

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2426**

66th Legislature  
2020 Regular Session

Passed by the House March 9, 2020  
Yeas 96 Nays 0

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**Speaker of the House of  
Representatives**

Passed by the Senate March 6, 2020  
Yeas 48 Nays 0

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2426** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 2426**

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AS AMENDED BY THE SENATE

Passed Legislature - 2020 Regular Session

**State of Washington                      66th Legislature                      2020 Regular Session**

**By** House Health Care & Wellness (originally sponsored by Representatives Cody, Robinson, Kilduff, Tharinger, Davis, Macri, Riccelli, and Pollet; by request of Department of Health)

READ FIRST TIME 02/07/20.

1            AN ACT Relating to protecting patient safety in psychiatric  
2 hospitals and other health care facilities regulated by the  
3 department of health through improvements to licensing and  
4 enforcement; amending RCW 71.12.480; reenacting and amending RCW  
5 71.12.455; adding new sections to chapter 71.12 RCW; adding new  
6 sections to chapter 43.70 RCW; creating a new section; and declaring  
7 an emergency.

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

9            NEW SECTION.        **Sec. 1.**        The legislature finds that patients  
10 seeking behavioral health care in Washington would benefit from  
11 consistent regulatory oversight and transparency about patient  
12 outcomes. Current regulatory oversight of psychiatric hospitals  
13 licensed under chapter 71.12 RCW needs to be enhanced to protect the  
14 health, safety, and well-being of patients seeking behavioral health  
15 care in these facilities. Some hospitals have not complied with state  
16 licensing requirements. Additional enforcement tools are needed to  
17 address noncompliance and protect patients from risk of harm.

18            The legislature also finds that licensing and enforcement  
19 requirements for all health care facility types regulated by the  
20 department of health are inconsistent and that patients are not well-  
21 served by this inconsistency. Review of the regulatory requirements

1 for all health care facility types, including acute care hospitals,  
2 is needed to identify gaps and opportunities to consolidate and  
3 standardize requirements. Legislation will be necessary to implement  
4 uniform requirements that assure provision of safe, quality care and  
5 create consistency and predictability for facilities.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 71.12  
7 RCW to read as follows:

8 (1) Any psychiatric hospital may request from the department or  
9 the department may offer to any psychiatric hospital technical  
10 assistance. The department may not provide technical assistance  
11 during an inspection or during the time between when an investigation  
12 of a psychiatric hospital has been initiated and when such  
13 investigation is resolved.

14 (2) The department may offer group training to psychiatric  
15 hospitals licensed under this chapter.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 71.12  
17 RCW to read as follows:

18 (1) In any case in which the department finds that a licensed  
19 psychiatric hospital has failed or refused to comply with applicable  
20 state statutes or regulations, the department may take one or more of  
21 the actions identified in this section, except as otherwise limited  
22 in this section.

23 (a) When the department determines the psychiatric hospital has  
24 previously been subject to an enforcement action for the same or  
25 similar type of violation of the same statute or rule, or has been  
26 given any previous statement of deficiency that included the same or  
27 similar type of violation of the same or similar statute or rule, or  
28 when the psychiatric hospital failed to correct noncompliance with a  
29 statute or rule by a date established or agreed to by the department,  
30 the department may impose reasonable conditions on a license.  
31 Conditions may include correction within a specified amount of time,  
32 training, or hiring a department-approved consultant if the hospital  
33 cannot demonstrate to the department that it has access to sufficient  
34 internal expertise.

35 (b) (i) In accordance with the authority the department has under  
36 RCW 43.70.095, the department may assess a civil fine of up to ten  
37 thousand dollars per violation, not to exceed a total fine of one  
38 million dollars, on a hospital licensed under this chapter when the

1 department determines the psychiatric hospital has previously been  
2 subject to an enforcement action for the same or similar type of  
3 violation of the same statute or rule, or has been given any previous  
4 statement of deficiency that included the same or similar type of  
5 violation of the same or similar statute or rule, or when the  
6 psychiatric hospital failed to correct noncompliance with a statute  
7 or rule by a date established or agreed to by the department.

8 (ii) Proceeds from these fines may only be used by the department  
9 to provide training or technical assistance to psychiatric hospitals  
10 and to offset costs associated with licensing psychiatric hospitals.

11 (iii) The department shall adopt in rules under this chapter  
12 specific fine amounts in relation to the severity of the  
13 noncompliance.

14 (iv) If a licensee is aggrieved by the department's action of  
15 assessing civil fines, the licensee has the right to appeal under RCW  
16 43.70.095.

17 (c) In accordance with RCW 43.70.095, the department may impose  
18 civil fines of up to ten thousand dollars for each day a person  
19 operates a psychiatric hospital without a valid license. Proceeds  
20 from these fines may only be used by the department to provide  
21 training or technical assistance to psychiatric hospitals and to  
22 offset costs associated with licensing psychiatric hospitals.

23 (d) The department may suspend admissions of a specific category  
24 or categories of patients as related to the violation by imposing a  
25 limited stop placement. This may only be done if the department finds  
26 that noncompliance results in immediate jeopardy.

27 (i) Prior to imposing a limited stop placement, the department  
28 shall provide a psychiatric hospital written notification upon  
29 identifying deficient practices or conditions that constitute an  
30 immediate jeopardy, and the psychiatric hospital shall have twenty-  
31 four hours from notification to develop and implement a department-  
32 approved plan to correct the deficient practices or conditions that  
33 constitute an immediate jeopardy. If the deficient practice or  
34 conditions that constitute immediate jeopardy are not verified by the  
35 department as having been corrected within the same twenty-four hour  
36 period, the department may issue the limited stop placement.

37 (ii) When the department imposes a limited stop placement, the  
38 psychiatric hospital may not admit any new patients in the category  
39 or categories subject to the limited stop placement until the limited  
40 stop placement order is terminated.

1 (iii) The department shall conduct a follow-up inspection within  
2 five business days or within the time period requested by the  
3 psychiatric hospital if more than five business days is needed to  
4 verify the violation necessitating the limited stop placement has  
5 been corrected.

6 (iv) The limited stop placement shall be terminated when:

7 (A) The department verifies the violation necessitating the  
8 limited stop placement has been corrected or the department  
9 determines that the psychiatric hospital has taken intermediate  
10 action to address the immediate jeopardy; and

11 (B) The psychiatric hospital establishes the ability to maintain  
12 correction of the violation previously found deficient.

13 (e) The department may suspend new admissions to the psychiatric  
14 hospital by imposing a stop placement. This may only be done if the  
15 department finds that noncompliance results in immediate jeopardy and  
16 is not confined to a specific category or categories of patients or a  
17 specific area of the psychiatric hospital.

18 (i) Prior to imposing a stop placement, the department shall  
19 provide a psychiatric hospital written notification upon identifying  
20 deficient practices or conditions that constitute an immediate  
21 jeopardy, and the psychiatric hospital shall have twenty-four hours  
22 from notification to develop and implement a department-approved plan  
23 to correct the deficient practices or conditions that constitute an  
24 immediate jeopardy. If the deficient practice or conditions that  
25 constitute immediate jeopardy are not verified by the department as  
26 having been corrected within the same twenty-four hour period, the  
27 department may issue the stop placement.

28 (ii) When the department imposes a stop placement, the  
29 psychiatric hospital may not admit any new patients until the stop  
30 placement order is terminated.

31 (iii) The department shall conduct a follow-up inspection within  
32 five business days or within the time period requested by the  
33 psychiatric hospital if more than five business days is needed to  
34 verify the violation necessitating the stop placement has been  
35 corrected.

36 (iv) The stop placement order shall be terminated when:

37 (A) The department verifies the violation necessitating the stop  
38 placement has been corrected or the department determines that the  
39 psychiatric hospital has taken intermediate action to address the  
40 immediate jeopardy; and

1 (B) The psychiatric hospital establishes the ability to maintain  
2 correction of the violation previously found deficient.

3 (f) The department may suspend, revoke, or refuse to renew a  
4 license.

5 (2)(a) Except as otherwise provided, RCW 43.70.115 governs notice  
6 of the imposition of conditions on a license, a limited stop  
7 placement, stop placement, or the suspension, revocation, or refusal  
8 to renew a license and provides the right to an adjudicative  
9 proceeding. Adjudicative proceedings and hearings under this section  
10 are governed by the administrative procedure act, chapter 34.05 RCW.  
11 The application for an adjudicative proceeding must be in writing,  
12 state the basis for contesting the adverse action, including a copy  
13 of the department's notice, be served on and received by the  
14 department within twenty-eight days of the licensee's receipt of the  
15 adverse notice, and be served in a manner that shows proof of  
16 receipt.

17 (b) When the department determines a licensee's noncompliance  
18 results in immediate jeopardy, the department may make the imposition  
19 of conditions on a licensee, a limited stop placement, stop  
20 placement, or the suspension of a license effective immediately upon  
21 receipt of the notice by the licensee, pending any adjudicative  
22 proceeding.

23 (i) When the department makes the suspension of a license or  
24 imposition of conditions on a license effective immediately, a  
25 licensee is entitled to a show cause hearing before a presiding  
26 officer within fourteen days of making the request. The licensee must  
27 request the show cause hearing within twenty-eight days of receipt of  
28 the notice of immediate suspension or immediate imposition of  
29 conditions. At the show cause hearing the department has the burden  
30 of demonstrating that more probably than not there is an immediate  
31 jeopardy.

32 (ii) At the show cause hearing, the presiding officer may  
33 consider the notice and documents supporting the immediate suspension  
34 or immediate imposition of conditions and the licensee's response and  
35 must provide the parties with an opportunity to provide documentary  
36 evidence and written testimony, and to be represented by counsel.  
37 Prior to the show cause hearing, the department must provide the  
38 licensee with all documentation that supports the department's  
39 immediate suspension.

1 (iii) If the presiding officer determines there is no immediate  
2 jeopardy, the presiding officer may overturn the immediate suspension  
3 or immediate imposition of conditions.

4 (iv) If the presiding officer determines there is immediate  
5 jeopardy, the immediate suspension or immediate imposition of  
6 conditions shall remain in effect pending a full hearing.

7 (v) If the secretary sustains the immediate suspension or  
8 immediate imposition of conditions, the licensee may request an  
9 expedited full hearing on the merits of the department's action. A  
10 full hearing must be provided within ninety days of the licensee's  
11 request.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.70  
13 RCW to read as follows:

14 As resources allow, the department shall make health care  
15 facility inspection and investigation statements of deficiencies,  
16 plans of correction, notice of acceptance of plans of correction,  
17 enforcement actions, and notices of resolution available to the  
18 public on the internet, starting with psychiatric hospitals and  
19 residential treatment facilities.

20 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.70  
21 RCW to read as follows:

22 The department must conduct a review of statutes for all health  
23 care facility types licensed by the department under chapters 18.46,  
24 18.64, 70.41, 70.42, 70.127, 70.230, 71.12, and 71.24 RCW to evaluate  
25 appropriate levels of oversight and identify opportunities to  
26 consolidate and standardize licensing and enforcement requirements  
27 across facility types. The department must work with stakeholders  
28 including, but not limited to, the statewide associations of the  
29 facilities under review to create recommendations that will be shared  
30 with stakeholders and the legislature for a uniform health care  
31 facility enforcement act for consideration in the 2021 legislative  
32 session.

33 **Sec. 6.** RCW 71.12.455 and 2017 c 263 s 2 are each reenacted and  
34 amended to read as follows:

35 The definitions in this section apply throughout this chapter  
36 unless the context clearly requires otherwise.

37 (1) "Department" means the department of health.

1 (2) "Establishment" and "institution" mean:

2 (a) Every private or county or municipal hospital, including  
3 public hospital districts, sanitariums, homes, psychiatric hospitals,  
4 residential treatment facilities, or other places receiving or caring  
5 for any person with mental illness, mentally incompetent person, or  
6 chemically dependent person; and

7 (b) Beginning January 1, 2019, facilities providing pediatric  
8 transitional care services.

9 (3) "Pediatric transitional care services" means short-term,  
10 temporary, health and comfort services for drug exposed infants  
11 according to the requirements of this chapter and provided in an  
12 establishment licensed by the department of health.

13 (4) "Secretary" means the secretary of the department of health.

14 (5) "Trained caregiver" means a noncredentialed, unlicensed  
15 person trained by the establishment providing pediatric transitional  
16 care services to provide hands-on care to drug exposed infants.  
17 Caregivers may not provide medical care to infants and may only work  
18 under the supervision of an appropriate health care professional.

19 (6) "Elopement" means any situation in which an admitted patient  
20 of a psychiatric hospital who is cognitively, physically, mentally,  
21 emotionally, and/or chemically impaired wanders, walks, runs away,  
22 escapes, or otherwise leaves a psychiatric hospital or the grounds of  
23 a psychiatric hospital prior to the patient's scheduled discharge  
24 unsupervised, unnoticed, and without the staff's knowledge.

25 (7) "Immediate jeopardy" means a situation in which the  
26 psychiatric hospital's noncompliance with one or more statutory or  
27 regulatory requirements has placed the health and safety of patients  
28 in its care at risk for serious injury, serious harm, serious  
29 impairment, or death.

30 (8) "Psychiatric hospital" means an establishment caring for any  
31 person with mental illness or substance use disorder excluding acute  
32 care hospitals licensed under chapter 70.41 RCW, state psychiatric  
33 hospitals established under chapter 72.23 RCW, and residential  
34 treatment facilities as defined in this section.

35 (9) "Residential treatment facility" means an establishment in  
36 which twenty-four hour on-site care is provided for the evaluation,  
37 stabilization, or treatment of residents for substance use, mental  
38 health, co-occurring disorders, or for drug exposed infants.

39 (10) "Technical assistance" means the provision of information on  
40 the state laws and rules applicable to the regulation of psychiatric



1 hospitals, the process to apply for a license, and methods and  
2 resources to avoid or address compliance problems. Technical  
3 assistance does not include assistance provided under chapter 43.05  
4 RCW.

5 **Sec. 7.** RCW 71.12.480 and 2000 c 93 s 24 are each amended to  
6 read as follows:

7 (1) The department of health shall not grant any such license  
8 until it has made an examination of all phases of the operation of  
9 the establishment necessary to determine compliance with rules  
10 adopted under this chapter including the premises proposed to be  
11 licensed and is satisfied that the premises are substantially as  
12 described, and are otherwise fit and suitable for the purposes for  
13 which they are designed to be used, and that such license should be  
14 granted.

15 (2) During the first two years of licensure for a new psychiatric  
16 hospital or any existing psychiatric hospital that changes ownership  
17 after July 1, 2020, the department shall provide technical  
18 assistance, perform at least three unannounced inspections, and  
19 conduct additional inspections of the hospital as necessary to verify  
20 the hospital is complying with the requirements of this chapter.

21 NEW SECTION. **Sec. 8.** A new section is added to chapter 71.12  
22 RCW to read as follows:

23 (1) Every psychiatric hospital licensed under this chapter shall  
24 report to the department every patient elopement and every death that  
25 meets the circumstances specified in subsection (2) of this section  
26 that occurs on the hospital grounds within three days of the  
27 elopement or death to the department's complaint intake system or  
28 another reporting mechanism specified by the department in rule.

29 (2) The patient or staff deaths that must be reported to the  
30 department under subsection (1) of this section include the  
31 following:

- 32 (a) Patient death associated with patient elopement;
- 33 (b) Patient suicide;
- 34 (c) Patient death associated with medication error;
- 35 (d) Patient death associated with a fall;
- 36 (e) Patient death associated with the use of physical restraints  
37 or bedrails; and

1 (f) Patient or staff member death resulting from a physical  
2 assault.

3 NEW SECTION. **Sec. 9.** This act is necessary for the immediate  
4 preservation of the public peace, health, or safety, or support of  
5 the state government and its existing public institutions, and takes  
6 effect immediately.

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