

COVID-19 guidance for Involuntary Treatment Act (ITA) video evaluations

Background

Given the current public health emergency, we have re-examined RCW 71.05 to ensure that Involuntary Treatment Act (ITA) investigations continue without putting Designated Crisis Responders (DCRs) in jeopardy. HCA has determined that RCW 71.05.153, which pertains to emergency ITA evaluations and detentions, does not prohibit conducting an emergent ITA evaluation by live and HIPAA compliant video.

DCR teams around the state report they are understaffed due to DCRs being in quarantine or having to change shifts due to children at home. Timeliness for in-person responses is suffering both in urban and rural areas.

House Bill 2099, passed in the 2020 legislative session, explicitly authorizing video evaluations for both emergent and non-emergent detentions. The effective date of HB 2099, however, is not until June 11, 2020.

RCW 71.05.150 (non-emergent detentions) require that the DCR “personally interview” the individual. The DCR Protocols also describe a “face-to-face” evaluation, however, it does not specify that the interaction be in-person. For the purposes of the current public health emergency we are interpreting “personally interview” and “face-to-face” as meaning either in-person or through secure video.

Guidance

Accordingly, to protect both DCRs and the public, we are issuing the following guidance.

1. Before initiating a change in practice to video evaluations under 71.05.153, DCR offices, in conjunction with their Behavioral Health Administrative Service Organization (BH ASO), should first consult with their prosecutors to ensure that the prosecutor will move forward with petitions generated through video evaluations. If the prosecutor is not willing to support video evaluations, it may not be an option for that county/region.
2. BH ASOs and DCR offices should also consult with other stakeholders prior to implementation. This could include public defenders, local consumer advocacy groups, law enforcement and hospitals.
3. We recommend that DCRs conduct emergent ITA evaluations in-person whenever safe and possible. This recommendation is in alignment with current Washington State Department of Health guidance.
4. In conducting a video ITA evaluation, we recommend that the DCR follows the structure provided for in HB 2099, i.e., that there must be a health care professional present with the individual being evaluated.