
HOUSE BILL 2448

State of Washington

66th Legislature

2020 Regular Session

By Representatives Schmick, Chambers, and Cody

Read first time 01/14/20. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to enhanced services facilities; amending RCW
2 70.97.030, 70.97.040, 70.97.050, 70.97.060, 70.97.070, 70.97.080,
3 70.97.100, 70.97.160, 70.97.200, and 70.97.220; and reenacting and
4 amending RCW 70.97.010.

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

6 **Sec. 1.** RCW 70.97.010 and 2019 c 444 s 14 and 2019 c 325 s 5022
7 are 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) (~~"Antipsychotic medications" means that class of drugs~~
11 ~~primarily used to treat serious manifestations of mental illness~~
12 ~~associated with thought disorders, which includes but is not limited~~
13 ~~to atypical antipsychotic medications.~~

14 (2) ~~"Attending staff" means any person on the staff of a public~~
15 ~~or private agency having responsibility for the care and treatment of~~
16 ~~a patient.~~

17 (3) ~~"Commitment" means the determination by a court that an~~
18 ~~individual should be detained for a period of either evaluation or~~
19 ~~treatment, or both, in an inpatient or a less restrictive setting.~~

20 (4) ~~"Conditional release" means a modification of a commitment~~
21 ~~that may be revoked upon violation of any of its terms.~~

1 ~~(5) "Custody" means involuntary detention under chapter 71.05~~
2 ~~RCW, uninterrupted by any period of unconditional release from~~
3 ~~commitment from a facility providing involuntary care and treatment.~~

4 ~~(6)) "Department" means the department of social and health~~
5 ~~services.~~

6 ~~((7) "Designated crisis responder" has the same meaning as in~~
7 ~~chapter 71.05 RCW.~~

8 ~~(8) "Detention" or "detain" means the lawful confinement of an~~
9 ~~individual under chapter 71.05 RCW.~~

10 ~~(9)) (2) "Discharge" means ((the termination of facility~~
11 ~~authority. The commitment may remain in place, be terminated, or be~~
12 ~~amended by court order)) a transfer to another facility or setting.~~

13 ~~((10)) (3) "Enhanced services facility" means a facility that~~
14 ~~provides ((treatment)) support and services to persons for whom acute~~
15 ~~inpatient treatment is not medically necessary ((and who have been~~
16 ~~determined by the department to be inappropriate for placement in~~
17 ~~other licensed facilities due to the complex needs that result in~~
18 ~~behavioral and security issues)).~~

19 ~~((11)) (4) "Expanded community services program" means a~~
20 ~~nonsecure program of enhanced behavioral and residential support~~
21 ~~provided to long-term and residential care providers serving~~
22 ~~specifically eligible clients who would otherwise be at risk for~~
23 ~~hospitalization at state hospital geriatric units.~~

24 ~~((12)) (5) "Facility" means an enhanced services facility.~~

25 ~~((13) "Gravely disabled" means a condition in which an~~
26 ~~individual, as a result of a mental disorder, as a result of the use~~
27 ~~of alcohol or other psychoactive chemicals, or both:~~

28 ~~(a) Is in danger of serious physical harm resulting from a~~
29 ~~failure to provide for his or her essential human needs of health or~~
30 ~~safety; or~~

31 ~~(b) Manifests severe deterioration in routine functioning~~
32 ~~evidenced by repeated and escalating loss of cognitive or volitional~~
33 ~~control over his or her actions and is not receiving such care as is~~
34 ~~essential for his or her health or safety.~~

35 ~~(14) "History of one or more violent acts" refers to the period~~
36 ~~of time ten years before the filing of a petition under this chapter~~
37 ~~or chapter 71.05 RCW, excluding any time spent, but not any violent~~
38 ~~acts committed, in a mental health facility or a long-term alcoholism~~
39 ~~or drug treatment facility, or in confinement as a result of a~~
40 ~~criminal conviction.~~

1 ~~(15) "Licensed physician" means a person licensed to practice~~
2 ~~medicine or osteopathic medicine and surgery in the state of~~
3 ~~Washington.~~

4 ~~(16) "Likelihood of serious harm" means:~~

5 ~~(a) A substantial risk that:~~

6 ~~(i) Physical harm will be inflicted by an individual upon his or~~
7 ~~her own person, as evidenced by threats or attempts to commit suicide~~
8 ~~or inflict physical harm on oneself;~~

9 ~~(ii) Physical harm will be inflicted by an individual upon~~
10 ~~another, as evidenced by behavior that has caused such harm or that~~
11 ~~places another person or persons in reasonable fear of sustaining~~
12 ~~such harm; or~~

13 ~~(iii) Physical harm will be inflicted by an individual upon the~~
14 ~~property of others, as evidenced by behavior that has caused~~
15 ~~substantial loss or damage to the property of others; or~~

16 ~~(b) The individual has threatened the physical safety of another~~
17 ~~and has a history of one or more violent acts.~~

18 ~~(17) "Mental disorder")~~ (6) "Behavioral health condition" means
19 any organic, mental, or emotional impairment that has substantial
20 adverse effects on an individual's cognitive or volitional functions.

21 ~~((18) "Mental")~~ (7) "Behavioral health professional" means a
22 psychiatrist, psychologist, psychiatric nurse, or social worker, and
23 such other ~~((mental))~~ behavioral health professionals as may be
24 defined by rules adopted by the secretary under the authority of
25 chapter 71.05 RCW.

26 ~~((19))~~ (8) "Professional person" means a ~~((mental))~~ behavioral
27 health professional and also ~~((means))~~ includes a physician,
28 registered nurse, and such others as may be defined in rules adopted
29 by the secretary pursuant to the provisions of this chapter.

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

36 ~~(21) "Psychologist" means a person who has been licensed as a~~
37 ~~psychologist under chapter 18.83 RCW.~~

38 ~~(22) "Registration records" include all the records of the~~
39 ~~authority, department, behavioral health administrative services~~
40 ~~organizations, managed care organizations, treatment facilities, and~~

1 ~~other persons providing services to such entities which identify~~
2 ~~individuals who are receiving or who at any time have received~~
3 ~~services for mental illness.~~

4 ~~(23) "Release" means legal termination of the commitment under~~
5 ~~chapter 71.05 RCW.~~

6 ~~(24))~~ (9) "Resident" means a person admitted to an enhanced
7 services facility.

8 ~~((25))~~ (10) "Secretary" means the secretary of the department
9 or the secretary's designee.

10 ~~((26) "Significant change" means:~~

11 ~~(a) A deterioration in a resident's physical, mental, or~~
12 ~~psychosocial condition that has caused or is likely to cause clinical~~
13 ~~complications or life-threatening conditions; or~~

14 ~~(b) An improvement in the resident's physical, mental, or~~
15 ~~psychosocial condition that may make the resident eligible for~~
16 ~~release or for treatment in a less intensive or less secure setting.~~

17 ~~(27))~~ (11) "Social worker" means a person with a master's or
18 further advanced degree from a social work educational program
19 accredited and approved as provided in RCW 18.320.010.

20 ~~((28) "Substance use disorder" means a cluster of cognitive,~~
21 ~~behavioral, and physiological symptoms indicating that an individual~~
22 ~~continues using the substance despite significant substance-related~~
23 ~~problems. The diagnosis of a substance use disorder is based on a~~
24 ~~pathological pattern of behaviors related to the use of the~~
25 ~~substances.~~

26 ~~(29) "Substance use disorder professional" means a person~~
27 ~~certified as a substance use disorder professional by the department~~
28 ~~of health under chapter 18.205 RCW.~~

29 ~~(30) "Treatment" means the broad range of emergency,~~
30 ~~detoxification, residential, inpatient, and outpatient services and~~
31 ~~care, including diagnostic evaluation, mental health or substance use~~
32 ~~disorder education and counseling, medical, psychiatric,~~
33 ~~psychological, and social service care, vocational rehabilitation,~~
34 ~~and career counseling, which may be extended to persons with mental~~
35 ~~disorders, substance use disorders, or both, and their families.~~

36 ~~(31) "Treatment records" include registration and all other~~
37 ~~records concerning individuals who are receiving or who at any time~~
38 ~~have received services for mental illness, which are maintained by~~
39 ~~the department or the health care authority, by behavioral health~~
40 ~~administrative services organizations or their staffs, managed care~~

1 organizations contracted with the health care authority under chapter
2 74.09 RCW or their staffs, and by treatment facilities. "Treatment
3 records" do not include notes or records maintained for personal use
4 by an individual providing treatment services for the department, the
5 health care authority, behavioral health administrative services
6 organizations, managed care organizations, or a treatment facility if
7 the notes or records are not available to others.

8 ~~(32) "Violent act" means behavior that resulted in homicide,~~
9 ~~attempted suicide, nonfatal injuries, or substantial damage to~~
10 ~~property.)~~)

11 **Sec. 2.** RCW 70.97.030 and 2019 c 444 s 15 are each amended to
12 read as follows:

13 A person, eighteen years old or older, may be admitted to an
14 enhanced services facility if he or she meets the criteria in
15 subsections (1) through (3) of this section:

16 (1) The person requires: (a) Daily care by or under the
17 supervision of a ~~((mental))~~ behavioral health professional ~~((~~
18 ~~substance use disorder professional,~~~~))~~ or nurse; ~~((or))~~ and (b)
19 assistance with three or more activities of daily living; and

20 (2) The person has: (a) A ~~((mental disorder, chemical dependency~~
21 ~~disorder, or both))~~ behavioral health condition; (b) an organic or
22 traumatic brain injury; or (c) a cognitive impairment that results in
23 symptoms or behaviors requiring supervision and ~~((facility))~~ support
24 services; and

25 (3) The person has ~~((two or more of the following:~~

26 ~~(a) Self-endangering behaviors that are frequent or difficult to~~
27 ~~manage;~~

28 ~~(b) Aggressive, threatening, or assaultive behaviors that create~~
29 ~~a risk to the health or safety of other residents or staff, or a~~
30 ~~significant risk to property and these behaviors are frequent or~~
31 ~~difficult to manage;~~

32 ~~(c) Intrusive behaviors that put residents or staff at risk;~~

33 ~~(d) Complex medication needs and those needs include psychotropic~~
34 ~~medications;~~

35 ~~(e) A history of or likelihood of unsuccessful placements in~~
36 ~~either a licensed facility or other state facility or a history of~~
37 ~~rejected applications for admission to other licensed facilities~~
38 ~~based on the person's behaviors, history, or security needs;~~

1 ~~(f) A history of frequent or protracted behavioral health~~
2 ~~hospitalizations;~~

3 ~~(g) A history of offenses against a person or felony offenses~~
4 ~~that created substantial damage to property)) been assessed as~~
5 ~~medically and psychiatrically stable and two or more of the following~~
6 ~~apply:~~

7 (a) Is currently residing in a state mental hospital or
8 psychiatric unit of a hospital and the hospital has found the person
9 to be ready for discharge;

10 (b) Has a history of an inability to remain medically or
11 psychiatrically stable for more than six months;

12 (c) Has exhibited serious challenging behaviors within the last
13 year;

14 (d) Has complex medication needs and an inability to manage these
15 medications, which has affected their ability to live in the
16 community;

17 (e) Has a history of or likelihood of unsuccessful placements in
18 other licensed long-term care facilities or a history of rejected
19 applications for admission to other licensed facilities based on the
20 person's behaviors, history, or needs;

21 (f) Has a history of frequent or prolonged behavioral health
22 hospitalizations; or

23 (g) Requires caregiving staff with training in providing
24 behavioral supports to adults with challenging behaviors.

25 **Sec. 3.** RCW 70.97.040 and 2013 c 23 s 179 are each amended to
26 read as follows:

27 (1)(a) Every person who is a resident of an enhanced services
28 facility shall be entitled to all the rights set forth in this
29 chapter, and chapter((s)) 71.05 ((and 70.96A)) RCW, and shall retain
30 all rights not denied him or her under these chapters.

31 (b) No person shall be presumed incompetent as a consequence of
32 receiving an evaluation or voluntary or involuntary treatment for a
33 mental disorder, ((chemical dependency)) behavioral health condition,
34 substance use disorder, or ((both)) any combination of the three,
35 under this chapter, or chapter 71.05 ((or 70.96A)) RCW, or any prior
36 laws of this state dealing with mental illness. Competency shall not
37 be determined or withdrawn except under the provisions of chapter
38 10.77 or 11.88 RCW.

1 (c) At the time of his or her (~~treatment~~) service planning
2 meeting, every resident of an enhanced services facility shall be
3 given a written statement setting forth the substance of this
4 section. The department shall by rule develop a statement and process
5 for informing residents of their rights in a manner that is likely to
6 be understood by the resident.

7 (2) Every resident of an enhanced services facility shall have
8 the right to adequate care and individualized (~~treatment~~) services.

9 (3) The provisions of this chapter shall not be construed to deny
10 to any person (~~treatment~~) services by spiritual means through
11 prayer in accordance with the tenets and practices of a church or
12 religious denomination.

13 (~~Persons receiving evaluation or treatment under this~~
14 ~~chapter shall be given a reasonable choice of an available physician~~
15 ~~or other professional person qualified to provide such services.~~

16 (~~5) The physician-patient privilege or the psychologist-client~~
17 ~~privilege shall be deemed waived in proceedings under this chapter~~
18 ~~relating to the administration of antipsychotic medications. As to~~
19 ~~other proceedings under chapter 10.77, 70.96A, or 71.05 RCW, the~~
20 ~~privileges shall be waived when a court of competent jurisdiction in~~
21 ~~its discretion determines that such waiver is necessary to protect~~
22 ~~either the detained person or the public.~~

23 (~~6~~) Insofar as danger to the person or others is not created
24 and as part of the resident's behavior support plan, each resident of
25 an enhanced services facility shall have, in addition to other rights
26 not specifically withheld by law, the following rights, a list of
27 which shall be prominently posted in all facilities (~~(, institutions,~~
28 ~~and hospitals)) providing such services:~~

29 (a) To wear his or her own clothes and to keep and use his or her
30 own personal possessions, except when deprivation of same is
31 essential to protect the safety of the resident or other persons;

32 (b) To keep and be allowed to spend a reasonable sum of his or
33 her own money for (~~eaten~~) personal expenses and small purchases;

34 (c) To have access to individual storage space for his or her
35 private use;

36 (d) To have visitors at reasonable times;

37 (e) To have reasonable access to a telephone, both to make and
38 receive confidential calls (~~(, consistent with an effective treatment~~
39 ~~program))~~);

1 (f) To have ready access to letter writing materials, including
2 stamps, and to send and receive uncensored correspondence through the
3 mails;

4 (g) (~~Not to consent to the administration of antipsychotic~~
5 ~~medications beyond the hearing conducted pursuant to RCW 71.05.215 or~~
6 ~~71.05.217, or the performance of electroconvulsant therapy, or~~
7 ~~surgery, except emergency lifesaving surgery, unless ordered by a~~
8 ~~court under RCW 71.05.217)) To refuse medications;~~

9 (h) To discuss and actively participate in (~~treatment plans~~)
10 service planning and decisions with professional persons;

11 (i) (~~Not to have psychosurgery performed on him or her under any~~
12 ~~circumstances;~~

13 ~~(j))~~ To dispose of property and sign contracts unless such
14 person has been adjudicated an incompetent in a court proceeding
15 directed to that particular issue; and

16 (~~(k))~~ (j) To complain about rights violations or conditions and
17 request the assistance of a (~~mental health~~) long-term care ombuds
18 (~~(l))~~, representative of Washington protection and advocacy, or
19 behavioral health ombuds. The facility may not prohibit or interfere
20 with a resident's decision to consult with an advocate of his or her
21 choice.

22 (~~(7))~~ (5) Nothing contained in this chapter shall prohibit a
23 resident from petitioning by writ of habeas corpus for (~~release~~)
24 transfer.

25 (~~(8))~~ (6) Nothing in this section permits any person to
26 knowingly violate a no-contact order or a condition of an active
27 judgment and sentence or active supervision by the department of
28 corrections.

29 (~~(9))~~ (7) A person has a right to refuse (~~placement, except~~
30 ~~where subject to commitment, in~~) to move into an enhanced services
31 facility. No person shall be denied other department services solely
32 on the grounds that he or she has made such a refusal.

33 (~~(10))~~ (8) A person has a right to appeal the decision of the
34 department that he or she is eligible for placement at an enhanced
35 services facility, and shall be given notice of the right to appeal
36 in a format that is accessible to the person with instructions
37 regarding what to do if the person wants to appeal.

38 **Sec. 4.** RCW 70.97.050 and 2005 c 504 s 407 are each amended to
39 read as follows:

1 (~~A person who is gravely disabled or presents a likelihood of~~
2 ~~serious harm as a result of a mental or chemical dependency disorder~~
3 ~~or co-occurring mental and chemical dependency disorders~~)) An
4 individual served in a facility has a right to refuse antipsychotic
5 medication. (~~Antipsychotic medication may be administered over the~~
6 ~~person's objections only pursuant to RCW 71.05.215 or 71.05.217.~~)

7 **Sec. 5.** RCW 70.97.060 and 2012 c 10 s 51 are each amended to
8 read as follows:

9 (1)(a) The department shall not license an enhanced services
10 facility that serves any residents under sixty-five years of age for
11 a capacity to exceed sixteen residents.

12 (b) The department may contract for services for the operation of
13 enhanced services facilities only to the extent that funds are
14 specifically provided for that purpose.

15 (2) The facility shall provide an appropriate level of
16 (~~security~~) supervision for the characteristics, behaviors, and
17 legal status of the residents.

18 (3) An enhanced services facility may hold only one license but,
19 to the extent permitted under state and federal law and medicaid
20 requirements, a facility may be located in the same building as
21 another licensed facility, provided that:

22 (a) The enhanced services facility is in a location that is
23 totally separate and discrete from the other licensed facility; and

24 (b) The two facilities maintain separate staffing, unless an
25 exception to this is permitted by the department in rule.

26 (4) Nursing homes under chapter 18.51 RCW, assisted living
27 facilities under chapter 18.20 RCW, or adult family homes under
28 chapter 70.128 RCW, that become licensed as facilities under this
29 chapter shall be deemed to meet the applicable state and local rules,
30 regulations, permits, and code requirements. All other facilities are
31 required to meet all applicable state and local rules, regulations,
32 permits, and code requirements.

33 **Sec. 6.** RCW 70.97.070 and 2005 c 504 s 409 are each amended to
34 read as follows:

35 (1) The enhanced services facility shall complete a comprehensive
36 assessment for each resident within fourteen days of admission, and
37 the assessments shall be repeated upon a significant change in the

1 resident's condition or, at a minimum, every one hundred eighty days
2 if there is no significant change in condition.

3 (2) The enhanced services facility shall develop an
4 individualized (~~(treatment)~~) behavior support plan for each resident
5 based on the comprehensive assessment and any other information in
6 the person's record. The plan shall be updated as necessary, and
7 shall include a plan for appropriate transfer or discharge and
8 reintegration into the community. Where the person is under the
9 supervision of the department of corrections, the facility shall
10 collaborate with the department of corrections to maximize treatment
11 outcomes and reduce the likelihood of reoffense.

12 (3) The plan shall maximize the opportunities for independence,
13 recovery, employment, the resident's participation in (~~(treatment)~~)
14 service planning decisions, and collaboration with peer-supported
15 services, and provide for care and (~~(treatment)~~) services in the
16 least restrictive manner appropriate to the individual resident, and,
17 where relevant, to any court orders with which the resident must
18 comply.

19 **Sec. 7.** RCW 70.97.080 and 2005 c 504 s 410 are each amended to
20 read as follows:

21 (1) An enhanced services facility must have sufficient numbers of
22 staff with the appropriate credentials and training to provide
23 residents with the appropriate care and (~~(treatment)~~) support:

- 24 (a) (~~(Mental)~~) Behavioral health (~~(treatment)~~) support;
25 (b) Medication services;
26 (c) Assistance with the activities of daily living;
27 (d) (~~(Medical or habilitative treatment)~~) Skilled nursing and
28 support to acquire medical and behavioral health treatment services;
29 (e) Dietary services;
30 (f) (~~(Security)~~) Supervision; and
31 (g) Support to acquire chemical dependency treatment.

32 (2) Where an enhanced services facility specializes in medically
33 fragile persons with (~~(mental disorders)~~) behavioral health
34 conditions, the on-site staff must include at least one licensed
35 nurse twenty-four hours per day. The nurse must be a registered nurse
36 for at least sixteen hours per day. If the nurse is not a registered
37 nurse, a registered nurse or a doctor must be on call during the
38 remaining eight hours.

1 (3) Any employee or other individual who will have unsupervised
2 access to vulnerable adults must successfully pass a background
3 inquiry check.

4 **Sec. 8.** RCW 70.97.100 and 2013 c 23 s 180 are each amended to
5 read as follows:

6 (1) The department shall establish licensing rules for enhanced
7 services facilities to serve the populations defined in this chapter.

8 (2) No person or public or private agency may operate or maintain
9 an enhanced services facility without a license, which must be
10 renewed annually.

11 (3) A licensee shall have the following readily accessible and
12 available for review by the department, residents, families of
13 residents, and the public:

14 (a) Its license to operate and a copy of the department's most
15 recent inspection report and any recent complaint investigation
16 reports issued by the department;

17 (b) Its written policies and procedures for all (~~treatment,~~)
18 care(~~r~~) and services provided directly or indirectly by the
19 facility; and

20 (c) The department's toll-free complaint number, which shall also
21 be posted in a clearly visible place and manner.

22 (4) Enhanced services facilities shall maintain a grievance
23 procedure that meets the requirements of rules established by the
24 department.

25 (5) No facility shall discriminate or retaliate in any manner
26 against a resident or employee because the resident, employee, or any
27 other person made a complaint or provided information to the
28 department, the long-term care ombuds, Washington protection and
29 advocacy system, or a (~~mental~~) behavioral health ombuds.

30 (6) Each enhanced services facility will post in a prominent
31 place in a common area a notice by the Washington protection and
32 advocacy system providing contact information.

33 **Sec. 9.** RCW 70.97.160 and 2005 c 504 s 418 are each amended to
34 read as follows:

35 (1) The department shall make or cause to be made at least one
36 inspection of each facility prior to licensure and an unannounced
37 full inspection of facilities at least once every eighteen months.

1 The statewide average interval between full facility inspections must
2 be fifteen months.

3 (2) Any duly authorized officer, employee, or agent of the
4 department may enter and inspect any facility at any time to
5 determine that the facility is in compliance with this chapter and
6 applicable rules, and to enforce any provision of this chapter.
7 Complaint inspections shall be unannounced and conducted in such a
8 manner as to ensure maximum effectiveness. No advance notice shall be
9 given of any inspection unless authorized or required by federal law.

10 (3) During inspections, the facility must give the department
11 access to areas, materials, and equipment used to provide care or
12 support to residents, including resident and staff records, accounts,
13 and the physical premises, including the buildings, grounds, and
14 equipment. The department has the authority to privately interview
15 the provider, staff, residents, and other individuals familiar with
16 resident care and (~~treatment~~) service plans.

17 (4) Any public employee giving advance notice of an inspection in
18 violation of this section shall be suspended from all duties without
19 pay for a period of not less than five nor more than fifteen days.

20 (5) The department shall prepare a written report describing the
21 violations found during an inspection, and shall provide a copy of
22 the inspection report to the facility.

23 (6) The facility shall develop a written plan of correction for
24 any violations identified by the department and provide a plan of
25 correction to the department within ten working days from the receipt
26 of the inspection report.

27 **Sec. 10.** RCW 70.97.200 and 2005 c 504 s 422 are each amended to
28 read as follows:

29 The facility shall:

30 (1) Maintain adequate resident records to enable the provision of
31 necessary (~~treatment~~) behavior support, care, and services and to
32 respond appropriately in emergency situations;

33 (2) Comply with all state and federal requirements related to
34 documentation, confidentiality, and information sharing, including
35 chapters 10.77, 70.02, 70.24, (~~70.96A,~~) and 71.05 RCW; and

36 (3) Where possible, obtain signed releases of information
37 designating the department, the facility, and the department of
38 corrections where the person is under its supervision, as recipients
39 of health care information.

1 **Sec. 11.** RCW 70.97.220 and 2005 c 504 s 424 are each amended to
2 read as follows:

3 No facility providing care and (~~treatment~~) behavior support for
4 individuals placed in a facility, or agency licensing or placing
5 residents in a facility, acting in the course of its duties, shall be
6 civilly or criminally liable for performing its duties under this
7 chapter, provided that such duties were performed in good faith and
8 without gross negligence.

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