



# RULE-MAKING ORDER

**CR-103E (July 2011)**  
**(Implements RCW 34.05.350)**

**Agency:** Health Care Authority, Washington Apple Health

**Emergency Rule Only**

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify) \_\_\_\_\_

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

- Yes
  - No
- If Yes, explain:

**Purpose:**

The agency is creating a new section (-4600) under Chapter 182-546 WAC for ambulance transportation for involuntary substance use disorder treatment as directed by the Washington State Legislature in Engrossed Third Substitute House Bill 1713, also known as the Ricky Garcia Act.

**Citation of existing rules affected by this order:**

Repealed:  
Amended:  
Suspended:

**Statutory authority for adoption:** RCW 41.05.021, 41.05.160; ESHB 1713 Chapter 29, 2016 Laws 1<sup>st</sup> Special Session

**Other authority :** N/A

**EMERGENCY RULE**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: Directed by the Washington State Legislature to implement under Engrossed Third Substitute House Bill 1713, this continues the emergency rule filed under WSR 16-22-031. The agency continues to work with stakeholders to refine the rule text. This worked overlapped with current rulemaking to Chapter 182-526 WAC. Work on chapter 182-526 WAC has stalled. Therefore, the agency decided the permanent rulemaking for WAC 182-546-4600 must no longer be delayed. The review processes have begun for the permanent rule.

**Date adopted:** February 22, 2017

**NAME (TYPE OR PRINT)**

Wendy Barcus

**SIGNATURE**

**TITLE**

Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: February 22, 2017**

**TIME: 10:48 AM**

**WSR 17-06-023**

(COMPLETE REVERSE SIDE)

**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:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

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

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	<u>1</u>	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	<u>1</u>	Amended	_____	Repealed	_____

NEW SECTION

**WAC 182-546-4600 Ambulance transportation—Involuntary substance use disorder treatment—Ricky Garcia Act.** (1) Definitions. For the purposes of this section, the following definitions and those found in chapter 182-500 WAC apply:

(a) **"Behavioral health organization (BHO)"** - See WAC 182-500-0015.

(b) **"Designated chemical dependency specialist"** means a person appointed by the behavioral health organization (BHO) or by the BHO-designated county substance use disorder treatment program coordinator to perform the duties specified in this section.

(c) **"Detention"** or **"detain"** means the lawful confinement of a person, under the provisions of this chapter.

(d) **"Evaluation and treatment facility"** means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to people suffering from a mental disorder, and which is certified as such by the department of social and health services (DSHS). DSHS may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, DSHS or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility under this chapter.

(e) **"Gravely disabled"** means that a person experiences a loss of cognition or control over the person's actions, is not receiving care essential for the person's health or safety, and is in danger of serious physical harm.

(f) **"Involuntary Treatment Act"** means, for adults, chapter 71.05 RCW; for juveniles, chapter 71.34 RCW. See also chapter 388-865 WAC.

(g) **"Less restrictive alternative treatment"** means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585.

(h) **"Nearest and most appropriate destination"** means the nearest facility able and willing to accept the involuntarily detained person for treatment, not the closest facility based solely on driving distance.

(2) The medicaid agency pays for transportation services for a person detained for involuntary chemical dependency treatment when the following apply:

(a) The person has been assessed by a designated chemical dependency specialist and found to be:

- (i) A danger to self;
- (ii) A danger to others;
- (iii) Gravely disabled as a result of chemical dependency.

(b) The transportation is from:

- (i) The site of the initial detention;
- (ii) An evaluation and treatment facility designated by DSHS; or
- (iii) A court hearing.

(c) The transportation is to:

- (i) An evaluation and treatment facility;

- (ii) A less restrictive alternative setting, except when ambulance transport to a client's home is not covered; or
- (iii) A court hearing.
- (d) The transportation is provided by a qualified transportation provider. The qualified transportation provider must:
  - (i) Be substance use disorder treatment provider designated as such by:
    - (A) The local community mental health center; or
    - (B) The BHO.
  - (ii) Comply with DSHS requirements for drivers, driver training, vehicle and equipment standards and maintenance.
- (3) The transportation must be to the nearest and most appropriate destination. The reason for the diversion to a more distant facility must be clearly documented in the person's file.
- (4) The designated chemical dependency specialist authorizes the level of transportation provided to and from covered facilities based on the person's need. A copy of the agency's Authorization for Substance Use Disorder (SUD) Ambulance Transportation form by the designated chemical dependency specialist must be kept in the person's file.
- (5) The DSHS chemical dependency division establishes payment for substance use disorder transportation. Providers must clearly identify Involuntary Treatment Act transportation on the claim form when submitting claims to the agency.