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**ENGROSSED HOUSE BILL 2107**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives Schmick, Cody, and Ormsby

AN ACT Relating to the addition of services for long-term placement of mental health patients in community settings that voluntarily contract to provide the services; amending RCW 71.24.310, 71.24.380, 71.24.310, and 71.24.380; adding new sections to chapter 71.24 RCW; and proving contingent effective dates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  A new section is added to chapter 71.24 RCW to read as follows:

The legislature finds that concentrating all long-term placements for mental health patients at eastern and western state hospitals is not a sustainable model for the future. There is insufficient capacity at eastern and western state hospitals to meet current and growing demand for services and patients, and families are better supported when care is provided in communities closer to their homes. Therefore, the legislature intends to facilitate the addition of services to the existing system by making long-term placement for mental health patients available in community hospitals and evaluation and treatment facilities that voluntarily contract and are certified by the department of social and health services.

**Sec.**  RCW 71.24.310 and 2014 c 225 s 40 are each amended to read as follows:

The legislature finds that administration of chapter 71.05 RCW and this chapter can be most efficiently and effectively implemented as part of the behavioral health organization defined in RCW 71.24.025. For this reason, the legislature intends that the department and the behavioral health organizations shall work together to implement chapter 71.05 RCW as follows:

(1) By June 1, 2006, behavioral health organizations shall recommend to the department the number of state hospital beds that should be allocated for use by each behavioral health organization. The statewide total allocation shall not exceed the number of state hospital beds offering long-term inpatient care, as defined in this chapter, for which funding is provided in the biennial appropriations act.

(2) If there is consensus among the behavioral health organizations regarding the number of state hospital beds that should be allocated for use by each behavioral health organization, the department shall contract with each behavioral health organization accordingly.

(3) If there is not consensus among the behavioral health organizations regarding the number of beds that should be allocated for use by each behavioral health organization, the department shall establish by emergency rule the number of state hospital beds that are available for use by each behavioral health organization. The emergency rule shall be effective September 1, 2006. The primary factor used in the allocation shall be the estimated number of adults with acute and chronic mental illness in each behavioral health organization area, based upon population-adjusted incidence and utilization.

(4) The allocation formula shall be updated at least every three years to reflect demographic changes, and new evidence regarding the incidence of acute and chronic mental illness and the need for long-term inpatient care. In the updates, the statewide total allocation shall include (a) all state hospital beds offering long-term inpatient care for which funding is provided in the biennial appropriations act; plus (b) the estimated equivalent number of beds or comparable diversion services contracted in accordance with subsection (5) of this section.

(5)(a) The department ((~~is encouraged to~~)) shall enter into performance-based contracts with behavioral health organizations to provide some or all of the behavioral health organization's allocated long-term inpatient treatment capacity in the community, rather than in the state hospital, to the extent that willing certified facilities are available. The performance contracts shall specify the number of patient days of care available for use by the behavioral health organization in the state hospital and the number of patient days of care available for use by the behavioral health organization in a facility certified by the department to provide treatment to adults on a ninety or one hundred eighty day inpatient involuntary commitment order, including hospitals licensed under chapters 70.41 and 71.12 RCW and evaluation and treatment facilities certified under chapter 71.05 RCW.

(b) Nothing in this section requires a hospital licensed under chapter 70.41 or 71.12 RCW to contract or become certified to treat patients on ninety or one hundred eighty day involuntary commitment orders as a condition for continuing to treat adults who are waiting for placement at either the state hospital or in certified facilities that voluntarily contract to provide treatment to patients on ninety or one hundred eighty day involuntary commitment orders.

(6) If a behavioral health organization uses more state hospital patient days of care than it has been allocated under subsection (3) or (4) of this section, or than it has contracted to use under subsection (5) of this section, whichever is less, it shall reimburse the department for that care, except during the period of July 1, 2012, through December 31, 2013, where reimbursements may be temporarily altered per section 204, chapter 4, Laws of 2013 2nd sp. sess. The reimbursement rate per day shall be the hospital's total annual budget for long-term inpatient care, divided by the total patient days of care assumed in development of that budget.

(7) One-half of any reimbursements received pursuant to subsection (6) of this section shall be used to support the cost of operating the state hospital and, during the 2007-2009 fiscal biennium, implementing new services that will enable a behavioral health organization to reduce its utilization of the state hospital. The department shall distribute the remaining half of such reimbursements among behavioral health organizations that have used less than their allocated or contracted patient days of care at that hospital, proportional to the number of patient days of care not used.

**Sec.**  RCW 71.24.380 and 2014 c 225 s 5 are each amended to read as follows:

(1) The secretary shall purchase mental health and chemical dependency treatment services primarily through managed care contracting, but may continue to purchase behavioral health services directly from tribal clinics and other tribal providers.

(2)(a) The secretary shall request a detailed plan from the entities identified in (b) of this subsection that demonstrates compliance with the contractual elements of RCW 43.20A.894 and federal regulations related to medicaid managed care contracting((~~,~~)) including, but not limited to: Having a sufficient network of providers to provide adequate access to mental health and chemical dependency services for residents of the regional service area that meet eligibility criteria for services, ability to maintain and manage adequate reserves, and maintenance of quality assurance processes. In addition, such entities must demonstrate the ability to contract for a minimum number of patient days, to be determined by the secretary, in a facility certified by the department to provide treatment to adults on a ninety or one hundred eighty day inpatient involuntary commitment order, including at hospitals licensed under chapters 70.41 and 71.12 RCW and evaluation and treatment facilities certified under chapter 71.05 RCW, to the extent that willing certified facilities are available. Any responding entity that submits a detailed plan that demonstrates that it can meet the requirements of this section must be awarded the contract to serve as the behavioral health organization.

(b)(i) For purposes of responding to the request for a detailed plan under (a) of this subsection, the entities from which a plan will be requested are:

(A) A county in a single county regional service area that currently serves as the regional support network for that area;

(B) In the event that a county has made a decision prior to January 1, 2014, not to contract as a regional support network, any private entity that serves as the regional support network for that area;

(C) All counties within a regional service area that includes more than one county, which shall form a responding entity through the adoption of an interlocal agreement. The interlocal agreement must specify the terms by which the responding entity shall serve as the behavioral health organization within the regional service area.

(ii) In the event that a regional service area is comprised of multiple counties including one that has made a decision prior to January 1, 2014, not to contract as a regional support network the counties shall adopt an interlocal agreement and may respond to the request for a detailed plan under (a) of this subsection and the private entity may also respond to the request for a detailed plan. If both responding entities meet the requirements of this section, the responding entities shall follow the department's procurement process established in subsection (3) of this section.

(3) If an entity that has received a request under this section to submit a detailed plan does not respond to the request, a responding entity under subsection (1) of this section is unable to substantially meet the requirements of the request for a detailed plan, or more than one responding entity substantially meets the requirements for the request for a detailed plan, the department shall use a procurement process in which other entities recognized by the secretary may bid to serve as the behavioral health organization in that regional service area.

(4) Contracts for behavioral health organizations must begin on April 1, 2016.

(5) Upon request of all of the county authorities in a regional service area, the department and the health care authority may jointly purchase behavioral health services through an integrated medical and behavioral health services contract with a behavioral health organization or a managed health care system as defined in RCW 74.09.522, pursuant to standards to be developed jointly by the secretary and the health care authority. Any contract for such a purchase must comply with all federal medicaid and state law requirements related to managed health care contracting.

(6) As an incentive to county authorities to become early adopters of fully integrated purchasing of medical and behavioral health services, the standards adopted by the secretary and the health care authority under subsection (5) of this section shall provide for an incentive payment to counties which elect to move to full integration by January 1, 2016. Subject to federal approval, the incentive payment shall be targeted at ten percent of savings realized by the state within the regional service area in which the fully integrated purchasing takes place. Savings shall be calculated in alignment with the outcome and performance measures established in RCW 43.20A.895, 70.320.020, and 71.36.025, and incentive payments for early adopter counties shall be made available for up to a six-year period, or until full integration of medical and behavioral health services is accomplished statewide, whichever comes sooner, according to rules to be developed by the secretary and health care authority.

NEW SECTION. **Sec.**  A new section is added to chapter 71.24 RCW to read as follows:

(1) The department and the entities identified in RCW 71.24.310 and 71.24.380 shall: (a) Work with willing community hospitals licensed under chapters 70.41 and 71.12 RCW and evaluation and treatment facilities certified under chapter 71.05 RCW to assess their capacity to become certified to provide long-term mental health placements and to meet the requirements of this chapter; and (b) enter into contracts and payment arrangements with such hospitals and evaluation and treatment facilities choosing to provide long-term mental health placements, to the extent that willing certified facilities are available. Nothing in this chapter requires any community hospital or evaluation and treatment facility to be certified to provide long-term mental health placements.

(2) The department must establish reporting requirements for certified facilities. The reporting standards must allow the department to monitor the performance of the certified facilities and compare results with the state hospitals in a consistent format. The measures must align with the data reported by the department to the select committee on quality improvement in state hospitals, including the length of stay of patients, outcomes after discharge, employee-related measures, and demographic information.

NEW SECTION. **Sec.**  A new section is added to chapter 71.24 RCW to read as follows:

The legislature finds that concentrating all long-term placements for mental health patients at eastern and western state hospitals is not a sustainable model for the future. There is insufficient capacity at eastern and western state hospitals to meet current and growing demand for services and patients, and families are better supported when care is provided in communities closer to their homes. Therefore, the legislature intends to facilitate the addition of services to the existing system by making long-term placement for mental health patients available in community hospitals and evaluation and treatment facilities that voluntarily contract and are certified by the department of health.

**Sec.**  RCW 71.24.310 and 2014 c 225 s 40 are each amended to read as follows:

The legislature finds that administration of chapter 71.05 RCW and this chapter can be most efficiently and effectively implemented as part of the behavioral health organization defined in RCW 71.24.025. For this reason, the legislature intends that the ((~~department~~)) authority and the behavioral health organizations shall work together to implement chapter 71.05 RCW as follows:

(1) ((~~By June 1, 2006,~~)) Behavioral health organizations shall recommend to the ((~~department~~)) authority the number of state hospital beds that should be allocated for use by each behavioral health organization. The statewide total allocation shall not exceed the number of state hospital beds offering long-term inpatient care, as defined in this chapter, for which funding is provided in the biennial appropriations act.

(2) If there is consensus among the behavioral health organizations regarding the number of state hospital beds that should be allocated for use by each behavioral health organization, the ((~~department~~)) authority shall contract with each behavioral health organization accordingly.

(3) If there is not consensus among the behavioral health organizations regarding the number of beds that should be allocated for use by each behavioral health organization, the ((~~department~~)) authority shall establish by emergency rule the number of state hospital beds that are available for use by each behavioral health organization. ((~~The emergency rule shall be effective September 1, 2006.~~)) The primary factor used in the allocation shall be the estimated number of adults with acute and chronic mental illness in each behavioral health organization area, based upon population-adjusted incidence and utilization.

(4) The allocation formula shall be updated at least every three years to reflect demographic changes, and new evidence regarding the incidence of acute and chronic mental illness and the need for long-term inpatient care. In the updates, the statewide total allocation shall include (a) all state hospital beds offering long-term inpatient care for which funding is provided in the biennial appropriations act; plus (b) the estimated equivalent number of beds or comparable diversion services contracted in accordance with subsection (5) of this section.

(5)(a) The ((~~department is encouraged to~~)) authority shall enter into performance-based contracts with behavioral health organizations to provide some or all of the behavioral health organization's allocated long-term inpatient treatment capacity in the community, rather than in the state hospital, to the extent that willing certified facilities are available. The performance contracts shall specify the number of patient days of care available for use by the behavioral health organization in the state hospital and the number of patient days of care available for use by the behavioral health organization in a facility certified by the department to provide treatment to adults on a ninety or one hundred eighty day inpatient involuntary commitment order, including hospitals licensed under chapters 70.41 and 71.12 RCW and evaluation and treatment facilities certified under chapter 71.05 RCW.

(b) Nothing in this section requires a hospital licensed under chapter 70.41 or 71.12 RCW to contract or become certified to treat patients on ninety or one hundred eighty day involuntary commitment orders as a condition for continuing to treat adults who are waiting for placement at either the state hospital or in certified facilities that voluntarily contract to provide treatment to patients on ninety or one hundred eighty day involuntary commitment orders.

(6) If a behavioral health organization uses more state hospital patient days of care than it has been allocated under subsection (3) or (4) of this section, or than it has contracted to use under subsection (5) of this section, whichever is less, it shall reimburse the ((~~department~~)) authority for that care((~~, except during the period of July 1, 2012, through December 31, 2013, where reimbursements may be temporarily altered per section 204, chapter 4, Laws of 2013 2nd sp. sess~~)). The reimbursement rate per day shall be the hospital's total annual budget for long-term inpatient care, divided by the total patient days of care assumed in development of that budget.

(7) One-half of any reimbursements received pursuant to subsection (6) of this section shall be used to support the cost of operating the state hospital ((~~and, during the 2007-2009 fiscal biennium, implementing new services that will enable a behavioral health organization to reduce its utilization of the state hospital~~)). The ((~~department~~)) authority shall distribute the remaining half of such reimbursements among behavioral health organizations that have used less than their allocated or contracted patient days of care at that hospital, proportional to the number of patient days of care not used.

**Sec.**  RCW 71.24.380 and 2014 c 225 s 5 are each amended to read as follows:

(1) The ((~~secretary~~)) director shall purchase mental health and chemical dependency treatment services primarily through managed care contracting, but may continue to purchase behavioral health services directly from tribal clinics and other tribal providers.

(2)(a) The ((~~secretary~~)) director shall request a detailed plan from the entities identified in (b) of this subsection that demonstrates compliance with the contractual elements of RCW 43.20A.894 and federal regulations related to medicaid managed care contracting((~~,~~)) including, but not limited to: Having a sufficient network of providers to provide adequate access to mental health and chemical dependency services for residents of the regional service area that meet eligibility criteria for services, ability to maintain and manage adequate reserves, and maintenance of quality assurance processes. In addition, such entities must demonstrate the ability to contract for a minimum number of patient days, to be determined by the secretary, in a facility certified by the department to provide treatment to adults on a ninety or one hundred eighty day inpatient involuntary commitment order, including at hospitals licensed under chapters 70.41 and 71.12 RCW and evaluation and treatment facilities certified under chapter 71.05 RCW, to the extent that willing certified facilities are available. Any responding entity that submits a detailed plan that demonstrates that it can meet the requirements of this section must be awarded the contract to serve as the behavioral health organization.

(b)(i) For purposes of responding to the request for a detailed plan under (a) of this subsection, the entities from which a plan will be requested are:

(A) A county in a single county regional service area that currently serves as the regional support network for that area;

(B) In the event that a county has made a decision prior to January 1, 2014, not to contract as a regional support network, any private entity that serves as the regional support network for that area;

(C) All counties within a regional service area that includes more than one county, which shall form a responding entity through the adoption of an interlocal agreement. The interlocal agreement must specify the terms by which the responding entity shall serve as the behavioral health organization within the regional service area.

(ii) In the event that a regional service area is comprised of multiple counties including one that has made a decision prior to January 1, 2014, not to contract as a regional support network the counties shall adopt an interlocal agreement and may respond to the request for a detailed plan under (a) of this subsection and the private entity may also respond to the request for a detailed plan. If both responding entities meet the requirements of this section, the responding entities shall follow the ((~~department's~~)) authority's procurement process established in subsection (3) of this section.

(3) If an entity that has received a request under this section to submit a detailed plan does not respond to the request, a responding entity under subsection (1) of this section is unable to substantially meet the requirements of the request for a detailed plan, or more than one responding entity substantially meets the requirements for the request for a detailed plan, the ((~~department~~)) authority shall use a procurement process in which other entities recognized by the ((~~secretary~~)) director may bid to serve as the behavioral health organization in that regional service area.

(4) Contracts for behavioral health organizations must begin on April 1, 2016.

(5) Upon request of all of the county authorities in a regional service area, the ((~~department and the health care~~)) authority may ((~~jointly~~)) purchase behavioral health services through an integrated medical and behavioral health services contract with a behavioral health organization or a managed health care system as defined in RCW 74.09.522, pursuant to standards to be developed ((~~jointly~~)) by the ((~~secretary and the health care~~)) authority. Any contract for such a purchase must comply with all federal medicaid and state law requirements related to managed health care contracting.

(6) As an incentive to county authorities to become early adopters of fully integrated purchasing of medical and behavioral health services, the standards adopted by the ((~~secretary and the health care~~)) authority under subsection (5) of this section shall provide for an incentive payment to counties which elect to move to full integration by January 1, 2016. Subject to federal approval, the incentive payment shall be targeted at ten percent of savings realized by the state within the regional service area in which the fully integrated purchasing takes place. Savings shall be calculated in alignment with the outcome and performance measures established in RCW 43.20A.895, 70.320.020, and 71.36.025, and incentive payments for early adopter counties shall be made available for up to a six-year period, or until full integration of medical and behavioral health services is accomplished statewide, whichever comes sooner, according to rules to be developed by the ((~~secretary and health care~~)) authority.

NEW SECTION. **Sec.**  A new section is added to chapter 71.24 RCW to read as follows:

(1) The authority and the entities identified in RCW 71.24.310 and 71.24.380 shall: (a) Work with willing community hospitals licensed under chapters 70.41 and 71.12 RCW and evaluation and treatment facilities certified under chapter 71.05 RCW to assess their capacity to become certified to provide long-term mental health placements and to meet the requirements of this chapter; and (b) enter into contracts and payment arrangements with such hospitals and evaluation and treatment facilities choosing to provide long-term mental health placements, to the extent that willing certified facilities are available. Nothing in this chapter requires any community hospital or evaluation and treatment facility to be certified to provide long-term mental health placements.

(2) The authority must establish reporting requirements for certified facilities. The reporting standards must allow the authority to monitor the performance of the certified facilities and compare results with the state hospitals in a consistent format. The measures must align with the data reported by the authority to the select committee on quality improvement in state hospitals, including the length of stay of patients, outcomes after discharge, employee-related measures, and demographic information.

NEW SECTION. **Sec.**  Sections 1 through 4 of this act take effect only if neither Substitute House Bill No. 1388 (including any later amendments or substitutes) nor Substitute Senate Bill No. 5259 (including any later amendments or substitutes) is signed into law by the governor by the effective date of this section.

NEW SECTION. **Sec.**  Sections 5 through 8 of this act take effect only if Substitute House Bill No. 1388 (including any later amendments or substitutes) or Substitute Senate Bill No. 5259 (including any later amendments or substitutes) is signed into law by the governor by the effective date of this section.

**--- END ---**