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**SENATE BILL 6496**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senators Becker, Rivers, and Brown

AN ACT Relating to encouraging transparency within the department of social and health services; amending RCW 71.24.037; and adding a new section to chapter 71.24 RCW.

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

**Sec.**  RCW 71.24.037 and 2017 c 330 s 2 are each amended to read as follows:

(1) The secretary shall by rule establish state minimum standards for licensed behavioral health service providers and services, whether those service providers and services are licensed to provide solely mental health services, substance use disorder treatment services, or services to persons with co-occurring disorders.

(2) Minimum standards for licensed behavioral health service providers shall, at a minimum, establish: Qualifications for staff providing services directly to persons with mental disorders, substance use disorders, or both, the intended result of each service, and the rights and responsibilities of persons receiving behavioral health services pursuant to this chapter. The secretary shall provide for deeming of licensed behavioral health service providers as meeting state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department.

(3) Minimum standards for community support services and resource management services shall include at least qualifications for resource management services, client tracking systems, and the transfer of patient information between behavioral health service providers.

(4) The department may suspend, revoke, limit, restrict, or modify an approval, or refuse to grant approval, for failure to meet the provisions of this chapter, or the standards adopted under this chapter. RCW 43.20A.205 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(5) No licensed behavioral health service provider may advertise or represent itself as a licensed behavioral health service provider if approval has not been granted, has been denied, suspended, revoked, or canceled.

(6) Licensure as a behavioral health service provider is effective for one calendar year from the date of issuance of the license. The license must specify the types of services provided by the behavioral health service provider that meet the standards adopted under this chapter. Renewal of a license must be made in accordance with this section for initial approval and in accordance with the standards set forth in rules adopted by the secretary.

(7) Licensure as a licensed behavioral health service provider must specify the types of services provided that meet the standards adopted under this chapter. Renewal of a license must be made in accordance with this section for initial approval and in accordance with the standards set forth in rules adopted by the secretary.

(8) Licensed behavioral health service providers may not provide types of services for which the licensed behavioral health service provider has not been certified. Licensed behavioral health service providers may provide services for which approval has been sought and is pending, if approval for the services has not been previously revoked or denied.

(9) The department periodically shall inspect licensed behavioral health service providers at reasonable times and in a reasonable manner.

(10) Upon petition of the department and after a hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the department authorizing him or her to enter and inspect at reasonable times, and examine the books and accounts of, any licensed behavioral health service provider refusing to consent to inspection or examination by the department or which the department has reasonable cause to believe is operating in violation of this chapter.

(11) The department shall maintain and periodically publish a current list of licensed behavioral health service providers.

(12) Each licensed behavioral health service provider shall file with the department upon request, data, statistics, schedules, and information the department reasonably requires. A licensed behavioral health service provider that without good cause fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent returns thereof, may have its license revoked or suspended.

(13) The department shall use the data provided in subsection (12) of this section to evaluate each program that admits children to inpatient substance use disorder treatment upon application of their parents. The evaluation must be done at least once every twelve months. In addition, the department shall randomly select and review the information on individual children who are admitted on application of the child's parent for the purpose of determining whether the child was appropriately placed into substance use disorder treatment based on an objective evaluation of the child's condition and the outcome of the child's treatment.

(14) Any settlement agreement entered into between the department and licensed behavioral health service providers to resolve administrative complaints, license violations, license suspensions, or license revocations may not reduce the number of violations reported by the department unless the department concludes, based on evidence gathered by inspectors, that the licensed behavioral health service provider did not commit one or more of the violations.

(15) In cases in which a behavioral health service provider that is in violation of licensing standards attempts to transfer or sell the behavioral health service provider to a family member, the transfer or sale may only be made for the purpose of remedying license violations and achieving full compliance with the terms of the license. Transfers or sales to family members are prohibited in cases in which the purpose of the transfer or sale is to avoid liability or reset the number of license violations found before the transfer or sale. If the department finds that the owner intends to transfer or sell, or has completed the transfer or sale of, ownership of the behavioral health service provider to a family member solely for the purpose of resetting the number of violations found before the transfer or sale, the department may not renew the behavioral health service provider's license or issue a new license to the behavioral health service provider.

(16) The secretary shall direct the department to issue a request for proposal in accordance with the parameters set forth in section 2 of this act.

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

(1) The department must immediately contract with an independent malpractice or risk management firm to perform a review and issue a report of the department's rules, policies, and procedures related to the scope of work and training requirements for behavioral health service providers, department behavioral health provider inspection and certification staff, and department office managers. The contracted firm shall review all settlements, corrective action plans, and legal agreements made between the department's division of behavioral health and recovery and behavioral health service providers from 2010 to 2018 for misfeasance and misuse of official capacity or authority by department personnel.

(2) The review and report referenced in subsection (1) of this section must:

(a) Identify areas in which training and certification for providers is inadequate based on the client population they serve;

(b) Identify areas in which training and certification requirements for department behavioral health inspectors, certifiers, and office managers are inadequate based on each respective position's scope of work and current best practices;

(c) Issue recommendations for how to improve transparency within the department's division of behavioral health and recovery;

(d) Issue recommendations for how to remedy past instances of departmental misfeasance and unethical behavior according to current best practices;

(e) Issue recommendations for how to implement continuous future oversight of departmental misfeasance and unethical behavior according to current best practices;

(f) Present a comparative analysis of review results and current nationally accepted best practices regarding behavioral health provider staffing models, behavioral health provider training and certification requirements, department inspection and certification procedures, department office manager training requirements, and settlement procedures between similarly situated state departments and state contracted behavioral health providers; and

(g) Be completed and delivered to the legislature by December 1, 2018.

(3) Reviews conducted by an independent malpractice or risk management firm contracted by the department must:

(a) Rely on a sampling methodology to conduct reviews of personnel files and clinical records based on written guidelines established by the department that are consistent with the standards of other licensing and accrediting bodies;

(b) Be distributed to each behavioral health organization, licensed behavioral health provider, department inspector, and major local publications;

(c) Coordinate review functions between the contracted firm and the department to eliminate redundancies; and

(d) Ensure that reviews involving evidence or research-based programs are conducted to the extent practicable by personnel familiar with the department's provision of behavioral health services, program model, department structure, and administrative framework and in a manner consistent with the documentation requirements of the program.

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