

REPORT TO THE LEGISLATURE

**Implementing the December 2019 Report
Regarding Residential Habilitation Centers**

Preliminary Implementation Plan

Engrossed Substitute Senate Bill 6419
Chapter 317, Laws of 2020
66th Legislature
2020 Regular Session

January 26, 2021

Developmental Disabilities Administration
Office of the Assistant Secretary
PO Box 45310
Olympia, WA 98504-5310
360-407-1500
www.dshs.wa.gov/dda

Transforming Lives

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Introduction: A letter from the task force

Dear Legislators,

In 2018, a diverse and dedicated group of stakeholders accepted the Legislature’s invitation to chart a future course for developmental disability policy in Washington State. Earlier efforts foundered, yet the threat of federal divestment from our state’s intermediate care facilities compelled a final attempt. Guided by the William D. Ruckelshaus Center, the workgroup undertook nearly two years of cautious deliberation and consensus building. That work led to the set of consensus recommendations for the future of developmental disability policy outlined in the report, [*Rethinking Intellectual and Developmental Disability Policy to Empower Clients, Develop Providers, and Improve Services*](#).

In early 2020, the Legislature concluded that “implementing the report’s recommendations is critical to advancing the continuum of care for individuals with developmental disabilities” in Washington State.¹ To complete this work, the Legislature designated a joint executive and legislative task force to oversee development of a phased-in, multiyear implementation plan based on the report’s recommendations.

This preliminary report—the final plan is due September 1, 2021—presents updates from the task force’s work with the stakeholder community, summarizes actions by the Department of Social and Health Services, and identifies four items that demand prompt attention.

1. **Replace the buildings that house the Fircrest Nursing Facility.** The nursing services delivered at Fircrest are vital—at any given moment over 100 lives depend on them—but the buildings that house this program are unsalvageable. Replacing the buildings is necessary and can be accomplished through an inclusive design process.
2. **Add peer mentors to the Family Mentor Program.** Members of Washington’s self-advocacy community argued forcefully and convincingly that adding peer mentors to the Family Mentor Program is necessary to help transition people from state facilities to homes in the community.
3. **Authorize ICF/IID-based professional staff to serve community clients.** The Developmental Disabilities Administration should work with the Health Care Authority to authorize ICF/IID-based professional staff to deliver care to clients who live in the community.

¹ Substitute Senate Bill 6419

4. **Continue advancing the 2019 report's recommendations.** The task force should continue advancing the recommendations in the 2019 report on residential habilitation centers.

After reviewing the 2019 report through the lens of COVID-19 and completing extensive dialog with stakeholders, the task force remains committed to designing and implementing a modern, community-focused, person-centered, and individualized service delivery system by investing in community residential services, including options for individuals with complex behavioral needs.

Sincerely,

The Honorable John Braun
Washington State Senate

The Honorable Karen Keiser
Washington State Senate

The Honorable Chris Corry
Washington State House of
Representatives

The Honorable Mari Leavitt
Washington State House of
Representatives

Amber Leaders
Senior Policy Advisor
Office of the Governor

Cheryl Strange
Secretary
Department of Social and Health Services

Background: Stakeholder Engagement

Because the 2019 report was submitted before COVID-19 arrived, the task force felt compelled to reevaluate its recommendations in light of the coronavirus. As outlined in SSB 6419, the task force invited a broad circle of stakeholders to the table to advance the recommendations of the 2019 report. The task force met independently and with stakeholders on multiple occasions. The Governor's Office also reached out to individual stakeholders between meetings. Discussion at stakeholder meetings focused primarily on the recommendation to replace nursing facility buildings on the Fircrest campus. As discussed in more detail below, viewpoints on the best path forward diverged, and ultimately the group needed more time to reach resolution. During these discussions, the task force sought advice from the stakeholders named in the legislation, including:

- a. The Developmental Disabilities Council;
- b. The Arc of Washington;
- c. A representative of the organization designated to implement the protection and advocacy program pursuant to RCW 71A.10.080;
- d. Family members or guardians of current residential habilitation center residents, including members of the friends of residential habilitation centers groups;
- e. Individuals with developmental disabilities, including residents of residential habilitation centers;
- f. The Washington Federation of State Employees;
- g. Developmental disability self-advocacy organizations; and
- h. The Service Employees International Union 1199.

The work with stakeholders, both in groups and individually, informed the recommendations below. Stakeholders gave thoughtful feedback, respected each other, and made sincere efforts to reach consensus. The task force is grateful for these stakeholders' participation and advice and looks forward to continuing to collaborate in 2021.

Recommendation 1: Replace the buildings that house the Fircrest Nursing Facility

The 2019 report included recommendations to pursue ongoing investment in state-operated nursing capacity. One of the primary recommendations related to rebuilding nursing capacity on the Fircrest campus. In the 2020 budget, the Governor proposed funding the design and construction of a 120-bed state-operated nursing facility on the Fircrest campus. This proposal was not ultimately funded by the Legislature, and as a result this task force spent time with stakeholders discussing next steps.

While the stakeholders and the task force did not reach full consensus, there was agreement on some core concepts. First, everyone agreed that the nursing facility buildings on the Fircrest campus have been stretched beyond the end of their useful lives and need to be replaced in some form. Second, there was general agreement that the State needs to maintain some level of state-operated nursing care for people who need a high level of specialized medical attention. Third, everyone agreed that whatever is ultimately constructed, people with intellectual and developmental disabilities, their families, and their guardians should help advise the nursing facility design process.

Ultimately, neither the stakeholders nor the task force agreed on specific recommendations regarding nursing capacity for DDA clients. Differing views persisted in a number of areas, including length of stay in a nursing facility, facility location, overall size, and eligibility criteria. This included a lengthy discussion around who should or should not be admitted.

Several stakeholders suggested that nursing facilities are no place for young people and urged the task force to limit eligibility to individuals who are at least 61 years old. The task force considered this option and acknowledges the important sentiment underlying this concern and supports serving individuals in settings that fit their individual needs and preferences, including their social needs and preferences. Under federal Medicaid law, nursing facility care is a State Plan entitlement service. This means an eligible Medicaid client who needs nursing facility level of care and who requests service in a nursing facility is entitled to receive it. In that case, the individual cannot be denied the service, regardless of age.

The Department of Social and Health Services (DSHS) is committed to supporting clients in a person-centered way as they select the best service location to meet their needs. Eligible clients who require nursing facility level of care and who choose that service are also entitled to receive additional support from the Preadmission Screening and Resident Review (PASRR) program, a federally funded, state-operated program designed to assess whether specialized services above and beyond nursing facility care are needed, and to provide services that meet those needs. The PASRR team is committed to delivering services through respectful, person-centered practices, and they partner with individuals who live in institutional settings to utilize their power and choice.

The group also discussed at length alternatives to the 120-bed nursing facility at Fircrest, including an alternative proposal that would shrink the footprint of the Fircrest nursing facility and instead build smaller, state-run, regional nursing facilities across the state, particularly in the South Sound, Clark County, and Eastern Washington. The task force also considered a proposal for community-based nursing care. However, some stakeholders preferred to continue with the plan for a 120-bed nursing Facility on the Fircrest campus and others preferred the smaller, regionalized approach. With additional time, the task force believes

the group could have reached resolution, but ran out of runway with the approaching legislative session.

Even though a detailed recommendation for the future of I/DD nursing capacity is not provided here, the task force offers the following recommendations to address the core concepts and concerns raised by stakeholders:

- a. The Legislature should appropriate sufficient funds to replace the current nursing facility buildings on the Fircrest campus.
- b. The Legislature should give due deference to the two proposals from this group that garnered the most discussion:
 - A 120-bed nursing facility on the Fircrest campus; or
 - A smaller nursing facility on the Fircrest campus plus additional capacity within state-run, regional nursing homes across the state.
- c. If the Legislature funds smaller, regionally based nursing facilities, it should not deviate from the other recommendations in the 2019 report.
- d. Individuals with intellectual developmental disabilities, their families, and their guardians should help advise the nursing facility design process.

Recommendation 2: Add Peer Mentors to the Family Mentor Program

Currently, no peer-to-peer support resource exists for residential habilitation center residents who are considering whether to move to the community or who have decided to move to the community but are anxious about taking that step. To address this need, we recommend enhancing DDA's existing Family Mentor Program by adding peer mentors.

In plain English, a peer mentor would be someone who moved out of an RHC, loves life in the community, and wants to tell remaining residents what they're missing. They could do this by sharing their physical, mental, and emotional journey into community living, and by answering questions as only a peer can.

Our discussions with self-advocates and families led us to conclude that having a peer mentor could help RHC residents complete the decision-making process, navigate the transition, and manage anxiety before, during, and after the move.

Many RHC residents have known no other life, and a peer mentor could help them understand the options available to them.

The Peer Mentoring Program should be handled similarly to DDA's Family Mentor Program, in that the peer mentor's services would need to be requested by the individual living in the RHC or that individual's guardian. When a family signs up for the Family Mentor Program, a peer mentor should also be offered.

The Peer Mentor Program would be a contracted service. To make clear that the peer mentor is there to support the client, it is important that the Peer Mentor Program be staffed by individuals with developmental disabilities who are not state employees.

- To match current practice, the Peer Mentor Program would be folded into the existing DDA Technical Assistance contract.
 - The DDA Technical Assistance contract is procured through a request-for-proposal process executed by DSHS Central Contracts, and is awarded consistent with state law and policies.
 - The Technical Assistance Contractor would then subcontract with the appropriate entity, such as The Arc, People First, etc., in a manner similar to the Family Mentor Program.
- One full-time coordinator is necessary to administer the program, similar to the existing Family Mentor Program.
- A minimum of four peer mentors would be employed, one for each residential habilitation center.

Recommendation 3: Authorize ICF/IID-based professional staff to serve community clients

The Legislature should direct DDA to work with the Health Care Authority to authorize ICF/IID-based professional staff to deliver state plan benefits to clients who live in the community. The agencies will need to collaborate with managed care organizations to develop recommendations on how to give clients who live in the community access to DDA's ICF/IID-based professionals in order to receive care covered under the State Plan. DDA and HCA should also determine whether it is feasible to enable ICF/IID-based professionals to deliver services at mobile or brick-and-mortar clinical settings in the community.

Recommendation 4: The task force should continue advancing the recommendations in the 2019 report on residential habilitation centers

The task force urges that implementing the recommendations in the 2019 report remain a top priority for the State of Washington. The state should continue to drive policy regarding individuals with I/DD and the residential habilitation centers. The task force will continue meeting with stakeholders and commits to making additional recommendations to the Governor and Legislature in 2021. Importantly, the task force will emphasize and give attention to some of the key recommendations, including caseload forecasts, a rate study for supported living, additional quality assurance measures, additional community capacity, and housing. The Taskforce may take up other issues outlined in the report as well, but these areas will be of critical importance in the next stages of planning.

Implementation update from DSHS

The 2019 report includes two recommendations that DSHS can implement without further legislative action.

- a. Clearly explain to ICF/IID clients and their families the temporary nature of ICF/IIDs. Many ICF residents and their families and guardians are under the impression that ICF/IID placement is intended to be permanent. DDA should inform these individuals that ICF/IIDs deliver continuous, aggressive active treatment in order to facilitate successful placement in a less restrictive setting. This communication should also include an explanation of continuous aggressive active treatment and its eligibility implications.

Update: DDA has revised its approach to communicating with clients and families to emphasize the temporary nature of ICF/IID services. This has included eliminating references to ICF/IID placement as “permanent,” reducing references to “long-term” versus “short-term” admissions, and explaining the temporary nature of ICF/IID service design.

- b. Begin transition planning immediately. Because the purpose of an ICF/IID is to support the client to live successfully in a less restrictive setting, discharge planning should begin immediately and include clear descriptions of all placement options and their requirements.
Update: DDA is currently retraining ICF/IID staff, enhancing and expanding discharge planning resources, and engaging in other efforts. While ICF/IID clients continue to discharge to community settings, the pace of these transitions has slowed due to the COVID-19 pandemic.

Conclusion

The task force urges the Legislature to adopt the recommendations in this report and continue the work outlined in the 2019 report from the Ruckelshaus-facilitated workgroup. The first step toward transforming the continuum of care for individuals with I/DD requires substantial investment in community residential service options and focusing on meeting each client's needs through a person-centered service delivery system. Immediate and substantial investment in state-operated community residential options should be a priority. With further action, these recommendations will expand the capabilities of community residential services, improve cross-system coordination, and transform the State's system of care for people with I/DD.

Appendix A



**STATE HEADQUARTERS
OFFICE**

1212 JEFFERSON ST. S.E., SUITE 300
• OLYMPIA, WA 98501-2332
800-562-6002 • www.wfse.org

September 14, 2020

To: Senator Karen Keiser

Senator John Braun

From: The Executive Board of the Washington Federation of State Employees, Local 341, Fircrest Residential Habilitation Center.

Subject: Thank you.

Senators,

We are the elected executive leadership team from WFSE Local 341, Fircrest School.

We are writing to thank you for your continued support of a new state operated nursing facility at Fircrest RHC. You have shown us your understanding that the state must provide a safety net that allows people with Developmental Disabilities to age with safety, appropriate levels of care and dignity. More specifically, we want to thank you for your help and leadership in supporting this important project at the recent Ruckelshaus workgroup meeting, where some in attendance opposed the workgroups recommendation to fund and build the new facility at Fircrest.

As you know, the current nursing facility is very near the end of its useful lifespan. One of the major concerns voiced at the Ruckelshaus workgroups was that the nursing facility could become uninhabitable at any time. We at WFSE were disappointed that the project was not funded in the 2020 legislative session as the workgroup recommendations provided. We are very concerned that issues which go well beyond the needs of the developmentally disabled may continue to sidetrack the legislature of the urgent need to fund and proceed with this project as soon as possible.

We are also aware of discussions about attempting to site a state run facility somewhere else. We foresee several concerns with that concept. Having to re-look at where to put it and secure the new site, along with all the other necessary permitting details would slow the end date a new facility could replace the failing Y buildings. Our experience also tells us that staffing a facility not affiliated with Fircrest with the needed professionals to provide the level of care required for the population will be problematic.

We ask that you continue to champion moving the recommendations of the Ruckelshaus workgroup forward without amendment or delay, and fight for funding the new nursing facility at Fircrest in the

next legislative session. Rest assured you will have our support and help. We stand ready to assist in any way you think best.

If you have questions or comments on our request, please contact our lobbyist, Matt Zuvich. He will make sure we receive them.

Thank you,

In Solidarity,

Kevin Hamel, 341 President	Donna Domina, Executive Board
Joe Thull, 341 Vice President	Kelly Ertl, Executive Board
Fa'apaia "Ada" Rimbikusumo, Recording Secretary	Gilda Mostrales, Executive Board
Monica Verrall, Treasury Secretary	

Appendix B



December 9th, 2020

Dear Governor Jay Inslee and the Ruckelshaus Legislative Taskforce:

We the self-advocate Coalition and the broader DD Partners are writing to you today about your proposal to build a new 120 bed nursing facility on the Fircrest campus. We strongly believe that building a new dedicated I/DD nursing facility is sending us backwards in time. For the past 20+ years self-advocates and the DD partners have worked on moving people out of segregated institutional settings back into the community. While we acknowledge that Hospitals and Nursing facilities are needed in communities, we need to make sure these localities are used for temporary rehabilitation situations and not a place to move people in permanently especially those with I/DD.

The Coalition strongly recommends our State to invest their money in creating more community based residential options. For example, depending on people's required health and behavior service needs, we feel that State Operated Living Alternatives, Adult Family Homes, Companion Homes, and other Community placements are good options. The Coalition will be willing to advocate and work to build in additional services to these options that the Taskforce sees as lacking. We also encourage instead of building one central I/DD nursing facility that is costly and will reduce community funding, you would be wiser to build out more community options. For example, making sure each regional area has an adequate number of State Operating Living Alternatives.

The Coalition also believes that when we strengthen home care and medical care in the person's home, it can help reduce the need for individuals to be placed in congregate settings.

As the Current COVID 19 pandemic statistics have shown people living in congregate settings are at a far higher risk of dying or being hospitalized than those living in smaller home settings. In addition, people who remain in their own home in the community feel that they have more independence and choices in their life. Therefore, the Coalition believes that we need to grow and improve in home care and respite services and not instead use some of the Developmental Disability Administration Budget to build long term I/DD specific facilities that will most likely reduce the budget for community services.

Finally, the Coalition believes that regional nursing homes used for the general disability population should be allowed to serve all those with I/DD and not just some. We feel that if we can educate the nursing staff at these facilities on additional techniques they can care temporarily for everyone with I/DD as the State looks for a community placement such as a State operated Living Alternative. It is our belief that when this State makes sure there are enough community residential options and community services in every community, all people with I/DD can live successfully in their community.

Sincerely,

Allies in Advocacy

Arc of Washington

Disability Rights Washington

People First of Washington

Self-Advocates in Leadership (SAIL)

Washington State Developmental Disability Council

Washington State Developmental Disability Ombuds

Appendix C

December 23, 2020

Dear Ruckelshaus Task Force,

On behalf of the Action DD Board please consider the following position statement of support regarding the recent recommendations by the Joint Executive and Legislative Task Force.

Action DD has consistently supported retention of Washington State Residential Habilitation Centers (“RHCs”) as a vital part of the Continuum of Care for Developmentally and Intellectually Disabled citizens of Washington State. The recommendations in ESSB6419 were a result of two years of thoughtful give-and-take by primary stakeholders.

One key conclusion of the Ruckelshaus Workgroup is RHCs are essential because of the quality care they provide for the most severely DD/ID individuals. Secondly, the acute shortage of appropriate placements in the “Community” makes RHCs more relevant. RHCs have consistently served the “role of safety net” when other forms of care fail to meet the needs of DD/ID individuals.

Action DD supports the recommendations made by the Ruckelshaus Workgroup in the November 27, 2019 Report. The action plan laid out in ESSB6419 is a working partnership. ESSB6419 was passed with overwhelming bipartisan support by the legislature which recognized a breakthrough consensus reached by stakeholders involved in the Ruckelshaus Workgroup who had been opposed on several key issues for many years.

Time is of the essence for the replacement of the failing infrastructure at Fircrest’s Skilled Nursing Facility. The lead time that would be necessary to split the needed capacity at Fircrest among other locations is simply too long. It will create a real and immediate risk that essential services will not be delivered in a timely manner to our most vulnerable citizens. In this time of extreme budget short-falls it should also be noted that the Fircrest proposal represents the most cost-effective way to serve the high needs individuals that are currently cared for at Fircrest. Future demand for care is surely going to increase as Washington’s DD/ID population continues to age and as additional individuals become qualified for care in the DDA system. Further expansion of capacity to care for DD/ID citizens of Washington State is a noble endeavor that should continue to be pursued. The immediate needs of one of our most critical Skilled Nursing Facilities-Fircrest- must be met.

Action DD respects all choices in the Continuum of Care meeting the needs of those individuals. “Community” placement is a great solution for those who can thrive in that environment. We must recognize not all individuals can be cared for properly in currently available care settings outside of RHCs.

Congregate care nursing facilities exist for other segments of our society serving our elderly and disabled citizens because they ensure a level of quality and consistency of care in the most cost- effective way. Why should our DD/ID citizens be treated differently than the general population requiring Skilled Nursing level of care?

Some of the other key points that Action DD supports are summarized below:

- RHCs can be a resource for the community – the expertise RHC care giving professionals possess is a valuable resource all DD/ID Washington citizens can benefit from.
- Peer Mentors will be successful only if adequate placements are available in the Community
- Community Residential Services investments must be substantially and dramatically increased for the recommendations in ESSB6419 to be successful.

On behalf of Action DD's Board of Directors we applaud & thank our Governor for his foresight shown in calling these stakeholders together and encouraging collaboration for the future. Our thanks to the Legislators for their understanding, vision, support, and efforts to help create a new paradigm of care that preserves the full Continuum of Care for DD/ID citizens in Washington State.

A handwritten signature in black ink, appearing to read "Jeff Carter". The signature is fluid and cursive, with a large initial "J" and "C".

Jeff Carter, President – Action DD