
SENATE BILL 6445

State of Washington

64th Legislature

2016 Regular Session

By Senators Braun and Angel

Read first time 01/20/16. Referred to Committee on Health Care.

1 AN ACT Relating to clarifying the role of physician assistants in
2 the delivery of mental health services; amending RCW 71.05.230;
3 reenacting and amending RCW 71.05.020; and adding a new section to
4 chapter 71.05 RCW.

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

6 **Sec. 1.** RCW 71.05.020 and 2015 c 269 s 14 and 2015 c 250 s 2 are
7 each reenacted and amended to read as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Admission" or "admit" means a decision by a physician or
11 psychiatric advanced registered nurse practitioner that a person
12 should be examined or treated as a patient in a hospital;

13 (2) "Antipsychotic medications" means that class of drugs
14 primarily used to treat serious manifestations of mental illness
15 associated with thought disorders, which includes, but is not limited
16 to atypical antipsychotic medications;

17 (3) "Attending staff" means any person on the staff of a public
18 or private agency having responsibility for the care and treatment of
19 a patient;

1 (4) "Commitment" means the determination by a court that a person
2 should be detained for a period of either evaluation or treatment, or
3 both, in an inpatient or a less restrictive setting;

4 (5) "Conditional release" means a revocable modification of a
5 commitment, which may be revoked upon violation of any of its terms;

6 (6) "Crisis stabilization unit" means a short-term facility or a
7 portion of a facility licensed by the department of health and
8 certified by the department of social and health services under RCW
9 71.24.035, such as an evaluation and treatment facility or a
10 hospital, which has been designed to assess, diagnose, and treat
11 individuals experiencing an acute crisis without the use of long-term
12 hospitalization;

13 (7) "Custody" means involuntary detention under the provisions of
14 this chapter or chapter 10.77 RCW, uninterrupted by any period of
15 unconditional release from commitment from a facility providing
16 involuntary care and treatment;

17 (8) "Department" means the department of social and health
18 services;

19 (9) "Designated chemical dependency specialist" means a person
20 designated by the county alcoholism and other drug addiction program
21 coordinator designated under RCW 70.96A.310 to perform the commitment
22 duties described in chapters 70.96A and 70.96B RCW;

23 (10) "Designated crisis responder" means a mental health
24 professional appointed by the county or the behavioral health
25 organization to perform the duties specified in this chapter;

26 (11) "Designated mental health professional" means a mental
27 health professional designated by the county or other authority
28 authorized in rule to perform the duties specified in this chapter;

29 (12) "Detention" or "detain" means the lawful confinement of a
30 person, under the provisions of this chapter;

31 (13) "Developmental disabilities professional" means a person who
32 has specialized training and three years of experience in directly
33 treating or working with persons with developmental disabilities and
34 is a psychiatrist, psychologist, psychiatric advanced registered
35 nurse practitioner, or social worker, and such other developmental
36 disabilities professionals as may be defined by rules adopted by the
37 secretary;

38 (14) "Developmental disability" means that condition defined in
39 RCW 71A.10.020(5);

1 (15) "Discharge" means the termination of hospital medical
2 authority. The commitment may remain in place, be terminated, or be
3 amended by court order;

4 (16) "Evaluation and treatment facility" means any facility which
5 can provide directly, or by direct arrangement with other public or
6 private agencies, emergency evaluation and treatment, outpatient
7 care, and timely and appropriate inpatient care to persons suffering
8 from a mental disorder, and which is certified as such by the
9 department. The department may certify single beds as temporary
10 evaluation and treatment beds under RCW 71.05.745. A physically
11 separate and separately operated portion of a state hospital may be
12 designated as an evaluation and treatment facility. A facility which
13 is part of, or operated by, the department or any federal agency will
14 not require certification. No correctional institution or facility,
15 or jail, shall be an evaluation and treatment facility within the
16 meaning of this chapter;

17 (17) "Gravely disabled" means a condition in which a person, as a
18 result of a mental disorder: (a) Is in danger of serious physical
19 harm resulting from a failure to provide for his or her essential
20 human needs of health or safety; or (b) manifests severe
21 deterioration in routine functioning evidenced by repeated and
22 escalating loss of cognitive or volitional control over his or her
23 actions and is not receiving such care as is essential for his or her
24 health or safety;

25 (18) "Habilitative services" means those services provided by
26 program personnel to assist persons in acquiring and maintaining life
27 skills and in raising their levels of physical, mental, social, and
28 vocational functioning. Habilitative services include education,
29 training for employment, and therapy. The habilitative process shall
30 be undertaken with recognition of the risk to the public safety
31 presented by the person being assisted as manifested by prior charged
32 criminal conduct;

33 (19) "History of one or more violent acts" refers to the period
34 of time ten years prior to the filing of a petition under this
35 chapter, excluding any time spent, but not any violent acts
36 committed, in a mental health facility or in confinement as a result
37 of a criminal conviction;

38 (20) "Imminent" means the state or condition of being likely to
39 occur at any moment or near at hand, rather than distant or remote;

1 (21) "In need of assisted outpatient mental health treatment"
2 means that a person, as a result of a mental disorder: (a) Has been
3 committed by a court to detention for involuntary mental health
4 treatment at least twice during the preceding thirty-six months, or,
5 if the person is currently committed for involuntary mental health
6 treatment, the person has been committed to detention for involuntary
7 mental health treatment at least once during the thirty-six months
8 preceding the date of initial detention of the current commitment
9 cycle; (b) is unlikely to voluntarily participate in outpatient
10 treatment without an order for less restrictive alternative
11 treatment, in view of the person's treatment history or current
12 behavior; (c) is unlikely to survive safely in the community without
13 supervision; (d) is likely to benefit from less restrictive
14 alternative treatment; and (e) requires less restrictive alternative
15 treatment to prevent a relapse, decompensation, or deterioration that
16 is likely to result in the person presenting a likelihood of serious
17 harm or the person becoming gravely disabled within a reasonably
18 short period of time. For purposes of (a) of this subsection, time
19 spent in a mental health facility or in confinement as a result of a
20 criminal conviction is excluded from the thirty-six month
21 calculation;

22 (22) "Individualized service plan" means a plan prepared by a
23 developmental disabilities professional with other professionals as a
24 team, for a person with developmental disabilities, which shall
25 state:

26 (a) The nature of the person's specific problems, prior charged
27 criminal behavior, and habilitation needs;

28 (b) The conditions and strategies necessary to achieve the
29 purposes of habilitation;

30 (c) The intermediate and long-range goals of the habilitation
31 program, with a projected timetable for the attainment;

32 (d) The rationale for using this plan of habilitation to achieve
33 those intermediate and long-range goals;

34 (e) The staff responsible for carrying out the plan;

35 (f) Where relevant in light of past criminal behavior and due
36 consideration for public safety, the criteria for proposed movement
37 to less-restrictive settings, criteria for proposed eventual
38 discharge or release, and a projected possible date for discharge or
39 release; and

1 (g) The type of residence immediately anticipated for the person
2 and possible future types of residences;

3 (23) "Information related to mental health services" means all
4 information and records compiled, obtained, or maintained in the
5 course of providing services to either voluntary or involuntary
6 recipients of services by a mental health service provider. This may
7 include documents of legal proceedings under this chapter or chapter
8 71.34 or 10.77 RCW, or somatic health care information;

9 (24) "Judicial commitment" means a commitment by a court pursuant
10 to the provisions of this chapter;

11 (25) "Legal counsel" means attorneys and staff employed by county
12 prosecutor offices or the state attorney general acting in their
13 capacity as legal representatives of public mental health service
14 providers under RCW 71.05.130;

15 (26) "Less restrictive alternative treatment" means a program of
16 individualized treatment in a less restrictive setting than inpatient
17 treatment that includes the services described in RCW 71.05.585;

18 (27) "Likelihood of serious harm" means:

19 (a) A substantial risk that: (i) Physical harm will be inflicted
20 by a person upon his or her own person, as evidenced by threats or
21 attempts to commit suicide or inflict physical harm on oneself; (ii)
22 physical harm will be inflicted by a person upon another, as
23 evidenced by behavior which has caused such harm or which places
24 another person or persons in reasonable fear of sustaining such harm;
25 or (iii) physical harm will be inflicted by a person upon the
26 property of others, as evidenced by behavior which has caused
27 substantial loss or damage to the property of others; or

28 (b) The person has threatened the physical safety of another and
29 has a history of one or more violent acts;

30 (28) "Medical clearance" means a physician or other health care
31 provider has determined that a person is medically stable and ready
32 for referral to the designated mental health professional;

33 (29) "Mental disorder" means any organic, mental, or emotional
34 impairment which has substantial adverse effects on a person's
35 cognitive or volitional functions;

36 (30) "Mental health professional" means a psychiatrist,
37 psychologist, physician assistant with psychiatric supervision,
38 psychiatric advanced registered nurse practitioner, psychiatric
39 nurse, or social worker, and such other mental health professionals

1 as may be defined by rules adopted by the secretary pursuant to the
2 provisions of this chapter;

3 (31) "Mental health service provider" means a public or private
4 agency that provides mental health services to persons with mental
5 disorders as defined under this section and receives funding from
6 public sources. This includes, but is not limited to, hospitals
7 licensed under chapter 70.41 RCW, evaluation and treatment facilities
8 as defined in this section, community mental health service delivery
9 systems or community mental health programs as defined in RCW
10 71.24.025, facilities conducting competency evaluations and
11 restoration under chapter 10.77 RCW, and correctional facilities
12 operated by state and local governments;

13 (32) "Peace officer" means a law enforcement official of a public
14 agency or governmental unit, and includes persons specifically given
15 peace officer powers by any state law, local ordinance, or judicial
16 order of appointment;

17 (33) "Private agency" means any person, partnership, corporation,
18 or association that is not a public agency, whether or not financed
19 in whole or in part by public funds, which constitutes an evaluation
20 and treatment facility or private institution, or hospital, which is
21 conducted for, or includes a department or ward conducted for, the
22 care and treatment of persons who are mentally ill;

23 (34) "Professional person" means a mental health professional and
24 shall also mean a physician, psychiatric advanced registered nurse
25 practitioner, registered nurse, and such others as may be defined by
26 rules adopted by the secretary pursuant to the provisions of this
27 chapter;

28 (35) "Psychiatric advanced registered nurse practitioner" means a
29 person who is licensed as an advanced registered nurse practitioner
30 pursuant to chapter 18.79 RCW; and who is board certified in advanced
31 practice psychiatric and mental health nursing;

32 (36) "Psychiatrist" means a person having a license as a
33 physician and surgeon in this state who has in addition completed
34 three years of graduate training in psychiatry in a program approved
35 by the American medical association or the American osteopathic
36 association and is certified or eligible to be certified by the
37 American board of psychiatry and neurology;

38 (37) "Psychologist" means a person who has been licensed as a
39 psychologist pursuant to chapter 18.83 RCW;

1 (38) "Public agency" means any evaluation and treatment facility
2 or institution, or hospital which is conducted for, or includes a
3 department or ward conducted for, the care and treatment of persons
4 with mental illness, if the agency is operated directly by, federal,
5 state, county, or municipal government, or a combination of such
6 governments;

7 (39) "Registration records" include all the records of the
8 department, behavioral health organizations, treatment facilities,
9 and other persons providing services to the department, county
10 departments, or facilities which identify persons who are receiving
11 or who at any time have received services for mental illness;

12 (40) "Release" means legal termination of the commitment under
13 the provisions of this chapter;

14 (41) "Resource management services" has the meaning given in
15 chapter 71.24 RCW;

16 (42) "Secretary" means the secretary of the department of social
17 and health services, or his or her designee;

18 (43) "Serious violent offense" has the same meaning as provided
19 in RCW 9.94A.030;

20 (44) "Social worker" means a person with a master's or further
21 advanced degree from a social work educational program accredited and
22 approved as provided in RCW 18.320.010;

23 (45) "Therapeutic court personnel" means the staff of a mental
24 health court or other therapeutic court which has jurisdiction over
25 defendants who are dually diagnosed with mental disorders, including
26 court personnel, probation officers, a court monitor, prosecuting
27 attorney, or defense counsel acting within the scope of therapeutic
28 court duties;

29 (46) "Treatment records" include registration and all other
30 records concerning persons who are receiving or who at any time have
31 received services for mental illness, which are maintained by the
32 department, by behavioral health organizations and their staffs, and
33 by treatment facilities. Treatment records include mental health
34 information contained in a medical bill including but not limited to
35 mental health drugs, a mental health diagnosis, provider name, and
36 dates of service stemming from a medical service. Treatment records
37 do not include notes or records maintained for personal use by a
38 person providing treatment services for the department, behavioral
39 health organizations, or a treatment facility if the notes or records
40 are not available to others;

1 (47) "Triage facility" means a short-term facility or a portion
2 of a facility licensed by the department of health and certified by
3 the department of social and health services under RCW 71.24.035,
4 which is designed as a facility to assess and stabilize an individual
5 or determine the need for involuntary commitment of an individual,
6 and must meet department of health residential treatment facility
7 standards. A triage facility may be structured as a voluntary or
8 involuntary placement facility;

9 (48) "Violent act" means behavior that resulted in homicide,
10 attempted suicide, nonfatal injuries, or substantial damage to
11 property;

12 (49) "Physician assistant with psychiatric supervision" means a
13 physician assistant licensed under chapter 18.71A RCW who works under
14 the supervision of a psychiatrist licensed under chapter 18.71 RCW.

15 **Sec. 2.** RCW 71.05.230 and 2015 c 250 s 6 are each amended to
16 read as follows:

17 A person detained or committed for seventy-two hour evaluation
18 and treatment or for an outpatient evaluation for the purpose of
19 filing a petition for a less restrictive alternative treatment order
20 may be committed for not more than fourteen additional days of
21 involuntary intensive treatment or ninety additional days of a less
22 restrictive alternative to involuntary intensive treatment. A
23 petition may only be filed if the following conditions are met:

24 (1) The professional staff of the agency or facility providing
25 evaluation services has analyzed the person's condition and finds
26 that the condition is caused by mental disorder and results in a
27 likelihood of serious harm, results in the person being gravely
28 disabled, or results in the person being in need of assisted
29 outpatient mental health treatment, and are prepared to testify those
30 conditions are met; and

31 (2) The person has been advised of the need for voluntary
32 treatment and the professional staff of the facility has evidence
33 that he or she has not in good faith volunteered; and

34 (3) The agency or facility providing intensive treatment or which
35 proposes to supervise the less restrictive alternative is certified
36 to provide such treatment by the department; and

37 (4) The professional staff of the agency or facility or the
38 designated mental health professional has filed a petition with the

1 court for a fourteen day involuntary detention or a ninety day less
2 restrictive alternative. The petition must be signed either by:

3 (a) Two physicians;

4 (b) One physician and a mental health professional;

5 (c) One physician assistant and a mental health professional;

6 (d) Two physician assistants with psychiatric supervision;

7 (e) Two psychiatric advanced registered nurse practitioners;

8 ~~((d))~~ (f) One psychiatric advanced registered nurse
9 practitioner and a mental health professional; or

10 ~~((e))~~ (g) A physician and a psychiatric advanced registered
11 nurse practitioner or a physician assistant with psychiatric
12 supervision. The persons signing the petition must have examined the
13 person. If involuntary detention is sought the petition shall state
14 facts that support the finding that such person, as a result of
15 mental disorder, presents a likelihood of serious harm, or is gravely
16 disabled and that there are no less restrictive alternatives to
17 detention in the best interest of such person or others. The petition
18 shall state specifically that less restrictive alternative treatment
19 was considered and specify why treatment less restrictive than
20 detention is not appropriate. If an involuntary less restrictive
21 alternative is sought, the petition shall state facts that support
22 the finding that such person, as a result of mental disorder,
23 presents a likelihood of serious harm, is gravely disabled, or is in
24 need of assisted outpatient mental health treatment, and shall set
25 forth a plan for the less restrictive alternative treatment proposed
26 by the facility in accordance with RCW 71.05.585; and

27 (5) A copy of the petition has been served on the detained or
28 committed person, his or her attorney and his or her guardian or
29 conservator, if any, prior to the probable cause hearing; and

30 (6) The court at the time the petition was filed and before the
31 probable cause hearing has appointed counsel to represent such person
32 if no other counsel has appeared; and

33 (7) The petition reflects that the person was informed of the
34 loss of firearm rights if involuntarily committed; and

35 (8) At the conclusion of the initial commitment period, the
36 professional staff of the agency or facility or the designated mental
37 health professional may petition for an additional period of either
38 ninety days of less restrictive alternative treatment or ninety days
39 of involuntary intensive treatment as provided in RCW 71.05.290; and

1 (9) If the hospital or facility designated to provide less
2 restrictive alternative treatment is other than the facility
3 providing involuntary treatment, the outpatient facility so
4 designated to provide less restrictive alternative treatment has
5 agreed to assume such responsibility.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 71.05
7 RCW to read as follows:

8 Department rules on agencies providing psychiatric medication
9 services must be updated to include physician assistants as follows:

10 (1) Medical direction and responsibility may be assigned to a
11 physician assistant with psychiatric supervision;

12 (2) If prescribed by a physician assistant with psychiatric
13 supervision, clinical notes in an individual clinical record must
14 include the name and signature of the prescribing physician assistant
15 with psychiatric supervision;

16 (3) Physician assistants may be utilized if the agency is unable
17 to employ or contract with a psychiatrist if psychiatrist
18 consultation is provided to the physician assistant at least monthly
19 and the psychiatrist is accessible to the physician assistant for
20 emergency consultation; and

21 (4) For court-ordered less restrictive alternative support
22 services, rules must be updated to reflect that physician assistants
23 with psychiatric supervision may determine the schedule for an
24 individual to receive services for the assessment and prescription of
25 psychotropic medication appropriate to the needs of the individual.

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