



**RULE-MAKING ORDER
PERMANENT RULE ONLY**

**CR-103P (October 2017)
(Implements RCW 34.05.360)**

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: December 19, 2017

TIME: 9:44 AM

WSR 18-01-103

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 Division of Behavioral Health and Recovery is proposing new rules in chapter 388-877B WAC to enable behavioral health agencies to become certified to deliver Secure Withdrawal Management and Stabilization services. RCW 71.05.760(2) directs the department to ensure that at least one sixteen-bed secure detoxification facility is operational by April 1, 2018 and that at least two sixteen-bed secure detoxification facilities are operational by April 1, 2019.

Citation of rules affected by this order:

New: WAC 388-877B-0140, WAC 388-877B-0145, WAC 388-877B-0150, WAC 388-877B-0155, WAC 388-877B-0160, WAC 388-877B-0165, WAC 388-877B-0170, WAC 388-877B-0175, WAC 388-877B-0180
 Repealed: None
 Amended: None
 Suspended: None

Statutory authority for adoption: RCW 71.05.215, RCW 71.05.560, RCW 71.24.035, RCW 71.24.037, RCW 71.34.380

Other authority: chapter 71.05 RCW, chapter 71.24 RCW, chapter 71.34 RCW, RCW 71.05.760

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 17-21-014 on October 09, 2017 (date).

Describe any changes other than editing from proposed to adopted version: WAC 388-877B-0165 was amended to include RCW 71.05.360 as follows:

“The individual rights assured by RCW 71.05.217 and 71.05.360, and, if serving minors, RCW 71.34.355 must be prominently posted within the department or ward of the secure withdrawal management and stabilization facility and provided in writing to the individual in a language or format that the individual can understand. ~~As follows:~~”
 Subsections (1) through (12) were struck.

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

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**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>9</u>	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 on 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	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	<u>9</u>	Amended	___	Repealed	___

Date Adopted: December 19, 2017

Name: Cheryl Strange

Title: DSHS Secretary

Signature:



NEW SECTION

WAC 388-877B-0140 Secure withdrawal management and stabilization facilities—General. The rules in WAC 388-877B-0140 through 388-877B-0180 apply to behavioral health agencies that provide secure withdrawal management and stabilization services.

(1) Secure withdrawal management and stabilization services are provided to an individual to assist in the process of withdrawal from psychoactive substances in a safe and effective manner, or medically stabilize an individual after acute intoxication, in accordance with patient placement criteria and chapters 71.05 and 71.34 RCW.

(2) An agency providing secure withdrawal management and stabilization services to an individual must:

(a) Be a facility licensed by department of health under one of the following department of health chapters:

(i) Hospital licensing regulations in chapter 246-320 WAC;

(ii) Private psychiatric and alcoholism hospitals in chapter 246-322 WAC;

(iii) Private alcohol and substance use disorder hospitals in chapter 246-324 WAC; or

(iv) Residential treatment facility in chapter 246-337 WAC, under the service category chemical dependency acute detoxification in WAC 246-337-015(1);

(b) Be licensed by the department as a behavioral health agency;

(c) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in chapter 388-877 WAC and WAC 388-877B-0110; and

(d) 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-0140 through 388-877B-0180.

(3) An agency must:

(a) Use patient placement criteria for continuing care needs and discharge planning and decisions;

(b) Provide tuberculosis screenings to individuals for the prevention and control of tuberculosis; and

(c) Provide HIV/AIDS information and include a brief risk intervention and referral as indicated.

NEW SECTION

WAC 388-877B-0145 Secure withdrawal management and stabilization facilities—Standards for administration. A secure withdrawal management and stabilization facility must develop policies and procedures to implement all of the following administrative requirements:

(1) Policies to ensure that services are provided in a secure environment. "Secure" means having:

(a) All doors and windows leading to the outside locked at all times;

(b) Visual monitoring, either by line of sight or camera as appropriate to the individual;

- (c) Adequate space to segregate violent or potentially violent persons from others;
 - (d) The means to contact law enforcement immediately in the event of an elopement from the facility; and
 - (e) Adequate numbers of staff present at all times that are trained in facility security measures.
- (2) Designation of a professional person as defined in RCW 71.05.020 in charge of clinical services at that facility.
 - (3) Policies to ensure compliance with WAC 246-337-110 regarding seclusion and restraint.
 - (4) A policy management structure that establishes:
 - (a) Procedures for admitting individuals needing secure withdrawal management and stabilization services seven days a week, twenty-four hours a day;
 - (b) Procedures to ensure that once an individual has been admitted, if a medical condition develops that is beyond the facility's ability to safely manage, the individual will be transported to the nearest hospital for emergency medical treatment;
 - (c) Procedures to assure access to necessary medical treatment, including emergency life-sustaining treatment and medication;
 - (d) Procedures to assure the protection of individual and family rights as described in this chapter and chapters 71.05 and 71.34 RCW;
 - (e) Procedures to inventory and safeguard the personal property of the individual being detained, including a process to limit inspection of the inventory list by responsible relatives or other persons designated by the detained individual;
 - (f) Procedures to assure that a chemical dependency professional and licensed physician are available for consultation and communication with both the individual and the direct patient care staff twenty-four hours a day, seven days a week;
 - (g) Procedures to warn an identified person and law enforcement when an adult has made a threat against an identified victim as explained in RCW 70.02.050 and in compliance with 42 C.F.R. Part 2; and
 - (h) Procedures to ensure that individuals detained for up to fourteen or ninety additional days of treatment are evaluated by the professional staff of the facility in order to be prepared to testify that the individual's condition is caused by a substance use disorder and either results in likelihood of serious harm or the individual being gravely disabled.

NEW SECTION

WAC 388-877B-0150 Secure withdrawal management and stabilization facilities—Admission and intake evaluation. In addition to meeting the agency administrative and personnel requirements in WAC 388-877-0400 through 388-877-0530, a secure withdrawal management and stabilization facility must ensure all of the following requirements:

- (1) The facility must obtain a copy of the petition for initial detention stating the evidence under which the individual was detained.
- (2) The facility must document that each individual has received evaluations to determine the nature of the disorder and the treatment necessary, including:

(a) A telephone screening by a nurse, as defined in chapter 18.79 RCW, prior to admission that includes current level of intoxication, available medical history, and known medical risks;

(b) A health assessment of the individual's physical condition to determine if the individual needs to be transferred to an appropriate hospital for treatment;

(c) Examination and medical evaluation within twenty-four hours of admission by a licensed physician, advanced registered nurse practitioner, or physician assistant;

(d) An evaluation by a chemical dependency professional within seventy-two hours of admission to the facility;

(e) An assessment for substance use disorder and additional mental health disorders or conditions, using the global appraisal of individual needs - short screener (GAIN-SS) or its successor;

(f) Development of an initial plan for treatment while in the facility;

(g) Consideration of less restrictive alternative treatment at the time of admission; and

(h) The admission diagnosis and what information the determination was based upon.

(3) For individuals admitted to the secure withdrawal management and stabilization facility, the clinical record must contain:

(a) A statement of the circumstances under which the person was brought to the unit;

(b) The admission date and time;

(c) The date and time when the involuntary detention period ends;

(d) A determination of whether to refer to a designated crisis responder to initiate civil commitment proceedings;

(e) If an individual is admitted voluntarily and appears to meet the criteria for initial detention, documentation that an evaluation was performed by a designated crisis responder within the time period required in RCW 71.05.050, the results of the evaluation, and the disposition;

(f) Review of the client's current crisis plan, if applicable and available; and

(g) Review of the admission diagnosis and what information the determination was based upon.

(4) An individual who has been delivered to the facility by a peace officer for evaluation must be evaluated by a mental health professional within the following time frames:

(a) Three hours of an adult individual's arrival;

(b) Twelve hours of arrival for a child in an inpatient evaluation and treatment facility; or

(c) At any time for a child who has eloped from a child long-term inpatient treatment facility and is being returned to the facility.

(5) If a mental health professional or chemical dependency professional and physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the needs of an individual would be better served by placement in an evaluation and treatment facility then the individual must be referred to a more appropriate placement in accordance with RCW 71.05.210.

NEW SECTION

WAC 388-877B-0155 Secure withdrawal management and stabilization facilities—Treatment plan. In addition to meeting the agency clinical requirements in WAC 388-877-0620, a secure withdrawal management and stabilization facility must ensure the treatment plan includes all of the following:

- (1) A protocol for safe and effective withdrawal management, including medications as appropriate.
- (2) Services to each individual that addresses the individual's:
 - (a) Substance use disorder and motivation;
 - (b) Use of patient placement criteria for continuing care needs and discharge planning and decisions; and
 - (c) Resources and referral options to refer an individual to appropriate services.
- (3) At least daily contact between each involuntary individual and a chemical dependency professional or a trained professional person for the purpose of:
 - (a) Observation;
 - (b) Evaluation;
 - (c) Release from involuntary commitment to accept treatment on a voluntary basis; and
 - (d) Discharge from the facility to accept voluntary treatment upon referral.
- (4) Discharge assistance provided by chemical dependency professionals, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual.

NEW SECTION

WAC 388-877B-0160 Secure withdrawal management and stabilization facilities—Agency staff requirements. In addition to meeting the agency administrative and personnel requirements in WAC 388-877-0400 through 388-877-0530, a secure withdrawal management and stabilization facility must ensure all of the following:

- (1) All of the agency staff requirements found in WAC 388-877B-0110 for substance use disorder detoxification services are met.
- (2) Development of an individualized annual training plan, to include at least:
 - (a) The skills the staff member needs for the staff member's job description and the population served;
 - (b) Least restrictive alternative options available in the community and how to access them;
 - (c) Methods of individual care;
 - (d) De-escalation training and management of assaultive and self-destructive behaviors, including proper and safe use of seclusion and restraint procedures; and
 - (e) The requirements of chapters 71.05 and 71.34 RCW, this chapter, and protocols developed by the division of behavioral health and recovery.

(3) Compliance with the training requirements outlined in subsection (2) of this section if contract staff provide direct services.

NEW SECTION

WAC 388-877B-0165 Secure withdrawal management and stabilization facilities—Posting of individual rights. The individual rights assured by RCW 71.05.217 and 71.05.360, and, if serving minors, RCW 71.34.355 must be prominently posted within the department or ward of the secure withdrawal management and stabilization facility and provided in writing to the individual in a language or format that the individual can understand.

NEW SECTION

WAC 388-877B-0170 Secure withdrawal management and stabilization facilities—Rights related to antipsychotic medication. All individuals have a right to make an informed decision regarding the use of antipsychotic medication consistent with the provisions of RCW 71.05.215 and 71.05.217. The provider must develop and maintain a written protocol for the involuntary administration of antipsychotic medications, including all of the following requirements:

(1) The clinical record must document all of the following:

(a) An attempt to obtain informed consent.

(b) The individual was asked if they wish to decline treatment during the twenty-four hour period prior to any court proceeding that is related to their continued treatment and the individual has the right to attend. The individual's answer must be in writing and signed when possible. In the case of a child under the age of eighteen, the psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority must be able to explain to the court the probable effects of the medication.

(c) The reasons why any antipsychotic medication is administered over the individual's objection or lack of consent.

(2) The psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority may administer antipsychotic medications over an individual's objections or lack of consent only when:

(a) An emergency exists, provided there is a review of this decision by a second psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority within twenty-four hours of the decision. An emergency exists if all of the following are true:

(i) The individual presents an imminent likelihood of serious harm to self or others;

(ii) Medically acceptable alternatives to administration of anti-psychotic medications are not available or are unlikely to be successful; and

(iii) In the opinion of the psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority, the individual's condition constitutes an emergency requiring that treatment be instituted before obtaining an additional concurring opinion by a second psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority.

(b) There is an additional concurring opinion by a second psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority, for treatment up to thirty days.

(c) For continued treatment beyond thirty days through the hearing on any one hundred eighty-day petition filed under RCW 71.05.217, provided the facility's medical director or director's medical designee reviews the decision to medicate an individual. Thereafter, anti-psychotic medication may be administered involuntarily only upon order of the court. The review must occur at least every sixty days.

(3) The examining psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority must sign all one hundred eighty-day petitions for antipsychotic medications filed under the authority of RCW 71.05.217.

(4) Individuals committed for one hundred eighty days who refuse or lack the capacity to consent to antipsychotic medications have the right to a court hearing under RCW 71.05.217 prior to the involuntary administration of antipsychotic medications.

(5) In an emergency, antipsychotic medications may be administered prior to the court hearing provided that an examining psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority files a petition for an antipsychotic medication order the next judicial day.

(6) All involuntary medication orders must be consistent with the provisions of RCW 71.05.217, whether ordered by a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority or the court.

NEW SECTION

WAC 388-877B-0175 Secure withdrawal management and stabilization facilities—Special considerations for serving minor children. Secure withdrawal management and stabilization facilities serving minor children seventeen years of age and younger must develop and implement policies and procedures to address special considerations for serving children. These special considerations must include all of the following:

(1) Procedures to ensure that adults are separated from minors who are not yet thirteen years of age.

(2) Procedures to ensure that a minor who is at least age thirteen but not yet age eighteen is served with adults only if the minor's clinical record contains:

(a) Documentation that justifies such placement; and

(b) A professional judgment that placement in a secure withdrawal management and stabilization facility that serves adults will not harm the minor or adults.

(3) Procedures to ensure examination and evaluation of a minor by a children's mental health specialist occurs within twenty-four hours of admission.

(4) Procedures to ensure a facility that provides secure withdrawal management and stabilization services for minors and is licensed by the department of health under chapter 71.12 RCW, meets the following notification requirements if a minor's parent(s) brings the child to the facility for the purpose of withdrawal management treatment or evaluation. The facility must:

(a) Provide a written and oral notice to the minor's parent(s) or legal representative(s) of:

(i) All current statutorily available treatment options available to the minor including, but not limited to, those provided in chapter 71.34 RCW; and

(ii) A description of the procedures the facility will follow to utilize the treatment options; and

(b) Obtain and place in the clinical file a signed acknowledgment from the minor's parent(s) that they received the notice required under (a) of this subsection.

(5) Procedures that address provisions for evaluating a minor brought to the facility for evaluation by a parent(s).

(6) Procedures to notify child protective services any time the facility has reasonable cause to believe that abuse, neglect, financial exploitation, or abandonment of a minor has occurred.

(7) Procedures to ensure a minor thirteen years of age or older who is brought to a secure withdrawal management and stabilization facility or hospital for immediate withdrawal management services is evaluated by the professional person in charge of the facility. The professional person must evaluate the minor's condition and determine the need for secure withdrawal management treatment and the minor's willingness to obtain voluntary treatment. The facility may detain or arrange for the detention of the minor for up to twelve hours for evaluation by a designated crisis responder to commence detention proceedings.

(8) Procedures to ensure that the admission of a minor thirteen years of age or older admitted without parental consent has the concurrence of the professional person in charge of the facility and

written review and documentation no less than every one hundred eighty days.

(9) Procedures to ensure that notice is provided to the parent(s) when a minor child is voluntarily admitted to secure withdrawal management treatment without parental consent within twenty-four hours of admission in accordance with the requirements of RCW 71.34.510 and within the confidentiality requirements of 42 C.F.R. Sec. 2.14.

(10) Procedures to ensure a minor who has been admitted on the basis of a designated crisis responder petition for detention for secure withdrawal management and stabilization services is evaluated by the facility providing seventy-two hour secure withdrawal management and stabilization services to determine the minor's condition and either admit or release the minor. If the minor is not approved for admission, the facility must make recommendations and referral for further care and treatment as necessary.

(11) Procedures for the examination and evaluation of a minor approved for inpatient admission to include:

(a) The needs to be served by placement in an evaluation and treatment facility;

(b) Restricting the right to associate or communicate with a parent(s); and

(c) Advising the minor of their rights in accordance with chapter 71.34 RCW.

(12) Procedures to petition for fourteen-day commitment that are in accordance with RCW 71.34.730.

(13) Procedures for commitment hearing requirements and release from further secure withdrawal management and stabilization services that may be subject to reasonable conditions, if appropriate, and are in accordance with RCW 71.34.740.

(14) Procedures for discharge and conditional release of a minor in accordance with RCW 71.34.770, provided that the professional person in charge gives the court written notice of the release within three days of the release.

(15) Procedures to ensure rights of a minor undergoing treatment and posting of such rights are in accordance with RCW 71.34.355, 71.34.620, and 71.34.370.

(16) Procedures for the release of a minor who is not accepted for admission or who is released by a secure withdrawal management and stabilization facility that are in accordance with RCW 71.34.365.

(17) Procedures to ensure treatment of a minor and all information obtained through treatment under this chapter are disclosed only in accordance with RCW 71.34.340.

(18) Procedures to make court records and files available in accordance with RCW 71.34.335.

(19) Procedures to release secure withdrawal management and stabilization services information only in accordance with applicable state and federal statutes.

NEW SECTION

WAC 388-877B-0180 Secure withdrawal management and stabilization facilities—Minor children seventeen years of age and younger—Admission, evaluation, and treatment without the minor's consent. (1) A

secure withdrawal management and stabilization facility may admit, evaluate, and treat a minor child seventeen years of age or younger without the consent of the minor if the minor's parent(s) brings the minor to the facility.

(2) The secure withdrawal management and stabilization facility must follow all of the requirements outlined for evaluation and treatment facilities in WAC 388-865-0578 and RCW 71.34.600 through 71.34.630.