



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

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DATE: October 19, 2018

TIME: 2:03 PM

WSR 18-21-138

Agency: Department of Health

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 18-02-074 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Chapter 246-337 WAC – Residential treatment facilities. The Department of Health (department) proposes to amend and add new sections to existing rule to establish licensure, construction requirements, and operational standards for pediatric transitional care facilities as directed by Substitute Senate Bill 5152 (chapter 168, laws of 2017).

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
11/28/2018	9:30AM	Department of Health Town Center 2, Room 145 111 Israel Road SE Tumwater, WA 98501	

Date of intended adoption: 12/1/2018 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: John Hilger
Address: P.O. Box 47852 Olympia WA 98504-7852
Email: <https://fortress.wa.gov/doh/policyreview>
Fax: 360-236-2321
Other:
By (date) 11/28/2018

Assistance for persons with disabilities:

Contact John Hilger
Phone: 360-236-2929
Fax: 360-236-2321
TTY: 360-833-6388 or 711
Email: john.hilger@doh.wa.gov
Other:
By (date) 11/21/2018

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rules add pediatric transitional care services (PTCS) as a new service type to the residential treatment facilities (RTF) rules in chapter 246-337 WAC consistent with the directives of SSB 5152. The proposed rules establish licensing, construction, staffing, and operational requirements for PTCS facilities by amending and adding new sections to the existing RTF rules. The proposed rules apply to existing or future residential treatment facilities that chose to offer PTCS, and future, stand-alone PTCS facilities. Any facility currently providing PTCS as a result of SSB 5152 is required to obtain a department RTF license as of January 1, 2019. There is only one such facility in Washington state.

Reasons supporting proposal: Each year, more than 12,000 children are born in Washington State who have had prenatal exposure to drugs. Some of these infants need short-term, round-the-clock health care related to this exposure. Pediatric transitional care facilities are an alternative to continued hospitalization, and support the infant and family's transition to care at home. Rules are needed to set enforceable licensing, construction, staffing and operational requirements, and to establish the regulatory structure and specialized requirements for PTCS facilities to be licensed as an RTF.

Statutory authority for adoption: RCW 71.12.670

Statute being implemented: Substitute Senate Bill 5152 (chapter 263, laws of 2017), codified in chapter 71.12 RCW

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

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

Name of proponent: (person or organization) Department of Health

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	John Hilger	111 Israel Road SE Tumwater WA 98504	360-236-2929
Implementation:	Nancy Tyson	111 Israel Road SE Tumwater WA 98504	360-236-4796
Enforcement:	Nancy Tyson	111 Israel Road SE Tumwater WA 98504	360-236-4796

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

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

Name: John Hilger
Address: PO Box 47852 Olympia WA 98504-7852
Phone: 360-236-2929
Fax: 360-236-2321
TTY: 360-833-6388 or 711
Email: john.hilger@doh.wa.gov
Other:

No: Please explain:

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of exemptions, if necessary: WAC 246-337-005 and 246-337-015, 246-337-055, 246-337-080, 246-337-095, 246-337-100, and 246-337-120 are exempt under RCW 34.05.310(4)(d); WAC 246-337-021 and WAC 246-337-030 are exempt as dictated by statute under RCW 34.05.310(4)(c).

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

What is the scope of the proposed rule package?

Compliance with the proposed requirements described in this document are not likely to cause the sole PTCS provider in Washington State to lose sales or revenue. Senate Substitute Bill (SSB) 5152 (2017) exempts PTSC facilities in existence prior to June 2017 from construction review, and this is reflected in the proposed amendments. The existing PTCS meets or exceeds the requirements in the proposed rules, and so is not expected to incur addition costs of compliance. However, the proposed amendments describe the specific requirements any future RTF providing PTCS care, or newly established, stand-alone PTCS must follow, along with the requirements for future remodeling or renovation to an existing PTCS facility. These specific activities described in rule will result in compliance costs.

Which businesses are impacted by the proposed rule package? What was their North American Industry Classification (NAICS) codes? What are their minor cost thresholds?

All new PTCS construction will be impacted by the proposed rule package. Costs are described below by category:

Construction costs: The department consulted two standards for this analysis: building valuation data collected by the International Council Code (IBC) and estimation data collected by RS Means, a common cost estimation reference manual. The IBC data RMS Means cost evaluation can be reviewed in full in the significant analysis associated with this rule package.

Comparative costs are presented below using the RS Means building construction cost data. Table A below represents construction high range costs per square foot for PTCS construction. It assumes that 2,500 square feet

and below represents an “add on” to an existing RTF and 10,000 square feet and above represents a new, “stand-alone” PTCS.

Table A

Comparative Costs of PTCS “add-on” to RTF and “stand alone” PTCS.

Square Footage	PTCS	Annual Cost
2,500 sq. ft. (high)	\$775,000	\$19,872
10,000 sq. ft. (high)	\$3,100,000	\$79,487

Source: RS Means building construction cost data

According to IRS instructions, the depreciation period for a commercial building is 39 years (as opposed to 27.5 years for a residential building). Using the RS Means instruction, the annualized construction costs for a 2,500 sq. ft. PTCS “add-on” to an existing RTF building is **\$775,000**. This figure (\$775,000) divided by 39 years = **\$19,872**.

Using the IRS instructions, the annualized construction costs for a 10,000 sq. Ft. stand along PTCS building is **\$3,100,000**. This figure (\$3,100,000) divided by 39 years = **\$79,487**.

Table B

Management of Human Resources Costs:

Additional Required Training and Assumed Training Cycle	Staff Type		Time to Complete Training	Cost of Training to New Business Every Two Years		TOTAL ANNUAL COST
	All RTF Staff	Trained Care Givers		Contractor	In-House	
Infant CPR (Red Cross, Adult and Pediatric CPR/AED certification, meets OSHA requirements). <i>Must be renewed every two years.</i>	X	X	1.5 hours*	\$93.00	N/A	\$46.50
Infant safe sleep, infant crying intervals, feeding and stimulus management, impacts of drugs on in utero development, therapeutic management, management of complex psychosocial family dynamics. <i>Assumed to be valid for two years.</i>	X	X	12 hours**	Unknown	\$424.32 (Hourly rate = \$33.36***)	\$212.16
Care of infants: Linen changing, therapeutic handling, bathing, weighing, charting, temperature taking, positioning, reading signs and signals, feeding, infection control. <i>Assumed to be valid for two years.</i>		X	6 hours***	Unknown	\$212.16 (Hourly rate = \$33.36**)	\$106.06
				TOTAL	\$636.48	\$364.74

Table C

Infection Control Costs:

Vaccination costs for each PTCS staff

Required Vaccination	Approximate Cost	Annual Cost
Chickenpox (varicella)	149.99 (10 – 20 year life span)**	149.99 ÷ 10 years = 14.99

German measles (Rubella)	99.99 (20 year life span)**	99.99 ÷ 20 years = \$5.00
Mumps*	(99.99) (usually combined with Rubella)**	(99.99)
Whooping cough (pertussis)	63.99 (Once every 10 years)** (annualized over ten years = \$6.39)	63.99 ÷ 10 = 6.39
Influenza (flu) (annual)	40.99 – 65.99 (Avg. 57.99)	57.99
Total cost of compliance	\$314.36	\$84.37
Source: https://www.walgreens.com/topic/healthcare-clinic/price-menu.jsp *Measles, mumps, Rubella (MRR) are generally combined in one vaccination ** https://www.cdc.gov/vaccines/schedules/hcp/adult.html		

Table D
Administrative, Staffing, Training, Medical Examinations, Transportation, and Equipment Costs:
Summary of one-time and annualized costs of compliance with new requirements.

Cost Category	Description	Total Average	Annual Cost of Compliance for New PTCS
Administrative	Create policies and procedures that implement proposed WAC 246-337-081, including but not limited to admissions criteria, visitation, nursing staff utilization	\$41.87/hour x 16 to create new policies = \$669.92	\$334.96 ÷ 10 = \$33.50
Staffing (Must provide 24 hour medical supervision)	LPN, trained caregivers, pediatrician, social worker	\$1,455,980.80	\$1,455,980.80
Training	Provision of infant care training for parents, legal guardians, foster parents or relatives (onsite, assumed 8 hours)	\$24,460.07	\$24,460.07
Medical Examinations	Includes initial assessment, development of initial management plan, developmental screenings, etc. within specific time frames and in specific intervals.	\$112.19 per infant, average 111 infants per year = \$12,453.09	\$12,453.09

Transportation	Provision of transportation, if needed, to and from facility meeting child passenger restraint requirements.	\$5,610.00	\$5,610.00
Equipment	Includes cardiac and respiratory monitors, warming beds, and other pediatric specific equipment necessary to provide specialized infant care.	\$13,072.65	\$1,412.58
TOTALS		\$1,512,246.53	\$1,499,950.04

NAICS code and minor cost threshold calculation:

NAICS Code (4, 5 or 6 digit)	NAICS Business Description	# of businesses in WA	Minor Cost Threshold = 1% of Average Annual Payroll
623220	Residential mental health and substance abuse facilities	133*	$(88,082 \times 1,000/133) \times (0.01) = \$6,623$

When amortized, the annual costs exceed the minor cost threshold. Additional administrative costs could be incurred to either update or establish policies and procedures. Total estimated compliance costs to establish a new, stand-alone PTCS = \$1,499,950.04 (operational, administrative, and amortized equipment costs) + \$79,487 (amortized construction costs) = **\$1,579,437.04**. Minor cost threshold (1% of payroll) = \$6,623.00. The total annual cost of compliance cost per business exceeds the minor cost threshold.

Does the rule have a disproportionate impact on small business?

There is only one existing facility in Washington State providing PTCS services. Based on the expensive nature of establishing this business, there can be disproportionate impact on small businesses (defined as those with less than 50 employees and not by their receipts/sales) to comply with the proposed requirements of these rules if they decide to start this type of business.

Did the department make an effort to reduce the impact of the rule?

The current costs associated with the proposed rules are all related to necessary health and safety concerns and presumably non-negotiable. However, the department worked to mitigate the costs and impact of the rules by reducing nurse staffing costs, mitigating medical equipment costs, and allowing the admitting pediatrician, physician's assistant or ARNP to use professional discretion to determine if the infant's medical needs are appropriate for PTCS staffing or operation level.

Did the department involve small businesses in the rule development process?

The department engaged in meetings with stakeholders and other interested parties to develop and discuss the proposed rules. Comments collected in those meetings informed rule drafting. The department released an initial draft in April 2018 and solicited comments through in person and by e-mail. Revised drafts were released, and after the final meeting, the department refined the draft that is presented as part of this rule proposal.

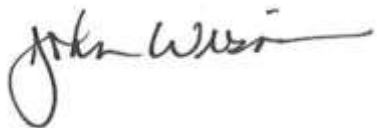
The department facilitated approximately five hours of discussion that included representatives from the existing PTCS, and potential PTCS providers.

Will businesses have to hire or fire employees because of the requirements in the rule?

The proposed rule would require a new PTCS facility caring for more than eight infants on morphine or controlled substance treatment, or more than 16 infants not on morphine/controlled substance treatment to hire at least four RNs or LPNs to provide 24-hour coverage seven days per week. The department finds that this rule may provide opportunity for those who would like to invest in this type of business, and therefore increases the possibility of new PTCS facility establishment and increased employment.

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: John Hilger
Address: PO Box 47852 Olympia, WA 98504-7852
Phone: 360-236-2929
Fax: 360-236-2321
TTY: 360-833-6388 or 711
Email: john.hilger@doh.wa.gov
Other:

Date: 10/18/2018	Signature: 
Name: John Wiesman, DrPH, MPH	
Title: Secretary of Health	

WAC 246-337-005 Definitions. The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise:

(1) "Administrator" means an individual person responsible for managing the day-to-day operations of the residential treatment facility.

(2) "Adult" means an individual eighteen years of age or older.

(3) "Authorized" means mandated or permitted, in writing, by the administrator to perform an act that is within a health care provider's lawful scope of practice, or that was lawfully delegated to the health care provider or to the unlicensed staff member.

(4) "Bathroom" means a room containing at least one bathtub or shower.

(5) "Child" or "minor" means an individual under the age of eighteen. A child or minor may include an infant as defined in subsection (17) of this section.

(6) "Communicable disease" means a disease caused by an infectious agent that can be transmitted from one person, animal, or object to another individual by direct or indirect means including transmission via an intermediate host or vector, food, water or air.

(7) "Confidential" means information that may not be disclosed except under specific conditions permitted or mandated by law or legal agreement between the parties concerned.

(8) "Construction" means:

(a) The erection of a facility;

(b) An addition, modification, alteration or change of an approved use to an existing facility; or

(c) The conversion of an existing facility or portion of a facility for use as an RTF.

(9) "Co-occurring services" means services certified by (~~DSHS-DBHR~~) the department that combine mental health services and substance use disorder services under a single RTF license.

(10) "Department" means the Washington state department of health.

(11) (~~"DSHS-DBHR" means the division of behavioral health and recovery within the Washington state department of social and health services.~~

~~(12))~~ "Facility" means a building, portion of a building, or multiple buildings under a single RTF license.

~~((13))~~ (12) "Health assessment" means a systematic physical examination of the person's body conducted by an allopathic physician, osteopathic physician, naturopathic physician, allopathic physician's assistant, osteopathic physician's assistant, advanced registered nurse practitioner, registered nurse, or licensed practical nurse who is licensed under Title 18 RCW and operating within their scope of practice.

~~((14))~~ (13) "Health care" means any care, service, or procedure provided by a health care provider to diagnose, treat, or maintain a resident's physical or mental condition, or that affects the structure or function of the human body.

~~((15))~~ (14) "Health care prescriber" or "prescriber" means an allopathic physician, osteopathic physician, naturopathic physician, allopathic physician's assistant, osteopathic physician's assistant,

or advanced registered nurse practitioner licensed under Title 18 RCW operating within their scope of practice who by law can prescribe drugs in Washington state.

~~((16))~~ (15) "Health care provider" means an individual who is licensed, registered or certified under Title 18 RCW to provide health care within a particular profession's statutorily authorized scope of practice.

~~((17))~~ (16) "Health care screen" means a systematic interview or use of a questionnaire approved by a health care prescriber to determine the health history and care needs of a resident.

(17) "Infant" means a resident one year old or less at the time of admission for pediatric transitional care services.

(18) "Licensee" means the person, corporation, association, organization, county, municipality, public hospital district, or other legal entity, including any lawful successors to whom the department issues an RTF license.

(19) "Medication" means a legend drug prescribed for a resident by an authorized health care prescriber. Medication also means nonprescription drugs, also called "over-the-counter medications," that can be purchased by the general public without a prescription.

(20) "Medication administration" means the direct application of a medication or device by ingestion, inhalation, injection, or any other means, whether self-administered by a resident, or administered by a parent or guardian for a minor, or an authorized health care provider.

(21) "Medication administration error" means a resident failing to receive the correct medication, medication at the correct time, the correct dose, or medication by the correct route.

(22) "Mental health services" means services certified by ~~((DSHS-DBHR))~~ the department under chapter ~~((388-865 or 388-877A))~~ 246-341 WAC to evaluate, stabilize, or treat one or more residents for a mental disorder.

(23) "Parent or guardian" means:

(a) A biological or adoptive parent who has legal custody of the child, including either parent if custody is shared under joint custody agreement; or

(b) An individual or agency judicially appointed as legal guardian or custodian of the child.

(24) "Pediatric transitional care services" or "PTCS" means short-term, temporary, health and comfort services for drug exposed infants according to the requirements of this chapter.

(25) "Pediatric transitional care services unit" means the distinct spaces within a facility used exclusively for the provision of pediatric transitional care services.

(26) "Resident" means an individual admitted to an RTF licensed under this chapter.

~~((25))~~ (27) "Residential treatment facility" or "RTF" means a facility in which twenty-four hour on-site care is provided for the evaluation, stabilization, or treatment of residents for substance use, mental health, ~~((or))~~ co-occurring disorders, or for drug exposed infants.

~~((26))~~ (28) "Restraint" means any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a resident to move his or her arms, legs, body or head freely; or a drug or medication when used as a restriction to manage the resident's behavior or restrict the resident's freedom of movement and is not a standard treatment or dosage for the resident's condi-

tion. Restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical or chemical restraint, accomplished with limited force and designed to:

(a) Prevent a resident from completing an act that would result in potential bodily harm to the resident or others or to damage property;

(b) Remove a disruptive resident who is unwilling to leave the area voluntarily; or

(c) Guide a resident from one location to another.

~~((27))~~ (29) "Seclusion" means the involuntary confinement of a resident alone in a room or area from which the resident is physically prevented from leaving.

~~((28))~~ (30) "Staff" means medical and administrative employees, independent contractors, trained caregivers, students, volunteers, and trainees performing duties at an RTF.

(31) "Substance use disorder services" means services certified by ~~((DSHS-DBHR))~~ the department under chapter ~~((388-877B))~~ 246-341 WAC to evaluate, stabilize, or treat one or more residents for alcoholism, drug addiction, or dependence on alcohol and one or more other psychoactive chemicals, as the context requires.

~~((29))~~ (32) "Survey" means an inspection or investigation conducted by the department to evaluate and monitor a licensee's compliance with chapter 71.12 RCW and this chapter.

~~((30))~~ (33) "Toilet room" means a room containing a water closet (toilet).

(34) "Trained caregiver" means a noncredentialed, unlicensed person who may not provide medical care to infants, working under the supervision of a registered nurse as defined in RCW 18.79.020(6).

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-015 Service types. A licensee must provide one or more of the following types of services in the RTF:

(1) Mental health services;

(2) Substance use disorder services; ~~((or))~~

(3) Co-occurring services; or

(4) Pediatric transitional care services.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-021 On-site surveys, complaint investigations, and enforcement. (1) To determine compliance with chapter 71.12 RCW and this chapter, the department may:

(a) Conduct unannounced on-site surveys after initial licensure; and

(b) Investigate complaints alleging noncompliance with chapter 71.12 RCW and this chapter.

(2) The licensee shall assist the department during on-site surveys and investigations in a cooperative manner.

(3) Notice of correction.

(a) When the department identifies deficiencies it does not determine to be major, broadly systemic, or of a recurring nature, the department will issue the administrator a notice of correction according to RCW 43.05.100.

(b) The "notice of correction" will include:

(i) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable law or rule;

(ii) A brief statement of what is required to achieve compliance;

(iii) The date by which the department requires compliance to be achieved;

(iv) Notice of the means to contact any technical assistance services provided by the department or other sources of technical assistance; and

(v) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(4) Plan of correction.

(a) At the same time the department issues a notice of correction as identified in subsection (3) of this section, the department will provide instructions on how the administrator will complete and submit a plan of correction.

(b) The "plan of correction" must be approved by the department and include:

(i) A statement that the administrator:

(A) Has or will correct each cited deficiency; and

(B) Will maintain correction of each cited deficiency.

(ii) A place for the administrator to describe the specific action(s) that must be taken to correct each cited deficiency;

(iii) A place for the administrator to indicate the individual responsible for assuring correction of each deficiency; and

(iv) A place for the administrator to indicate the time frame in which to complete the corrections.

(c) Time frames to correct each cited deficiency in the notice of correction must be approved by the department.

(d) Implementation of the corrective action must be completed within the approved time frame and is subject to verification by the department.

(e) The administrator or the administrator's designee shall:

(i) Complete, sign, date, and submit a written plan of correction to the department within ten business days of receiving a notice of correction; and

(ii) Submit to the department updated plans of correction as needed.

(5) Directed plan of correction.

(a) When the department identifies deficiencies it determines to be broadly systemic, recurring, or of a significant threat to public health and safety, it will issue a directed plan of correction.

(b) The directed plan of correction will include:

(i) Direction from the department on the specific corrective action(s) required for the licensee to correct each cited deficiency; and

(ii) The time frames in which the department requires the licensee to complete each cited deficiency.

(c) The department may reduce the time frames in the directed plan of correction to the minimum necessary. Implementation of the directed corrective action(s) must be completed within the approved time frame and is subject to verification by the department.

(6) The department may deny, suspend, modify, or revoke an RTF license under chapters 71.12, 43.70, 34.05 RCW, and 246-10 WAC, if the applicant or licensees have:

(a) Failed to correct any deficiencies within the required time frames as described in subsections (3) through (5) of this section;

(b) Failed to comply with any other provision of chapter 71.12 RCW or this chapter;

(c) Failed to meet ((~~DSHS-DBHR~~) certification standards under chapters 71.05, ((~~70-96A~~)) 71.24, and 71.34 RCW(~~(-)~~);

(d) Been denied a license to operate a health care, child care, group care or personal care facility in this state or elsewhere, had the license suspended or revoked, or been found civilly liable or criminally convicted of operating the facility without a license;

(e) Committed, aided or abetted an illegal act in connection with the operation of any RTF or the provision of health care or residential services;

(f) Abandoned, abused, neglected, assaulted, or demonstrated indifference to the welfare and well-being of a resident;

(g) Failed to take immediate corrective action in any instance of assault, abuse, neglect, or indifference to the welfare of a resident; or

(h) Retaliated against a staff member, resident, or other individual for reporting suspected abuse or other alleged improprieties(~~(-)~~).

(7) The department may summarily suspend a license pending a proceeding for revocation or other action if the department determines a deficiency is an imminent threat to a resident's health, safety, or welfare.

(8) A licensee may contest a department decision or action according to the provision of RCW 43.70.115, chapter 34.05 RCW, and chapter 246-10 WAC.

AMENDATORY SECTION (Amending WSR 05-15-157, filed 7/20/05, effective 8/20/05)

WAC 246-337-030 Retroactivity. (1) Except as provided in subsections (2) and (3) of this section, any construction on or after ((the effective date of this chapter)) August 20, 2005, must comply with this chapter.

(2) RTFs that are licensed and operating on ((the effective date of this chapter)) August 20, 2005, may continue to operate without modifications to the facility, unless specifically required under this chapter, or as deemed necessary by either the local building official, the department, other licensing regulators, the state fire marshal, for the general safety and welfare of the occupants and public.

(3) Facilities providing pediatric transitional care services in a licensed capacity before January 1, 2019, are not subject to construction review by the department for an initial department of health license according to this chapter.

WAC 246-337-040 Construction review services requirements. (1)

Prior to beginning any construction or remodeling, the applicant or licensee must submit an application and fee specified in chapter 246-314 WAC, if applicable, to the department and receive written authorization by the department to proceed.

(2) The requirements of chapter 246-337 WAC in effect at the time the application and fee are submitted to the department, and the project number as assigned by the department, apply for the duration of the construction project.

(3) ~~((Standards for design and construction. Construction))~~ All facilities seeking to be licensed and existing licensed facilities seeking to renovate, alter, add, or relocate shall comply with~~((+ (a-))~~ the state building code as adopted by the state building code council under the authority of chapter 19.27 RCW~~((+ and (b)-The))~~.

(4) In addition to subsection (3) of this section, facilities, or any portion of the facility, licensed in their capacity to provide mental health, substance use disorder, or co-occurring services must follow physical environmental requirements in this chapter for new construction.

~~((+4))~~ (5) In addition to subsection (3) of this section, facilities, or any portion of the facility, licensed in their capacity to provide pediatric transitional care services shall comply with the following physical environmental standards:

(a) The 2014 edition of the *Guidelines for Design and Construction of Hospitals and Outpatient Facilities* as developed by the Facilities Guidelines Institute and published by the American Society for Healthcare Engineering of the American Hospital Association, 155 North Wacker Drive, Chicago, IL 60606 for new construction; and

(b) The following specific construction standards:

(i) All doors accessing the pediatric transitional care services unit are locked doors in accordance with the Washington state adopted building code;

(ii) All resident sleeping rooms have windows in the hallway wall or door to promote high visibility;

(iii) Security cameras, video only, installed at all entry points into the PTCS unit, in hallways outside all resident sleeping rooms, and in all designated parent visitation areas;

(iv) Telephones installed in all resident sleeping rooms;

(v) A communication system, wired or wireless, that provides staff the means to summon on-duty staff assistance from key areas such as resident sleeping rooms, common rooms, corridors, nurse station, and administrative offices; and

(vi) Emergency power. The licensee must have an emergency generator that:

(A) Meets the definition in the NFPA 99, Health care facilities, as adopted by the state building code council; and

(B) Provides a minimum of seventy-two hours of effective facility operation.

(6) Preconstruction. The applicant or licensee must request and attend a presubmission conference with the department for projects with a construction value of two hundred fifty thousand dollars or more. The presubmission conference shall be scheduled to occur at the

end of the design development phase or the beginning of the construction documentation phase of the project.

((+5+)) (7) Construction document review. The applicant or licensee must submit accurate and complete construction documents for proposed new construction to the department for review within ten days of submission to the local authorities. The construction documents must include:

(a) A written functional program, in accordance with RCW 71.12.470, outlining the types of services provided, types of residents to be served, and how the needs of the residents will be met including a narrative description of:

- (i) Program goals;
- (ii) Staffing and health care to be provided consistent with WAC 246-337-080;
- (iii) Infection control consistent with WAC 246-337-060;
- (iv) Safety and security consistent with WAC 246-337-065;
- (v) Restraint and seclusion consistent with WAC 246-337-110;
- (vi) Laundry consistent with WAC 246-337-112;
- (vii) Food and nutrition consistent with WAC 246-337-111;
- (viii) Medication consistent with WAC 246-337-105; and
- (ix) Housekeeping.

(b) Drawings prepared, stamped, and signed by an architect or engineer licensed by the state of Washington under chapter 18.08 RCW. The services of a consulting engineer licensed by the state of Washington may be used for the various branches of the work, if appropriate;

(c) Drawings with coordinated architectural, mechanical, and electrical work drawn to scale showing complete details for construction, including:

- (i) Site plan(s) showing streets, driveways, parking, vehicle and pedestrian circulation, and location of existing and new buildings;
- (ii) Dimensioned floor plan(s) with the function of each room and fixed/required equipment designated;
- (iii) Elevations, sections, and construction details;
- (iv) Schedules of floor, wall, and ceiling finishes;
- (v) Schedules of doors and windows - Sizes and type, and door finish hardware;
- (vi) Mechanical systems - Plumbing and heating/venting/air conditioning; and
- (vii) Electrical systems, including lighting, power, and communication/notification systems((+)).

(d) Specifications that describe with specificity the workmanship and finishes;

(e) Shop drawings and related equipment specifications for:

- (i) An automatic fire sprinkler system; and
- (ii) An automatic fire alarm system.

(f) An interim life safety measures plan to ensure the health and safety of occupants during construction and renovation; and

(g) An infection control risk assessment indicating appropriate infection control measures, keeping the surrounding area free of dust and fumes, and ensuring rooms or areas are well ventilated, unoccupied, and unavailable for use until free of volatile fumes and odors.

((+6+)) (8) Resubmittals. The licensee shall respond in writing when the department requests additional or corrected construction documents.

((+7+)) (9) Construction. The licensee or applicant shall comply with the following requirements during the construction phase:

- (a) Assure conformance to the approved plans during construction;
 - (b) Submit addenda, change orders, construction change directives or any other deviation from the approved plans to the department prior to their installation; and
 - (c) Allow any necessary inspections for the verification of compliance with the construction documents, addenda, and modifications.
- ((8)) (10) Project closeout. The licensee or applicant shall not use any new or remodeled areas until:
- (a) The department has approved construction documents;
 - (b) The local jurisdictions have completed all required inspections and approvals, when applicable or given approval to occupy; and
 - (c) The licensee or applicant notifies the department when construction is completed and includes:
 - (i) A copy of the local jurisdiction's approval for occupancy;
 - (ii) The completion date;
 - (iii) The actual construction cost; and
 - (iv) Additional information as required by the department.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

- WAC 246-337-050 Management of human resources.** (1) The licensee must ensure residents receive care from qualified staff authorized and competent to carry out assigned responsibilities.
- (2) A sufficient number of staff must be present on a twenty-four hour per day basis to:
- (a) Meet the care needs of the residents served;
 - (b) Manage emergency situations;
 - (c) Provide crisis intervention;
 - (d) Implement individual service plans; and
 - (e) Carry out required monitoring activities.
- (3) At least one staff trained in basic first aid and age appropriate cardiopulmonary resuscitation (CPR) must be on-site twenty-four hours per day. Additionally, all staff providing hands-on care to infants must have a current certification in infant CPR.
- (4) Staff must be trained, authorized, and where applicable credentialed to perform assigned job responsibilities consistent with scopes of practice, resident population characteristics and the resident's individual service plan.
- (5) The licensee must document that staff receive the following training as applicable:
- (a) Initial orientation and ongoing training to address the safety and health care needs of the residents served for all staff;
 - (b) Bloodborne pathogen training inclusive of HIV/AIDS training for staff involved in direct resident care or potential for having contact with blood or body fluids;
 - (c) If restraint or seclusion is used in the facility, initial and annual training in the proper and safe use of restraint or seclusion for staff required to perform restraint or seclusion procedures inclusive of:
 - (i) Techniques to identify staff and resident behaviors, events, and environmental factors that may trigger circumstances that require the use of restraint or seclusion;
 - (ii) The use of nonphysical intervention skills;

(iii) Choosing the least restrictive intervention based on an individualized assessment of the resident's medical or behavioral status or condition;

(iv) The safe application and use of all types of restraint or seclusion used in the RTF, including training in how to recognize and respond to signs of physical and psychological distress;

(v) Clinical identification of specific behavioral changes that indicate that restraint or seclusion is no longer necessary; and

(vi) Monitoring the physical and psychological well-being of the resident who is restrained or secluded including, but not limited to, respiratory and circulatory status, skin integrity, and vital signs; and

(d) Current basic first aid and age appropriate cardiopulmonary resuscitation for staff required to provide first aid or CPR.

(6) In addition to the requirements in subsection (5) of this section, an RTF in its licensed capacity to provide pediatric transitional care services must document that staff have received the following training:

(a) For all staff:

(i) Infant safe sleep;

(ii) Period of infant crying which is at its peak, unexpected, resists soothing, done with a pain-like face, is long lasting, and during the evening (commonly referred to as P.U.R.P.L.E. crying);

(iii) Reading signs and signals;

(iv) Managing feeding difficulties;

(v) Managing stimulus;

(vi) Impact of drugs in utero on developmental milestones;

(vii) Recognizing symptoms in infants exposed to specific drugs;

(viii) Therapeutic management techniques;

(ix) Managing your stress; and

(x) Managing complex psychosocial family dynamics.

(b) In addition to (a) of this subsection, trained caregivers must also receive training on the care of infants:

(i) Linen changing;

(ii) Therapeutic handling;

(iii) Bathing;

(iv) Weighing and tracking weight;

(v) Proper charting;

(vi) Techniques for taking temperature;

(vii) Positioning;

(viii) Reading signs and signals;

(ix) Feeding techniques; and

(x) Infection control.

(7) The licensee shall have written documentation for each staff member including:

(a) Employment;

(b) Hire date;

(c) Verification of education and experience;

(d) Current signed job description;

(e) Criminal history disclosure statement and results of a background check, according to WAC 246-337-055, completed within the previous three months of hire date and annually thereafter;

(f) Current license, certification, or registration, if applicable;

(g) Current basic first aid and age appropriate CPR, if applicable;

- (h) Current Washington state food and beverage service worker permit, if applicable;
- (i) Current driver's license, if applicable;
- (j) Initial and ongoing tuberculosis screening according to the facility risk assessment and tuberculosis written plan according to WAC 246-337-060; ~~((and))~~
- (k) All vaccination documentation required by WAC 246-337-060;
and
- (l) Annual signed performance evaluation(s).

~~((7) For the purposes of this section staff includes: Independent contractors, consultants, students, volunteers and trainees providing direct care.))~~

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-055 Personnel criminal history, disclosure, and background inquiries. The licensee shall screen all prospective staff(~~(, independent contractors, consultants, students, volunteers and trainees)~~) with unsupervised access to residents for criminal history disclosure and background requirements using a Washington state patrol background check consistent with RCW 43.43.830 through 43.43.842. All background check reports and signed disclosure statements must be made available to the department upon request.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-060 Infection control. The licensee must implement and maintain an infection control program that prevents the transmission of infections and communicable disease among residents, staff, and visitors by:

- (1) Developing written policies and procedures for:
 - (a) Hand hygiene;
 - (b) Cleaning and disinfection;
 - (c) Standard precautions to prevent transmission of bloodborne pathogens in accordance with chapter 296-823 WAC;
 - (d) Resident hygiene;
 - (e) Preventing transmission of tuberculosis consistent with the department's *Washington State Tuberculosis Services Manual*, DOH 343-071 June 2012, and chapter 246-170 WAC;
 - (f) Management of staff with a communicable disease in an infectious stage;
 - (g) Environmental management; and
 - (h) Housekeeping functions.
- (2) Complying with chapters 246-100 and 246-101 WAC.
- (3) Providing all necessary supplies and equipment to implement the infection control program.

(4) (a) An RTF licensed to provide pediatric transitional care services must require all staff to provide proof of full vaccination against, or show proof of acquired immunity for, the following:

- (i) Chickenpox (Varicella);
- (ii) German measles (Rubella);
- (iii) Measles (Rubeola);
- (iv) Mumps;
- (v) Whooping cough (pertussis); and
- (vi) Influenza (flu).

Influenza vaccination is annual and must be received within the first month it becomes publicly available.

(b) The licensee may exempt a person working at their facility from one or more of the vaccinations required by this subsection if acceptable medical documentation of a medical contraindication, signed by a health care provider, is provided to the licensee.

(c) For the purposes of this subsection:

(i) Full vaccination means vaccinations given at the ages and intervals according to the most current national Center for Disease Control and Prevention immunization guidelines in "Advisory Committee on Immunization Practices (ACIP) Recommended Immunization Schedule for Adults Aged 19 Years or Older—United States, 2018"; as published in the "Morbidity and Mortality Weekly Report (MMWR) 2018; 67(5):158-160."

(ii) Acquired immunity means a medically documented positive titer.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-065 Safety and security. The licensee must protect resident safety and security by developing written policies and procedures that are consistent with the requirements of this chapter and address:

- (1) Management of disorderly residents, visitors, or staff.
- (2) The safety of residents during transportation, including:
 - (a) Disorderly residents;
 - (b) Minimum qualifications for transport staff; ~~((and))~~
 - (c) Any additional equipment in transport vehicles to ensure safety such as car seats for infants and children, and first-aid kits; and
 - (d) Transportation that is safe, reliable, and in conformance with state and federal safety laws.
- (3) Smoking, vaping, and tobacco use by residents, visitors, and staff.
- (4) Security, including:
 - (a) Controlling all entrances and exits and accounting for access to and egress from the RTF; and
 - (b) Conducting resident searches.
- (5) Reporting to the department and other appropriate agencies, by the end of the next business day of the incident occurring, serious or undesirable outcomes that occur in the facility including:
 - (a) Allegations of abuse;
 - (b) Death;
 - (c) Suicide;
 - (d) Injuries resulting in an inpatient hospital stay; and

(e) Disruption of services through internal or external emergency or disaster.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-080 Resident care services. Nothing in this section applies to an RTF in its licensed capacity to provide pediatric transitional care services according to this chapter.

(1) The licensee must establish and implement policies and procedures that:

(a) Describe how the licensee meets the residents' health care needs by satisfying the requirements of this section; and

(b) Are reviewed and approved by a health care prescriber at least biennially.

(2) The licensee must:

(a) Limit admission, transfer, discharge, and referral processes to residents for whom the RTF is qualified by staff, services, equipment, building design and occupancy to give safe care;

(b) Conduct or accept a current health care screening of each resident upon admission including a tuberculosis risk assessment and symptom screening;

(c) Refer residents for health care provided outside of the RTF as needed such as, but not limited to, laboratory, dental, ambulatory care or specialty services as needed;

(d) Assist residents in following all prescribed treatments, modified diets, activities or activity limitations;

(e) Assist residents to keep health care appointments;

(f) Provide access to a health assessment by a health care prescriber any time a resident exhibits signs or symptoms of an injury, illness or abnormality for which a medical diagnosis and treatment are indicated;

(g) Provide access to tuberculosis testing if the resident is high-risk or symptomatic of tuberculosis;

(h) Address serious illness, medical emergencies, or threat to life, to include:

(i) Criteria for determining the degree of medical stability of residents;

(ii) Observing residents for signs and symptoms of illness or trauma;

(iii) Reporting abnormal signs and symptoms according to an established protocol;

(iv) Criteria requiring a resident's immediate transfer to a hospital;

(v) How staff transmits the resident's medical and related data in the event of a transfer;

(vi) How to notify the parent or guardian, personal representative or next of kin in the event of an emergency, threat to life, serious change in the resident's condition, transfer of a resident to another facility, or death; and

(vii) When to consult with internal or external resource agencies or entities such as poison control, fire department or police.

(i) Provide access to emergency and prenatal care for pregnant residents, and postnatal care services for residents and infants; and

(j) Assure provisions of each resident's personal care items and durable medical equipment including storing and labeling each resident's personal care items separately, preventing contamination, and preventing access by other residents.

(3)(a) RTFs performing the following duties must meet the staffing requirements in (b) of this subsection:

(i) Have a health care prescriber initiate or adjust medication that is administered by staff according to the resident's individual service plan;

(ii) Otherwise administer medications to the resident; or

(iii) Use restraint or seclusion.

(b) RTFs performing any duties described in (a) of this subsection must meet the following staffing requirements:

(i) A registered nurse, licensed practical nurse, or prescriber must be available on-site during medication administration or while restraint or seclusion is being used, and otherwise available by phone twenty-four hours per day, seven days per week; and

(ii) A prescriber or registered nurse who is responsible for the supervision of resident care and nursing services must be available on-site at least four hours per calendar week.

(4) RTFs which do not perform any duties described in subsection (3)(a) of this section but have a health care prescriber initiate or adjust medication for residents to self-administer according to the resident's individual service plan must have a registered nurse or licensed practical nurse available at least by phone twenty-four hours per day, seven days per week.

(5) RTFs which meet the conditions in subsection (3) or (4) of this section must:

(a) Perform a health assessment for each resident. A prescriber or licensed nurse operating within their scope of practice shall conduct and complete the assessment following the resident's admission to the RTF unless a health assessment was performed within the past three months and is available to the RTF upon admission; and

(b) Develop and implement the policies and procedures explaining how nursing staff will be ((utilized)) used including:

(i) Scheduling of hours on-site and availability by phone;

(ii) Supervision, assessment, and training of other staff;

(iii) Delegation to other staff;

(iv) Medication management;

(v) Treatment planning;

(vi) Health screenings;

(vii) Health assessments; and

(viii) If applicable, restraint or seclusion.

NEW SECTION

WAC 246-337-081 Residential services—Pediatric transitional care. This section only applies to an RTF in its licensed capacity to provide pediatric transitional care services according to this chapter.

(1) The licensee must establish and implement policies and procedures that:

- (a) Describe how the licensee meets the infants' health care needs by satisfying the requirements of this section; and
- (b) Are reviewed and approved by a pediatrician, a pediatric physician's assistant, or pediatric ARNP at least biennially.
- (2) The licensee may only provide pediatric transitional care services to infants who:
- (a) Are less than one year of age;
- (b) Have been exposed to drugs before birth;
- (c) Require twenty-four-hour continuous residential care and skilled nursing services as a result of drug exposure; and
- (d) Are medically assessed by a pediatrician, physician's assistant, or pediatric ARNP and referred to the RTF by the department of children, youth, and families regional hospitals or private parties.
- (3) The licensee may only admit drug exposed infants that primarily require withdrawal management services and whose condition has been determined by a pediatrician, physician's assistant, or pediatric ARNP to be otherwise medically stable and predictable.
- Admissions must contain a complete discharge summary from the sending facility.
- (4) The licensee shall not admit complex medical conditions requiring specialized care, monitoring, and equipment including, but not limited to, respiratory compromise requiring assisted ventilation or continuous oxygen, conditions requiring a peripherally inserted central catheter line, or conditions requiring nasogastric tubes.
- (5) The staffing and staffing ratios in this subsection apply at all times. The licensee shall provide twenty-four-hour medical supervision to infants according to the following minimum staffing requirements:
- (a) One registered nurse shall be present and on duty at the facility at all times;
- (b) (i) One registered nurse or licensed practical nurse shall be present and on duty for every eight infants requiring morphine or other controlled substances for treatment of condition;
- (ii) One registered nurse or licensed practical nurse shall be present and on duty for every sixteen infants provided that the staffing ratio of subsection (3) of this section is not exceeded.
- (c) One trained caregiver to four infants; and
- (d) A pediatrician, physician's assistant, or pediatric ARNP responsible for the supervision of infant medical care and nursing services must be available by phone twenty-four hours a day for consultation and on-site for medical examinations.
- (6) The licensee may provide services for an infant for up to forty-five days. Pediatric transitional care services may be extended beyond forty-five days if the pediatrician, physician's assistant, or pediatric ARNP on staff determines it to be medically necessary. The assessment and determination must be conducted and entered into the infant's record no less than two days before the infant's forty-fifth day at the RTF and must include the medical reasons for the extended stay.
- (7) The licensee shall provide trainings to parents or legal guardians, foster parents, and relatives on:
- (a) Reading your infant's signs and signals;
- (b) Managing feeding difficulties;
- (c) Managing stimulus in a family environment;
- (d) Impact of drugs in utero on developmental milestones;
- (e) Managing your stress and that of your family; and

(f) Therapeutic benefits of touch, sound and light in modulating infant behavior.

(8) The licensee shall provide for medical examinations and consultations by a pediatrician, physician's assistant, or pediatric ARNP for each infant with the frequency and regularity recommended by the American Academy of Pediatrics and according to the time frames in this subsection.

Medical assessments, examinations, screenings, and other services relevant to an infant's individual service plan shall include:

(a) An initial health assessment of the infant conducted and completed by a registered nurse upon the infant's arrival;

(b) An initial medical examination of the infant conducted and completed by a pediatrician, physician's assistant or pediatric ARNP within twenty-four hours, if on morphine, otherwise forty-eight hours of the infant's arrival unless a pediatrician, physician's assistant or pediatric ARNP orders a shorter time frame;

(c) Medical examinations of infants conducted every two weeks by a pediatrician, physician's assistant, or pediatric ARNP unless a pediatrician, physician's assistant or pediatric ARNP orders a shorter time frame;

(d) A plan of management for neonatal abstinence syndrome (NAS). Licensees must use a NAS scoring tool approved by the department. NAS scoring must be conducted and completed based on the infant's condition and treatment by a trained licensed practical nurse, registered nurse, pediatrician, physician's assistant, or pediatric ARNP on staff at the RTF. A licensed practical nurse can gather NAS scoring data but cannot analyze the data to inform medication dosage and other treatment decisions;

(e) Infant developmental screening tests, approved by the department, within thirty days after the infant's arrival at the RTF; and

(f) If written consent is given by the parent or guardian, administration of all routinely recommended vaccinations to the infant at the ages and intervals according to the most current national immunization guidelines in the *"Advisory Committee on Immunization Practices (ACIP) Recommended Immunization Schedule for Children and Adolescents Aged 18 Years or Younger—United States, 2018"*; as published in the *"Morbidity and Mortality Weekly Report (MMWR) 2018; 67(5):156-157."*

(9) The licensee must:

(a) Provide transportation of the infant to and from the RTF, if needed. Transportation requirements shall include the following:

(i) All vehicles used for transportation must be in good working condition and insured by the licensee;

(ii) Drivers must be at least twenty-one years of age, have proof of a valid driver's license, and be employed by the RTF;

(iii) Drivers must be accompanied by a trained caregiver or licensed health care provider employed by the RTF to attend to the infant during transport; and

(iv) Child passenger restraint requirements must be in compliance with RCW 46.61.687.

(b) Limit admission, transfer, discharge, and referral processes to infants for whom the RTF is qualified by staff, services, equipment, building design and occupancy to provide safe care;

(c) Refer infants for health care provided outside of the RTF as needed such as, but not limited to, laboratory, dental, ambulatory care, or specialty services;

- (d) Follow all prescribed treatments, modified diets, activities, or activity limitations;
- (e) Keep health care appointments;
- (f) Provide a health assessment any time an infant exhibits signs or symptoms of an injury, illness or abnormality for which a medical diagnosis and treatment are indicated;
- (g) Address serious illness, medical emergencies, or threat to life, to include:
 - (i) Criteria for determining the degree of medical stability of infants;
 - (ii) Observing infants for signs and symptoms of illness or trauma;
 - (iii) Reporting abnormal signs and symptoms according to an established protocol;
 - (iv) Criteria requiring an infant's immediate transfer to a hospital;
 - (v) How staff transmits the infant's medical and related data in the event of a transfer;
 - (vi) How to notify the parent or guardian, personal representative, or next of kin in the event of an emergency, threat to life, serious change in the infant's condition, transfer of an infant to another facility, or death; and
 - (vii) When to consult with internal or external resource agencies or entities such as poison control, fire department, or police.
- (h) Assure provisions of each infant's personal care items and durable medical equipment including storing and labeling each resident's personal care items separately, preventing contamination, and preventing access by other residents;
 - (i) Develop and implement the policies and procedures explaining how nursing staff will be used including:
 - (i) Scheduling of hours on-site and availability by phone;
 - (ii) Supervision, assessment, and training of other staff;
 - (iii) Delegation to other staff;
 - (iv) Medication management;
 - (v) Treatment planning;
 - (vi) Health screenings; and
 - (vii) Health assessments.
- (10) In satisfying the requirements of this chapter, the licensee must also collaborate with the department of child, youth, and families regarding individual safety plans and to meet family and medical needs as contractually required.
- (11) The licensee shall have equipment to support infants receiving pediatric transitional care services in adequate supply to meet the medical needs of the population:
 - (a) Cardiac respiratory monitors for each infant receiving morphine or as medically indicated;
 - (b) Pediatric pulse oximeter in each infant room;
 - (c) Plumbed or portable oxygen tanks and suction devices in an adequate supply to meet infant needs;
 - (d) Digital thermometers designed for pediatric use in each infant room;
 - (e) Scales in each infant room used for weighing infants;
 - (f) Warming beds in adequate supply to meet infant needs;
 - (g) Refrigerator with thermometer for storing infant formula;
 - (h) Refrigerator with thermometer, approved for storing medications and vaccinations consistent with *Centers for Disease Control and Prevention Vaccine Storage and Handling Guidelines*;

- (i) Infant automated external defibrillator; and
- (j) Infant first-aid kit.

(12) The licensee must develop and implement policies and procedures that ensure unauthorized persons do not access the pediatric transitional care services unit.

NEW SECTION

WAC 246-337-082 Pediatric transitional care services—Parent-infant visitation. This section only applies to an RTF in its licensed capacity to provide pediatric transitional care services according to this chapter.

(1) The licensee, in collaboration with the infant's family, and the department of child, youth, and families, if applicable, shall identify persons who are authorized to visit the infant or call and receive verbal updates on the infant's condition.

(2) The licensee shall make all reasonable efforts to provide an initial visit between parents and infants at the facility within seventy-two hours of admission to the RTF, unless directed otherwise by a court order.

(3) At the first initial visit, the licensee shall develop a written visitation plan in collaboration with the infant's family and the department of child, youth, and families, if applicable.

(4) The licensee shall develop and implement policies and procedures regarding how to address safety concerns that are identified with persons visiting or wanting to visit an infant receiving pediatric transitional care services.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-095 Resident health care records. The licensee must ensure the RTF meets the following requirements:

(1) Develop and implement procedures for maintaining current health care records as required by chapter 70.02 RCW and other applicable laws.

(2) Health care records may be integrated into a resident's individual service plan so long as the requirements of this section are met.

(3) Make health care records accessible for review by appropriate direct care staff, the resident, the parent or guardian, and the department in accordance with applicable law.

(4) Document health care information in a standardized manner.

(5) Record health care information by the health care provider or direct care staff with resident contact to include typed or legible handwriting in ink, verified by signature or unique identifier, title, date and time.

(6) Maintain the confidentiality and security of health care records in accordance with applicable law.

(7) Maintain health care records in chronological order in their entirety or chronologically by sections.

(8) Keep health care records current with all documents filed according to the licensee's written timeline policy.

(9) Include the following, at a minimum, in each health care record:

(a) Resident's name, date of birth, sex, marital status, date of admission, voluntary or other commitment, name of health care prescriber, diagnosis, date of discharge, previous address and phone number, if any;

(b) Resident's receipt of notification of resident's rights;

(c) Resident's consent for health care provided by the RTF, unless the resident is admitted under an involuntary court order;

(d) A copy of any authorizations, advance directives, powers of attorney, letters of guardianship, or other similar documentation;

(e) Original reports, where available or, if not available, durable, legible copies of original reports on all tests, procedures, and examinations performed on the resident;

(f) Individual service plan according to WAC 246-337-100 or 246-337-103, as applicable;

(g) Individuals whom the resident consents for the RTF to freely communicate with regarding the health care of the resident including the individual's name, relationship to the resident, and address;

(h) Dated and signed notes describing all health care provided for each contact with the resident pertinent to the resident's individual service plan including:

(i) Physical and psychosocial history;

(ii) Health screening;

(iii) Health care service and treatment provided, including resident's response to treatment and any adverse reactions and resolution of health care issues and when applicable;

(iv) Medication administration, and medical staff notification of medication administration errors, adverse effects, or side effects;

(v) Use of restraint or seclusion consistent with WAC 246-337-110;

(vi) Staff actions or response to health care needs;

(vii) Instructions or teaching provided to the resident in connection with his or her health care; and

(viii) Discharge summary, including:

(A) Summary of the resident's physical and mental history, as applicable;

(B) Condition upon discharge;

(C) List of current medications;

(D) Recommendations for services, follow-up or continuing care; and

(E) Date and time of discharge.

(10) Retain the health care records at least six years beyond the resident's discharge or death date, whichever occurs sooner, and at least six years beyond the age of eighteen.

(11) Destroy the health care records in accordance with applicable law and in a manner that preserves confidentiality.

WAC 246-337-100 Resident's individual service plan. This section does not apply to an RTF in its licensed capacity to provide pediatric transitional care services according to this chapter.

- (1) The licensee must develop and implement an individual service plan for each resident based on the resident's:
 - (a) Initial health on admission; and
 - (b) Health assessment(s).
- (2) Individual service plans must:
 - (a) Be prepared by one or more staff involved in the resident's care with participation by the resident and by either his or her personal representative or parent or guardian when minors are involved;
 - (b) Address the needs of a mother and baby during pregnancy and after delivery, if applicable;
 - (c) Include work assignments given to a resident as part of their individual service plan, if applicable;
 - (d) Be updated as additional needs are identified during treatment; and
 - (e) Include a discharge health care plan.

NEW SECTION

WAC 246-337-103 Individual service plan—Pediatric transitional care services. (1) This section only applies to an RTF in its licensed capacity to provide pediatric transitional care services according to this chapter.

- (2) The licensee must develop, implement, and update at least weekly an individual service plan for each infant receiving pediatric transitional care services based on the infant's:
 - (a) Initial health on admission; and
 - (b) Health assessment(s) described in WAC 246-337-081.
- (3) Each individual service plan must:
 - (a) Establish a plan of management for neonatal abstinence syndrome prepared by a health care provider who is:
 - (i) Involved with the infant's care; and
 - (ii) Working within their scope of practice.
 - (b) Be prepared in accordance with the infant's standing orders;
 - (c) Include short-term goals;
 - (d) Establish timelines for initial and ongoing visitation between the infant and parents, guardians, or identified family resources according to WAC 246-337-082;
 - (e) Include a discharge plan that addresses, at minimum, the following:
 - (i) Medical release from a pediatrician, physician's assistant, or pediatric ARNP indicating that the infant is medically stable and appropriate for discharge;
 - (ii) Verification of a receiving physician, pediatrician, physician's assistant, or ARNP who will assume infant care and receive relevant health care records;

- (iii) Verification from a registered nurse that the infant has achieved weight and feeding milestones appropriate for discharge;
- (iv) Written after care plan for the infant, developed in collaboration with the parents, which includes specific tasks for parents. Parents must sign the after care plan prior to infant discharge; and
- (v) Assessment that the home environment and family dynamics are appropriate to receive and care for the infant.
- (f) Include an aftercare plan that addresses, at minimum, the following:
 - (i) Weekly phone calls to the family up to six months after discharge to check on the infant's condition and offer consultation and community resource referrals as needed; and
 - (ii) Provide the infant's family appropriate staff contacts in case family needs consultation.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-110 Use of restraint and seclusion. (1) This section only applies to an RTF that uses restraint or seclusion. This section does not apply to an RTF in its licensed capacity to provide pediatric transitional care services according to this chapter, nor are any of the practices described in this section permitted when providing services to infants. The licensee shall have policies and procedures addressing the application and use of restraint or seclusion consistent with this chapter.

(2) The following facilities must have a minimum of one seclusion room for seclusion or temporary holding of residents awaiting transfer:

(a) Any RTF certified under chapter 388-865 WAC as an evaluation and treatment facility, competency restoration facility or involuntary crisis triage facility; or

(b) Any RTF certified under chapter 388-877B WAC as a detoxification facility providing secure detoxification services as defined in RCW 70.96B.010.

(3)(a) At admission, the incoming resident must be informed and provided a copy of the RTF's policy regarding the use of restraint or seclusion. An acknowledgment that the information and policy has been received must be obtained in writing from the resident; or

(b) In the case of a minor, the resident's parent(s) or guardian(s) must be informed and provided a copy of the RTF policy and acknowledgment in writing that the information has been received.

(4) Restraint or seclusion must be safe, based on:

(a) Assessment of behavior;

(b) Chronological and developmental age;

(c) Size;

(d) Gender;

(e) Physical, medical, and psychiatric condition; and

(f) Personal history.

(5) Restraint or seclusion must only be used in emergency situations to ensure the physical safety of the individual resident or other residents or staff of the RTF, and when less restrictive measures have been found to be ineffective to protect the resident or others from harm.

(6) A prescriber must authorize use of the restraint or seclusion.

(7) If the order for restraint or seclusion is verbal, the verbal order must be received by a registered nurse or licensed practical nurse.

(8) "Whenever needed" or "as needed" orders for use of restraint or seclusion are prohibited.

(9) In emergency situations in which an order cannot be obtained prior to the application of restraint or seclusion, the order must be obtained either during the emergency application of the restraint or seclusion, or immediately after the restraint or seclusion has been applied. Policies and procedures must identify who can initiate the emergency application of restraint or seclusion prior to obtaining an order from a health care prescriber.

(10) Restraint and seclusion cannot be used simultaneously with persons under twenty-one years of age.

(11) Staff shall continuously observe and monitor residents in restraint or seclusion using:

(a) Face-to-face observation and monitoring; or

(b) Both direct sight video and two-way audio communications.

(12) The health care prescriber must:

(a) Limit each order of restraint or seclusion as follows:

(i) Adults: Four hours;

(ii) Children and adolescents at least nine years old but less than eighteen years old: Two hours; and

(iii) Children under nine years of age: One hour ~~(+)~~.

(b) Be available to staff for consultation, at least by phone, throughout the period of emergency safety intervention;

(c) Examine the resident before the restraint or seclusion exceeds more than twenty-four hours; and

(d) Only renew the original order in accordance with the limits in (a) of this subsection for up to a total of twenty-four hours. For each subsequent twenty-four hour period of restraint or seclusion, repeat the examination.

(13) A health care prescriber or registered nurse must, within one hour of initiation of restraint or seclusion, conduct a face-to-face assessment of the resident including the residents' physical and psychological status, behavior, appropriateness of intervention, and any complications resulting from the intervention of the resident and consult the ordering health care prescriber. If restraint or seclusion is discontinued before the face-to-face assessment is performed, the face-to-face assessment must still be performed.

(14) The following documentation must be included in the residents' individual service plan when restraint or seclusion is used:

(a) The original and any subsequent order for the restraint or seclusion including name of the health care prescriber;

(b) The date and time the order was obtained;

(c) The specific intervention ordered including length of time and behavior that would terminate the intervention;

(d) Time the restraint or seclusion began and ended; and

(e) Time and results of the one hour face-to-face assessment.

(15) During the period a resident is placed in restraint or seclusion, appropriately trained staff must assess the client and document in the individual service plan at a minimum of every fifteen minutes:

(a) Resident's behavior and response to the intervention used including the rationale for continued use of the intervention;

- (b) Food/nutrition offered;
- (c) Toileting; and
- (d) Physical condition of the resident.

(16) Additional documentation in the individual service plan must include:

(a) Alternative methods attempted or the rationale for not using alternative methods;

(b) Resident behavior prior to initiation of the restraint or seclusion;

(c) Any injuries sustained during the restraint or seclusion;

(d) Post intervention debriefing with the resident to include the names of staff who were present for the debriefing, and any changes to the resident's individual service plan that result from the debriefing; and

(e) In the case of a minor, notification of the parent or guardian including the date and time of notification, and the name of the staff person providing the notification.

(17) Within twenty-four hours after the initiation of the restraint or seclusion, staff and the resident shall have a face-to-face discussion. This discussion must, to the extent possible, include all staff involved in the intervention except when the presence of a particular staff person may jeopardize the well-being of the resident. Other staff and the resident's parent(s) or guardian(s) may participate in the discussion when it is deemed appropriate by the RTF. Discussions must be conducted in a language that is understood by the resident and by the resident's parent(s) or legal guardian(s). The discussion must provide both the resident and the staff the opportunity to discuss the circumstances resulting in the use of restraint or seclusion and strategies to be used by the staff, the resident, or others that could prevent the future use of restraint or seclusion.

(18) Restraint or seclusion must be provided in a safe environment. Every licensee must:

(a) Perform a risk assessment that identifies risks in the physical environment to residents, staff and the public when any level of restraint or seclusion is carried out;

(b) Identify location(s) in the RTF where restraint or seclusion is performed;

(c) Ensure that risks in the physical environment are mitigated as appropriate to the type of restraint or seclusion used and the planned population; and

(d) Ensure that restraint or seclusion rooms are constructed as required in WAC 246-337-127. Previously reviewed and approved seclusion rooms are permitted to comply with the requirements of the rule under which they were constructed.

(19) A seclusion room may be used for multiple purposes but must be equipped to allow immediate use for seclusion purposes.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-113 Resident sleeping room accommodations. In resident rooms used for sleeping, the licensee shall provide furniture appropriate for the age and physical condition of each resident, including:

(1) A bed at least thirty-six or more inches wide for adults and appropriate size for children, spaced at least thirty-six inches apart.

(2) No more than two infants per room using two single level non-stacking cribs or bassinets for licensees providing pediatric transitional care services.

(3) Equipping each bed with:

(a) A mattress that is clean, in good repair, and fits the frame;

(b) One or more pillows that are clean, and in good repair for each resident over two and one-half years of age;

(c) Bedding that includes a tight-fitting sheet or cover for the sleeping surface, and a clean blanket or suitable cover; and

(d) Bedding that is in good repair, changed weekly or more often as necessary to maintain cleanliness.

~~((3))~~ (4) A single level nonstacking crib, infant bed, bassinet or playpen for children twenty-four months of age and younger meeting chapter 70.111 RCW, and including:

(a) Sleep equipment having secure latching devices; and

(b) A mattress that is:

(i) Snug-fitting to prevent the infant from becoming entrapped between the mattress and crib side rails;

(ii) Waterproof and easily sanitized; and

(iii) Free of crib bumpers, stuffed toys or pillows.

~~((4))~~ (5) A youth bed or regular bed for children twenty-five months of age and older.

~~((5))~~ (6) If bunk beds are used, prohibit children six years of age or less from using the upper bunk.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-120 Facility and environment requirements. (1) The licensee must maintain the facility, exterior grounds, and component parts such as fences, equipment, outbuildings, and landscape items in a manner that is safe, free of hazards, clean, and in good repair.

(2) Each facility must be located on a site which is accessible by emergency vehicles on at least one street, road or driveway usable under all weather conditions and free of major potholes or obstructions.

(3) ~~((Policies-[Policies]))~~ Policies and procedures must be developed and implemented for routine preventative maintenance, including:

(a) Heating ventilation and air conditioning, plumbing and electrical equipment;

(b) Certification and calibration of biomedical and therapeutic equipment; and

(c) Documentation of all maintenance.

(4) Stairways must be equipped with more than one riser and ramps with slopes greater than one in twenty with handrails on both sides. Ends of handrails must be designed in a manner that eliminates a hooking hazard.

(5) Excluding child care, school facilities serving residents on the same grounds as the RTF must meet all requirements for health and safety and comply with chapter 246-366 WAC.

(6) Access and egress control devices must be ((utilized)) used to support the policies of the RTF.