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**SENATE BILL 5041**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators O'Ban, Becker, Zeiger, and Wagoner

AN ACT Relating to development of community long-term involuntary treatment capacity; amending RCW 71.24.310; adding a new section to chapter 71.24 RCW; and creating a new section.

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:

(1) The legislature intends to develop new capacity for delivery of long-term treatment in the community in diverse regions of the state prior to the effective date of the integration of risk for long-term involuntary treatment into managed care, and to study the cost and outcomes associated with treatment in community facilities. In furtherance of this goal, the authority shall purchase, as much as practicable, a portion of the state's long-term treatment capacity allocated to behavioral health organizations under RCW 71.24.310 in willing community facilities capable of providing alternatives to treatment in a state hospital. Behavioral health organizations shall work with each regional or local governing body, county, or county within a region, to determine the preferred method of allocating beds to provide ninety-day and one hundred eighty-day involuntary treatment services. These methods may include fully contracting with community facilities, contracting with a mix of state and community facilities, or continuing with state-run services. Beginning on December 1, 2021, the authority shall increase its purchasing of long-term involuntary treatment capacity in the community over time by contracting, based on the preferred method of allocating beds, with willing community hospitals licensed under chapter 70.41 or 71.12 RCW and evaluation and treatment facilities certified under chapter 71.05 RCW.

(2) The authority and department shall, as applicable:

(a) Work with willing community hospitals licensed under chapter 70.41 or 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 hospitals and evaluation and treatment facilities choosing to provide long-term mental health placements, to the extent that willing certified facilities are available.

(3) The department must establish rules for the certification of facilities interested in providing care under this section.

(4) Contracts developed by the authority to implement this section must be constructed to allow the department to obtain complete identification information and admission and discharge dates for patients served under this section. Prior to requesting identification information and admission and discharge dates or reports from certified facilities, the department must determine that this information cannot be identified or obtained from existing data sources available to state agencies. In addition, until January 1, 2024, facilities certified by the department to provide community long-term involuntary treatment to adults on ninety-day or one hundred eighty-day orders shall report to the department:

(a) All instances where a patient on a ninety-day or one hundred eighty-day involuntary commitment order experiences an adverse event required to be reported to the department pursuant to chapter 70.56 RCW; and

(b) All hospital-based inpatient psychiatric service core measures reported to the joint commission on the accreditation of health care organizations or other accrediting body occurring from psychiatric departments, in the format in which the report was made to the joint commission or other accrediting body.

(5) The information collected in subsection (4) of this section shall be used by the department for treatment comparisons between facilities certified by the department to provide treatment to adults on ninety-day or one hundred eighty-day inpatient involuntary commitment orders and state hospitals. In addition, the department shall use the data to compare clinical outcomes for patients in certified facilities and state hospitals, including outcomes after discharge, length of stay, and demographic information.

(6) Nothing in this section requires any community hospital or evaluation and treatment facility to be certified to provide long-term mental health placements.

**Sec.**  RCW 71.24.310 and 2018 c 201 s 4015 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 authority and the behavioral health organizations shall work together to implement chapter 71.05 RCW as follows:

(1) Behavioral health organizations shall recommend to the 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 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 authority shall establish by emergency rule the number of state hospital beds that are available for use by each behavioral health organization. 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 authority ((~~is encouraged to~~)) shall enter into performance-based contracts with ((~~behavioral health organizations~~)) facilities certified by the department to provide treatment to adults on a ninety-day or one hundred eighty-day inpatient involuntary commitment order 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 and funding 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-day or one hundred eighty-day inpatient involuntary commitment order, including hospitals licensed under chapter 70.41 or 71.12 RCW and evaluation and treatment facilities certified under chapter 71.05 RCW.

(b) A hospital licensed under chapter 70.41 or 71.12 RCW is not required to undergo certification to treat patients on ninety-day or one hundred eighty-day involuntary commitment orders in order 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-day 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 authority for that care. Reimbursements must be calculated using quarterly average census data to determine an average number of days used in excess of the bed allocation for the quarter. 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. The 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.

NEW SECTION. **Sec.**  The department of social and health services and the health care authority shall confer with the department of health and hospitals licensed under chapter 70.41 or 71.12 RCW to review laws and regulations and identify changes that may be necessary to address care delivery and cost-effective treatment for adults on ninety-day or one hundred eighty-day commitment orders, which may be different than the requirements for short-term psychiatric hospitalization. The department of social and health services and the health care authority shall report their findings to the select committee on quality improvement in state hospitals by November 1, 2019.

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