavioral health agencies that provide substance use disorder recovery support services that require program-specific certification. The definitions in WAC 388-877-0200 also apply to substance use disorder recovery support services.

(1) Recovery support services are considered nontreatment services provided to support an individual who has a need for interventions related to substance use disorders.

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

(a) Supported employment services as described in WAC 388-877B-0730; and

(b) Supportive housing services as described in WAC 388-877B-0740.

(3) An agency that provides recovery support 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-0700 through 388-877B-0740.

(4) A behavioral health agency that provides recovery support 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.

NEW SECTION

WAC 388-877B-0710 Substance use disorder recovery support services that require program-specific certification—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 substance use disorder recovery support services that require program-specific certification must ensure:

(1) All substance use disorder assessment and counseling services are provided by a chemical dependency professional (CDP) or 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) All staff members that provide individual care have a copy of an initial TB screen or test and any subsequent screenings or testing in their personnel files.

(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 their personnel files.

NEW SECTION

WAC 388-877B-0720 Substance use disorder recovery support services that require program-specific certification—Clinical record content and documentation. In addition to the general clinical record content requirements in WAC 388-877-0640, an agency providing substance use disorder recovery support services that require program-specific certification must maintain an individual's clinical record.

(1) The clinical record must contain:

(a) 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.

(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 subsection (1) of this section, an agency must ensure each individual service plan:

(a) Is personalized to the individual's unique treatment needs;

(b) Includes individual needs identified in the diagnostic and periodic reviews that address the following:

(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) Documents approval by a chemical dependency professional (CDP) if the staff member developing the plan is not a CDP;

(d) Documents 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; and

(e) Documents that the plan has been reviewed with the individual.

NEW SECTION

WAC 388-877B-0730 Substance use disorder recovery support services that require program-specific certification—Supported employment services. Supported employment services are substance use disorder recovery support services that require program-specific certification by the department's division of behavioral health and recovery. These services assist in job search, placement services, and training to help individuals find competitive jobs in their local communities.

(1) A behavioral health agency that provides supported employment services must have knowledge of and provide individuals access to employment and education opportunities by coordinating efforts with one or more entities that provide other rehabilitation and employment services, such as:

(a) The department's division of vocational rehabilitation (DVR), which provides supported employment under WAC 388-891-0840 by community rehabilitation program contract as described in WAC 388-892-0100;

(b) The department's community service offices;

(c) Community, trade, and technical colleges;

(d) The business community;

(e) WorkSource, Washington state's official site for online employment services;

(f) Washington state department of employment security; and

(g) Organizations that provide job placement within the community.

(2) A behavioral health agency that provides supported employment services must:

(a) Ensure all staff members who provide direct services for employment are knowledgeable and familiar with services provided by the department's division of vocational rehabilitation;

(b) Conduct and document a vocational assessment in partnership with the individual that includes work history, skills, training, education, and personal career goals;

(c) Assist the individual to create an individualized job and career development plan that focuses on the individual's strengths and skills;

(d) Assist the individual to locate employment opportunities that are consistent with the individual's skills, goals, and interests;

(e) Provide and document any outreach, job coaching, and support at the individual's worksite, when requested by the individual or the individual's employer; and

(f) If the employer makes a request, provide information regarding the requirements of reasonable accommodations, consistent with the Americans with Disabilities Act (ADA) of 1990 and Washington state anti-discrimination law.

NEW SECTION

WAC 388-877B-0740 Substance use disorder recovery support services that require program-specific certification—Supportive housing services. Supportive housing services are substance use disorder recovery support services that require program-specific certification by the department's division of behavioral health and recovery. Supportive housing services support an individual's transition to community integrated housing and support the individual to be a successful tenant in a housing arrangement.

(1) A behavioral health agency that provides supportive housing services must have knowledge of and provide housing related collaborative activities to assist individuals in identifying, coordinating, and securing housing or housing resources with entities such as:

(a) Local homeless continuum of care groups or local homeless planning groups;

(b) Housing authorities that operate in a county or city in the behavioral health organization's (BHO) regional service area;

(c) Community action councils that operate in a county or region in the BHO's regional service area;

(d) Landlords of privately owned residential homes; and

(e) State agencies that provide housing resources.

(2) A behavioral health agency that provides supportive housing services must:

(a) Ensure all staff members who provide direct services for supportive housing are knowledgeable and familiar with fair housing laws;

(b) Conduct and document a housing assessment in partnership with the individual that includes housing preferences, affordability, and barriers to housing;

(c) Conduct and document a functional needs assessment in partnership with the individual that includes independent living skills and personal community integration goals;

(d) Assist the individual to create an individualized housing acquisition and maintenance plan that focuses on the individual's choice in housing;

(e) Assist the individual to locate housing opportunities that are consistent with the individual's preferences, goals, and interests;

(f) Provide any outreach, tenancy support, and independent living skill building supports at a location convenient to the individual;

(g) Provide the individual with information regarding the requirements of the Fair Housing Act, Americans with Disabilities Act (ADA) of 1990, and Washington state anti-discrimination law, and post this information in a public place in the agency; and

(h) Ensure the services are specific to each individual and meant to assist in obtaining and maintaining housing in scattered-site, clustered, integrated, or single-site housing as long as the individual holds a lease or sub-lease.