



# RULE-MAKING ORDER

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

**Agency:** Department of Social and Health Services, Behavioral Health and Service Integration Administration

**Emergency Rule Only**

**Effective date of rule:**

**Emergency Rules**

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

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

- Yes
  - No
- If Yes, explain:

**Purpose:** The department is amending WAC 388-865-0526 as a result of the Washington Supreme Court decision in *In re the Detention of D.W., et.al.*, No. 90110-4. This section contains the department's rules for single bed certification which allows for the inpatient treatment of adults and children in facilities that are not certified as inpatient evaluation and treatment facilities. The amendment: (1) allows residential treatment facilities, psychiatric hospitals, hospitals with a psychiatric unit, and hospitals that can provide psychiatric services to be recognized for single bed certification; (2) requires that any facility which is the site of a proposed single bed certification confirm that it is willing to provide treatment services; and (3) clarifies that the regional support networks retain responsibility for ensuring that the rights of patients are protected while in single bed certifications.

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

Repealed:  
 Amended: WAC 388-865-0526  
 Suspended:

**Statutory authority for adoption: RCW 71.05.560, 71.24.035, and 71.34.380**

**Other authority : NA**

**EMERGENCY RULE**

Under RCW 34.05.350 the agency for good cause finds:

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

Reasons for this finding: The Washington Supreme Court agreed to stay its decision until December 26, 2014, upon assurances from the department that more inpatient bed capacity would be found. The emergency rule allows for certain appropriate consumers to be certified to facilities that they previously would not have been able to, thus creating new bed opportunities and preventing the inappropriate release of consumers who need involuntary mental health treatment. This emergency rule supersedes the emergency rule filed as WSR 14-17-011 on August 07, 2014. The department is in the process of filing a CR-101 for the permanent rule.

**Date adopted:**  
September 18, 2014

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**NAME (TYPE OR PRINT)**  
Katherine Vasquez

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**SIGNATURE**

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**TITLE**  
DSHS Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: September 18, 2014**  
**TIME: 2:14 PM**

**WSR 14-20-007**

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

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

**The number of sections adopted in order to comply with:**

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

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

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

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

New	_____	Amended	<u>01</u>	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	<u>01</u>	Repealed	_____

**WAC 388-865-0526 Single bed certification.** At the discretion of the ~~((mental health division))~~ department, an exception may be granted to allow treatment to an adult on a seventy-two hour detention or fourteen-day commitment in a facility that is not certified under WAC 388-865-0500; or for a maximum of thirty days to allow a community facility to provide treatment to an adult on a ninety- or one hundred eighty-day inpatient involuntary commitment order. For involuntarily detained or committed children, the exception may be granted to allow treatment in a facility not certified under WAC 388-865-0500 until the child's discharge from that setting to the community; or until they transfer to a bed in a children's long-term inpatient program (CLIP).

(1) The regional support network or its designee must submit a written request for a single bed certification to the ~~((mental health division prior to the commencement of the order))~~ department. In the case of a child, the facility must submit the written request ~~((directly))~~ to the ~~((mental health division))~~ department. The request must be submitted and approved prior to the commencement of the detention. If the ~~((DSHS secretary))~~ department has assumed the duties assigned to a nonparticipating regional support network, ~~((a single bed certification may be requested by a mental health division designee contracted to provide inpatient authorization or designated crisis response services))~~ an entity designated by the department will perform the functions described in this section.

(2) The facility receiving the single bed certification must meet all requirements of this section unless specifically waived by the ~~((mental health division))~~ department.

(3) A single bed certification may be issued when the following requirements are met in each instance where such certification is sought for an individual:

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

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

~~((a))~~ (i) The consumer requires services that are not available at a facility certified under this chapter or a state psychiatric hospital; ~~((or))~~

~~((b))~~ (ii) The consumer is expected to be ready for discharge from inpatient services within the next thirty days and being at a community facility would facilitate continuity of care, consistent with the consumer's individual treatment needs ~~((-))~~ ;

(iii) The consumer can receive appropriate evaluation and treatment in a residential treatment facility, as defined under chapter 246-337 WAC, and the certification will be only to that facility; or

(iv) The consumer can receive appropriate evaluation and treatment in a hospital with a psychiatric unit, a hospital that can provide psychiatric services, or a psychiatric hospital, and the certification will be only to that facility.

(4) The ~~((mental health division director or the director's designee))~~ department makes the decision and gives written notification

to the requesting entity in the form of a single bed certification. The single bed certification must not contradict a specific provision of federal law or state statute.

(5) The (~~mental health division~~) department may make site visits at any time to verify that the terms of the single bed certification are being met. Failure to comply with any term of this exception may result in corrective action. If the (~~mental health division~~) department determines that the violation places consumers in imminent jeopardy, immediate revocation of this exception can occur.

(6) The regional support network retains the responsibility for ensuring due process required by RCW 71.24.300(6)(b).

(7) Neither consumers nor facilities have fair hearing rights as defined under chapter 388-02 WAC regarding single bed certification decisions by (~~mental health division~~) department staff.

**SINGLE BED CERTIFICATION PROCEDURE**  
**September 22, 2014 through December 25, 2014**

Please follow this procedure when receiving and responding to Single Bed Certification (SBC) requests. All requests must be processed within 2 hours of receipt.

ASSESSMENT OF FORM:

All information on the form needs to be completely filled out by the requester; the only thing that is not a must is the social security number and CID.

Check to make sure:

- 1) The RSN, name of the requestor and the requestor's contact information is legible.
- 2) The facility that is the subject of the SBC is clearly identified along with the name and contact information of the person who accepted the patient as SBC.
- 3) The patient name and identifying information is legible and complete to include legal status at the time of the request.
- 4) Criteria for Requesting Certification:
  - (a) The consumer requires services that are not available at a facility under this chapter (WAC 388-865-0500) or a state psychiatric hospital.
    - The requestor must describe the services that are required and not available at an existing E&T facility i.e. consumer needs continuous dialysis, no other bed is available, etc.
  - (b) The consumer can receive an appropriate evaluation and treatment in one of the following:
    - A hospital with a psychiatric unit
    - Hospital which can provide psychiatric services
    - Psychiatric Hospital
  - (c) The consumer can receive appropriate evaluation and treatment in a residential treatment facility, as defined under chapter 246-337 WAC and the certification is only to such a residential facility.
    - The requestor must check the box yes or no to identify if the RTF is a certified E&T. The use of this criterion would be appropriate for individuals on a LRA Revocation, 90 day commitment or 180 day commitment. Residential Treatment Facilities that are not a certified E&T should only be approved when accompanied by specific information detailing how the RTF will meet the patient's evaluation and treatment needs.

- (d) The consumer is expected to be ready for discharge from inpatient services within the next thirty days and being at a community facility would facilitate continuity of care, consistent with the consumer's individual treatment needs.
- 5) The estimated length of certification days, meaning that the number of days is indicated and the "from/to" are designated. The WAC allows up to 30 days (WAC 388-865-0500/388-865-0526). Do not accept/approve if more than 30 days is requested.
- 6) All single bed certifications expire 30 days from the date of approval or on December 26, 2014, whichever comes first.

APPROVAL/DENIAL OF REQUEST:

- 1) The completed form must be signed, and dated by the individual approving the certification noting the title of the approver and the time of the approval.
- 2) Fax the form back to the requestor using the fax number provided on the form.
- 3) Staple the confirmation sheet to the SBC, always checking to make sure the confirmation page indicates "ok."
- 4) Enter appropriate fields into the SBC database.
- 5) If the form is incomplete, write DECLINE on form, state, the reason and fax to the requestor.

# Single Bed Certification Form

Fax requests to:  
Eastern State Hospital FAX# 509-565-4616

Requesting RSN:  CDRSN  GCBH  SCRSN  Facility  Initial request  Extension request

Name and title of RSN requester:

Requester Fax #:

Requester Phone #:

The requestor attests that the facility that is the site of the proposed single bed certification confirms that it is willing to provide directly, or by direct arrangement with other public or private agencies, treatment to the consumer suffering from a mental disorder for whom the single bed certification is sought.

Facility:

Accepted by:

Acceptor's Phone #:

Patient name (first, last, M.I.):

DOB:

SSN:(if avail.)

CID: (ProviderOne or CIS.)

Gender:  M  F

Legal status at time of request:  72 Hour Hold  14 Day Commitment  
 LRA Revocation  90 Day Commitment  180 Day Commitment

Criteria for Request:

- The consumer requires services that are not available at a certified evaluation and treatment facility or a state psychiatric hospital. Describe the services that are not available.

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- The consumer can receive appropriate evaluation and treatment in one of the following:

- A hospital with a psychiatric unit  
 A hospital that can provide psychiatric services  
 A psychiatric hospital

- The consumer can receive appropriate evaluation and treatment in a residential treatment facility, as defined under chapter 246-337 WAC and the certification will be only to such a residential facility.

The RTF is a certified E&T  Y  N (Requests for RTFs that are not an E&T must be accompanied with an attachment detailing how the placement will meet the consumer's evaluation and treatment needs.)

- The consumer is expected to be ready for discharge from inpatient services within the next thirty days and being at a community facility would facilitate continuity of care, consistent with the consumer's individual treatment needs.

If consumer is under 18 years of age, is this request for certification on an adult unit?  Y  N

Estimated length of certification days:

From:

To:

*This portion of form to be completed by state hospital staff*

Certification approved by:

Title:

Date approved:

Time approved:

***THIS CERTIFICATION EXPIRES 30 DAYS FROM DATE OF APPROVAL OR  
DECEMBER 26, 2014 WHICHEVER COMES FIRST.***

**ESH Switchboard: 509-565-4644**

# Single Bed Certification Form

Fax requests to:  
Western State Hospital FAX# 253-756-2873

Requesting RSN: GHRSN KCRSN NSMHA PRSN Initial request Extension request  
OPRSN SWBHA TMRSN TRSN Facility

Name and title of RSN requester:

Requester Fax #:

Requester Phone #:

The requestor attests that the facility that is the site of the proposed single bed certification confirms that it is willing to provide directly, or by direct arrangement with other public or private agencies, treatment to the consumer suffering from a mental disorder for whom the single bed certification is sought.

Facility:

Accepted by:

Acceptor's Phone #:

Patient name (first, last, M.I.):

DOB:

SSN:(if avail.)

CID: (ProviderOne or CIS.)

Gender: M F

Legal status at time of request:  72 Hour Hold  14 Day Commitment  
 LRA Revocation  90 Day Commitment  180 Day Commitment

Criteria for Request:

- The consumer requires services that are not available at a certified evaluation and treatment facility or a state psychiatric hospital. Describe the services that are not available.

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- The consumer can receive appropriate evaluation and treatment in one of the following:

- A hospital with a psychiatric unit  
 A hospital that can provide psychiatric services  
 A psychiatric hospital

- The consumer can receive appropriate evaluation and treatment in a residential treatment facility, as defined under chapter 246-337 WAC and the certification will be only to such a residential facility.

The RTF is a certified E&T  Y  N (Requests for RTFs that are not an E&T must be accompanied with an attachment detailing how the placement will meet the consumer's evaluation and treatment needs.)

- The consumer is expected to be ready for discharge from inpatient services within the next thirty days and being at a community facility would facilitate continuity of care, consistent with the consumer's individual treatment needs.

If consumer is under 18 years of age, is this request for certification on an adult unit?  Y  N

Estimated length of certification days:

From:

To:

*This portion of form to be completed by state hospital staff*

Certification approved by:

Title:

Date approved:

Time approved:

**THIS CERTIFICATION EXPIRES 30 DAYS FROM DATE OF APPROVAL OR  
DECEMBER 26, 2014 WHICHEVER COMES FIRST.**

**WSH Switchboard: 253-756-2524 or 253-756-2966**



## 207–Availability of resource.

Immediate availability of a detention bed will not be a factor in detention decision making.

**If no resources are available the DMHP will follow RSN and county practices.**

If the individual meets the detention criteria the DMHP can explore the following options after determining the availability of local resources.

- Pursue resources (Certified E&T beds) in counties within close proximity
- Locate and secure Certified E&T beds elsewhere within the state
- Request a Single Bed Certification

**“Single Bed Certification”** refers to the process or result of a DBHR designee request for a one-time waiver that allows involuntary treatment to occur in a facility that is not currently certified under WAC 388-865-0500.

When an individual meets one of the following criteria:

1. The consumer requires services that are not available at a facility certified under this chapter or a state psychiatric hospital.
2. The consumer is expected to be ready for discharge from inpatient services within the next thirty days and being at a community facility would facilitate continuity of care, consistent with the consumer's individual treatment needs.
3. The consumer can receive appropriate evaluation and treatment in one of the following facilities and the certification will be only to that facility:
  - A. A residential treatment facility, as defined under chapter 246-337 WAC.
  - B. A hospital with a psychiatric unit.
  - C. A hospital that can provide psychiatric services.
  - D. A psychiatric hospital

When a person is going to be detained to a Single Bed Certification bed, the DMHP will follow all applicable Washington State laws for the ITA or LRA process. The steps are as follows:

1. The DMHP determines whether or not to detain the person observing the legally required time frames.
2. If the DMHP determines that the individual meets emergent detention criteria, the DMHP locates an E&T bed and secures provisional acceptance from that facility.
3. If no E&T bed can be located, the RSN responsible for the region in which the DMHP is designated should locate an appropriate bed capable of providing individualized treatment and request single bed certification from the State Hospital which serves their RSN.
4. *The Single Bed Certification Form* requires that the RSN or its designee attest that the facility can provide adequate treatment services and that the facility will provisionally accept placement upon

receipt of the approved Single Bed Certification. Note: the State Hospitals will only process requests submitted on the 9/23/14 or later form.

5. The State Hospital will process the request within two hours and fax the approved request back to the RSN's representative.
6. Upon receipt of the state hospital approved *Single Bed Certification Form*, the person may be served the ITA or LRA Revocation paperwork.
7. The DMHP will provide a copy of the approved *Single Bed Certification Form* to the facility where the person is held.
8. The DMHP will file the ITA or LRA Revocation paperwork with the Superior court of the county where the person is physically present (It is suggested that DMHP get a court certified copy of the legally filed paperwork to send with the client once an E&T bed is found). RCW 71.05.160, RCW 71.05.340 and RCW 71.34.710, RCW 71.34.780.
9. The DMHP does not have legal authority to dismiss or "drop" the ITA or LRA hold. This must be done by the treating physician or person in charge of the facility. RCW 71.05.210 and RCW 71.34.770.

For involuntarily detained children, a hospital may request an exception to allow treatment in a facility not certified under WAC 388-865-0500 until the child's discharge from that setting to the community, or until they transfer to a bed in a children's long-term inpatient program (CLIP).