



RULE-MAKING ORDER PERMANENT RULE ONLY

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: November 25, 2020

TIME: 9:58 AM

WSR 20-24-082

Agency: Health Care Authority

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: This rulemaking is required to comply with the requirements in 2ESHB 1388 which changed the designation of the state Behavioral Health Services, effective July 1, 2018. The single bed certification rules were previously filed under Preproposal Statement of Inquiry WSR-18-14-080 and Emergency Rulemaking Order WSR 19-13-057, as WAC 182-538D-0526.

The rulemaking under WSR 18-14-080 was finalized under WSR 19-24-063. Rulemaking for single bed certification was continued through a separate rulemaking process, and this is the outcome of that effort. Single bed certification has also been renumbered from WAC 182-538D-0526 to WAC 182-300-0100 to reflect that it is not solely a service under Medicaid.

Citation of rules affected by this order:

New: 182-300-0100

Repealed:

Amended:

Suspended:

Statutory authority for adoption: RCW 41.05.021, 41.05.160, and 2ESBH 1388 (Chapter 201, Laws of 2018)

Other authority: N/A

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 20-15-147 on July 21, 2020 (date).

Describe any changes other than editing from proposed to adopted version:

Proposed/Adopted	WAC Subsection	Reason
WAC 182-300-0100		
Proposed	At the discretion of the health care authority (HCA) or HCA's designee, an exception may be granted to a facility that is not certified under chapter 246-341 WAC, for a person on a seventy-two-hour detention, a five-day detention pending a revocation proceeding, or a fourteen-day commitment in order to allow timely and appropriate treatment. An exception may also be granted for a maximum of thirty days to allow a community facility to provide treatment	Changed "seventy-two-hour" to "initial" to align with new detention timelines Changed "a maximum" to "renewable periods" to allow for more flexibility to accommodate patient needs
Adopted	At the discretion of the health care authority (HCA) or HCA's designee, an exception may be granted to a facility that is not certified under chapter 246-341 WAC, for a person on an <u>seventy two-hour initial</u> detention, a five-day detention pending a revocation proceeding, or a fourteen-day commitment in order	

	to allow timely and appropriate treatment. An exception may also be granted for a maximum <u>renewable periods</u> of thirty days to allow a community facility to provide treatment	
WAC 182-300-0100(2)		
Proposed	(2) HCA or HCA's designee may issue a single bed certification to the facility for timely...	Added to improve clarity
Adopted	(2) HCA or HCA's designee may issue a single bed certification <u>in writing</u> to the facility for timely...	
WAC 182-300-0100(2)(b)(i)		
Proposed	(i) The person is expected to be ready for discharge from inpatient services within the next thirty days and being at a community facility would facilitate continuity of care, consistent with the person's individual treatment needs;	Changed to improve clarity
Adopted	(i) The person is expected to be ready for discharge from inpatient services <u>at the facility referred to in subsection (2)(a)</u> within the next thirty days and being remaining at a community that facility would facilitate continuity of care, consistent with the person's individual treatment needs;	
WAC 182-300-0100(2)(b)(ii)		
Proposed	(ii) The person can receive appropriate mental health treatment in a residential treatment facility, as defined in WAC 246-337-005, and the single bed certification will be only to that facility;	To improve consistency and remove redundancy
Adopted	(ii) The person can receive appropriate mental health treatment in a residential treatment facility, as defined in WAC 246-337-005, and the single bed certification will be only to that facility;	
WAC 182-300-0100(2)(b)(iii)		
Proposed	(iii) The person can receive appropriate mental health treatment in a hospital with a psychiatric unit, a psychiatric hospital, or a hospital that is willing and able to provide timely and appropriate mental health treatment, including a temporary health care facility that has a behavioral health component credentialed or approved by the department of health, and the single bed certification will apply only to that facility.	<p>Changed “behavioral” to “mental” to more accurately reflect care being provided</p> <p>Removed clause in last sentence for same reason cited for -0100(2)(b)(ii)</p>
Adopted	(iii) The person can receive appropriate mental health treatment in a hospital with a psychiatric unit, a psychiatric hospital, or a hospital that is willing and able to provide timely and appropriate mental health	

	treatment, including a temporary health care facility that has a behavioral <u>mental</u> health component credentialed or approved by the department of health, and the single bed certification will apply only to that facility.	
WAC 182-300-0100(3)(a)		
Proposed	(a) Implement standards for administration that include written procedures to assure that a mental health professional, as defined in RCW 71.05.020, and licensed physicians are available for consultation and communication with both the person and the direct patient care staff;	To indicate that an advanced registered nurse practitioner or physician assistant is able to perform the consultation
Adopted	(a) Implement standards for administration that include written procedures to assure that a mental health professional, as defined in RCW 71.05.020, and <u>a licensed physicians, psychiatric advanced registered nurse practitioner, or physician assistant</u> are available for consultation and communication with both the person and the direct patient care staff;	
WAC 182-300-0100(3)(b)		
Proposed	(b) Use a plan of care/treatment. The person's medical or clinical record must contain documentation that:	To improve clarity
Adopted	(b) Use a plan of care or <u>or</u> treatment. The <u>person's</u> medical or clinical record must contain documentation that:	
WAC 182-300-0100(3)(b)(ii)		
Proposed	(ii) A mental health professional, as defined in RCW 71.05.020, has had contact with each involuntarily detained person at least daily for the purposes of:	To make the reference specific to the individual and not refer to involuntary patients generally
Adopted	(ii) A mental health professional, as defined in RCW 71.05.020, has had contact with each involuntarily detained <u>the</u> person at least daily for the purposes of:	
WAC 182-300-0100(4)		
Proposed	If a person requires medical services that are not generally available at a facility certified under this chapter, or at a state psychiatric hospital...	To cite the correct chapter
Adopted	If a person requires medical services that are not generally available at a facility certified under this chapter <u>246-341 WAC</u> , or at a state psychiatric hospital...	

WAC 182-300-0100(4)(a)		
Proposed	(a) The single bed certification request must adequately describe why the person requires medical services that are not available at a facility certified under this chapter, a state psychiatric hospital...	To cite the correct chapter
Adopted	(a) The single bed certification request must adequately describe why the person requires medical services that are not available at a facility certified under this chapter <u>246-341 WAC</u> , a state psychiatric hospital...	
WAC 182-300-0100(4)(c)(i)		
Proposed	(i) With the authorization of the hospital, and consistent with any applicable hospital policies and procedures...	Hospital is too narrow a term to be used here.
Adopted	(i) With the authorization of the hospital <u>hospital facility</u> , and consistent with any applicable hospital <u>hospital facility</u> policies and procedures...	
WAC 182-300-0100(4)(c)(ii)		
Proposed	(ii) The hospital provides medical services and a plan...	Hospital is too narrow a term to be used here.
Adopted	(ii) The hospital <u>hospital facility</u> provides medical services and a plan...	
WAC 182-300-0100(4)(c)(ii)(A)		
Proposed	(A) The hospital providing services;	Hospital is too narrow a term to be used here.
Adopted	(A) The hospital <u>hospital facility</u> providing services;	
WAC 182-300-0100(4)(d)		
Proposed	(d) If a qualified medical professional determines that mental health treatment for the person is not clinically indicated, the requirements in (c) of this subsection...	
Adopted	(d) If a qualified medical professional determines that mental health treatment for the person is not clinically indicated <u>appropriate due to medical instability</u> , the requirements in (c) of this subsection...	
WAC 182-300-0100(5)		
Proposed	HCA or HCA's designee makes the decision and gives written notification to the requesting entity in the form of a single bed certification. The single bed certification must not contradict a specific provision of federal or state law.	To remove confusing and redundant language Because of this change, the subsequent subsections were renumbered.

Adopted	HCA or HCA's designee makes the decision and gives written notification to the requesting entity in the form of a single bed certification. The single bed certification must not contradict a specific provision of federal or state law.	
WAC 182-300-0100(6)		
Proposed	(6) A person who receives services under a single bed certification under this section must be transferred: (a) To an evaluation and treatment facility if on a seventy-two hour detention, a five-day detention pending a revocation proceeding, or a fourteen-day commitment; or (b) To a state hospital if on a ninety- or one hundred eighty-day inpatient commitment, or if the person's less restrictive alternative order or conditional release was revoked, as soon as the attending physician considers the person medically stable and a bed becomes available, unless the treating facility consents to continue treatment and continued treatment in the current setting is consistent with the best clinical interests of the person.	To remove confusion and better reflect HCA policy Because of this change, the subsequent subsections were renumbered.
Adopted	(4)(e) A person who receives services under a single bed certification under this section must be transferred: (a) To to an evaluation and treatment facility if on a seventy-two hour detention, a five-day detention pending a revocation proceeding, or a fourteen-day commitment; or (b) To a state hospital if on a ninety- or one hundred eighty-day inpatient commitment, or if the person's less restrictive alternative order or conditional release was revoked, <u>state hospital, or other placement</u> as soon as the attending physician considers the person medically stable and a bed becomes available, unless the treating facility consents to continue treatment and continued treatment in the current setting is consistent with the best clinical interests of the person.	

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

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- 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>1</u>	Amended	___	Repealed	___

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

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

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

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

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

New	<u>1</u>	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>1</u>	Amended	___	Repealed	___

Date Adopted: November 25, 2020	Signature: 
Name: Wendy Barcus	
Title: HCA Rules Coordinator	

Chapter 182-300 WAC
SINGLE BED CERTIFICATION

NEW SECTION

WAC 182-300-0100 Single bed certification. At the discretion of the health care authority (HCA) or HCA's designee, an exception may be granted to a facility that is not certified under chapter 246-341 WAC, for a person on an initial detention, a five-day detention pending a revocation proceeding, or a fourteen-day commitment in order to allow timely and appropriate treatment. An exception may also be granted for renewable periods of thirty days to allow a community facility to provide treatment to a person on a ninety- or one hundred eighty-day inpatient involuntary commitment order or to a person who has been revoked from a less restrictive alternative order or conditional release. For involuntarily detained or committed children, an exception may be granted to allow timely and appropriate treatment in a facility not certified under chapter 246-341 WAC, until the child's discharge from that setting to the community, or until they transfer to a bed in a children's long-term inpatient program (CLIP).

(1) In the case of an adult, the behavioral health administrative services organization (BH-ASO) or a designee must submit a written request for a single bed certification to HCA or HCA's designee. In the case of a child, the facility must submit the written request to HCA or HCA's designee and provide a copy to the BH-ASO. HCA or HCA's designee must receive and approve the request in order for a facility to accept a person for timely and appropriate treatment under this section. If HCA or HCA's designee has assumed the duties assigned to a nonparticipating BH-ASO, HCA or HCA's designee may designate an entity to request a single bed certification as described in this section.

(2) HCA or HCA's designee may issue a single bed certification in writing to the facility for timely and appropriate mental health treatment when the following requirements are met in each instance where such certification is sought for a person:

(a) The facility that is the site of the proposed single bed certification confirms that it is willing and able to provide directly, or by direct arrangement with other public or private agencies, timely and appropriate mental health treatment to the person for whom the single bed certification is sought; and

(b) The request for single bed certification describes why the person meets at least one of the following criteria:

(i) The person is expected to be ready for discharge from inpatient services at the facility referred to in (a) of this subsection within the next thirty days and remaining at that facility would facilitate continuity of care, consistent with the person's individual treatment needs;

(ii) The person can receive appropriate mental health treatment in a residential treatment facility, as defined in WAC 246-337-005; or

(iii) The person can receive appropriate mental health treatment in a hospital with a psychiatric unit, a psychiatric hospital, or a hospital that is willing and able to provide timely and appropriate mental health treatment, including a temporary health care facility

that has a mental health component credentialed or approved by the department of health.

(3) In order to provide timely and appropriate mental health treatment, the facility receiving the single bed certification, or the public or private agency the facility has a direct arrangement with to provide mental health treatment, must:

(a) Implement standards for administration that include written procedures to assure that a mental health professional, as defined in RCW 71.05.020, and a licensed physician, psychiatric advanced registered nurse practitioner, or physician assistant are available for consultation and communication with both the person and the direct patient care staff;

(b) Use a plan of care or treatment. The person's medical or clinical record must contain documentation that:

(i) An individualized mental health treatment plan was developed, when possible, collaboratively with the person. If the person is unwilling or unable to participate in development of the plan, documentation must be made in the record. Development of this plan may include participation of a multidisciplinary team, a mental health professional as defined in RCW 71.05.020, or collaboration with members of the person's support system as identified by the person; and

(ii) A mental health professional, as defined in RCW 71.05.020, has had contact with the person at least daily for the purposes of:

(A) Observation and evaluation;

(B) Assessing whether the person is appropriate for release from involuntary commitment to accept treatment on a voluntary basis; and

(c) Have standards for administration and monitoring of medication, including psychiatric medications. A person has a right to make an informed decision regarding the use of antipsychotic medication consistent with RCW 71.05.215.

(4) If a person requires medical services that are not generally available at a facility certified under chapter 246-341 WAC, or at a state psychiatric hospital, or a facility that meets the requirements of subsections (2) and (3) of this section, HCA or HCA's designee may issue a single bed certification to that facility for the person as follows:

(a) The single bed certification request must adequately describe why the person requires medical services that are not available at a facility certified under chapter 246-341 WAC, a state psychiatric hospital, or a facility that meets the requirements of subsections (2) and (3) of this section;

(b) The facility that is the site of the requested single bed certification must confirm that it is willing and able to provide the medical services; and

(c) The facility has documented that one of the following has been met:

(i) With the authorization of the facility, and consistent with any applicable facility policies and procedures, the BH-ASO assigns a mental health professional to provide the person appropriate mental health treatment at the facility, including observation and evaluation, during the period of time the person is provided medical services; or

(ii) The facility provides medical services and a plan that addresses the person's mental health treatment needs until the person is medically stable and the BH-ASO or a designee identifies an appropriate facility for the person that is one of the following:

(A) The facility providing services;

(B) A facility that is certified as an evaluation and treatment (E&T) facility; or

(C) A facility that can meet the person's needs under the single bed certification criteria in this section.

(d) If a qualified medical professional determines that mental health treatment for the person is not appropriate due to medical instability, the requirements in (c) of this subsection do not apply. When the person is determined to be medically stable, the facility must ensure the requirements in (c) of this subsection are met;

(e) A person who receives services under a single bed certification under this section must be transferred to an evaluation and treatment facility, state hospital, or other placement as soon as the attending physician considers the person medically stable and a bed becomes available, unless the treating facility consents to continue treatment and continued treatment in the current setting is consistent with the best clinical interests of the person.

(5) HCA or HCA's designee may make site visits at any time to verify that the terms of the single bed certification are being met. Failure to comply with any term of this exception may result in corrective action. If HCA or HCA's designee determines that the violation places people in imminent jeopardy, immediate revocation of this exception can occur.

(6) The BH-ASO retains the responsibility for ensuring due process required by RCW 71.24.300 (6) (b).

(7) Neither a person nor a facility has fair hearing rights as defined under chapter 182-526 WAC regarding single bed certification decisions made by HCA or HCA's designee staff.