

SHB 1170 - S AMD TO HSC COMM AMD (S2085.3) 296
By Senators Hargrove, Stevens, Harper

ADOPTED 04/08/2011

1 On page 9, after line 19 of the amendment, insert the following:

2 "Sec. 4. RCW 71.24.035 and 2008 c 267 s 5 and 2008 c 261 s 3 are
3 each reenacted and amended to read as follows:

4 (1) The department is designated as the state mental health
5 authority.

6 (2) The secretary shall provide for public, client, and licensed
7 service provider participation in developing the state mental health
8 program, developing contracts with regional support networks, and any
9 waiver request to the federal government under medicaid.

10 (3) The secretary shall provide for participation in developing the
11 state mental health program for children and other underserved
12 populations, by including representatives on any committee established
13 to provide oversight to the state mental health program.

14 (4) The secretary shall be designated as the regional support
15 network if the regional support network fails to meet state minimum
16 standards or refuses to exercise responsibilities under RCW 71.24.045,
17 until such time as a new regional support network is designated under
18 RCW 71.24.320.

19 (5) The secretary shall:

20 (a) Develop a biennial state mental health program that
21 incorporates regional biennial needs assessments and regional mental
22 health service plans and state services for adults and children with
23 mental illness. The secretary shall also develop a six-year state
24 mental health plan;

25 (b) Assure that any regional or county community mental health
26 program provides access to treatment for the region's residents,
27 including parents who are respondents in dependency cases, in the
28 following order of priority: (i) Persons with acute mental illness;
29 (ii) adults with chronic mental illness and children who are severely

1 emotionally disturbed; and (iii) persons who are seriously disturbed.
2 Such programs shall provide:

- 3 (A) Outpatient services;
- 4 (B) Emergency care services for twenty-four hours per day;
- 5 (C) Day treatment for persons with mental illness which includes
6 training in basic living and social skills, supported work, vocational
7 rehabilitation, and day activities. Such services may include
8 therapeutic treatment. In the case of a child, day treatment includes
9 age-appropriate basic living and social skills, educational and
10 prevocational services, day activities, and therapeutic treatment;
- 11 (D) Screening for patients being considered for admission to state
12 mental health facilities to determine the appropriateness of admission;
- 13 (E) Employment services, which may include supported employment,
14 transitional work, placement in competitive employment, and other work-
15 related services, that result in persons with mental illness becoming
16 engaged in meaningful and gainful full or part-time work. Other
17 sources of funding such as the division of vocational rehabilitation
18 may be utilized by the secretary to maximize federal funding and
19 provide for integration of services;
- 20 (F) Consultation and education services; and
- 21 (G) Community support services;

22 (c) Develop and adopt rules establishing state minimum standards
23 for the delivery of mental health services pursuant to RCW 71.24.037
24 including, but not limited to:

- 25 (i) Licensed service providers. These rules shall permit a county-
26 operated mental health program to be licensed as a service provider
27 subject to compliance with applicable statutes and rules. The
28 secretary shall provide for deeming of compliance with state minimum
29 standards for those entities accredited by recognized behavioral health
30 accrediting bodies recognized and having a current agreement with the
31 department;
- 32 (ii) Regional support networks; and
- 33 (iii) Inpatient services, evaluation and treatment services and
34 facilities under chapter 71.05 RCW, resource management services, and
35 community support services;
- 36 (d) Assure that the special needs of persons who are minorities,
37 elderly, disabled, children, low-income, and parents who are

1 respondents in dependency cases are met within the priorities
2 established in this section;

3 (e) Establish a standard contract or contracts, consistent with
4 state minimum standards, RCW 71.24.320 and 71.24.330, which shall be
5 used in contracting with regional support networks. The standard
6 contract shall include a maximum fund balance, which shall be
7 consistent with that required by federal regulations or waiver
8 stipulations;

9 (f) Establish, to the extent possible, a standardized auditing
10 procedure which minimizes paperwork requirements of regional support
11 networks and licensed service providers. The audit procedure shall
12 focus on the outcomes of service and not the processes for
13 accomplishing them;

14 (g) Develop and maintain an information system to be used by the
15 state and regional support networks that includes a tracking method
16 which allows the department and regional support networks to identify
17 mental health clients' participation in any mental health service or
18 public program on an immediate basis. The information system shall not
19 include individual patient's case history files. Confidentiality of
20 client information and records shall be maintained as provided in this
21 chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

22 (h) License service providers who meet state minimum standards;

23 (i) Certify regional support networks that meet state minimum
24 standards;

25 (j) Periodically monitor the compliance of certified regional
26 support networks and their network of licensed service providers for
27 compliance with the contract between the department, the regional
28 support network, and federal and state rules at reasonable times and in
29 a reasonable manner;

30 (k) Fix fees to be paid by evaluation and treatment centers to the
31 secretary for the required inspections;

32 (l) Monitor and audit regional support networks and licensed
33 service providers as needed to assure compliance with contractual
34 agreements authorized by this chapter;

35 (m) Adopt such rules as are necessary to implement the department's
36 responsibilities under this chapter;

37 (n) Assure the availability of an appropriate amount, as determined

1 by the legislature in the operating budget by amounts appropriated for
2 this specific purpose, of community-based, geographically distributed
3 residential services;

4 (o) Certify crisis stabilization units that meet state minimum
5 standards; (~~and~~)

6 (p) Certify clubhouses that meet state minimum standards; and

7 (q) Certify triage facilities that meet state minimum standards.

8 (6) The secretary shall use available resources only for regional
9 support networks, except to the extent authorized, and in accordance
10 with any priorities or conditions specified, in the biennial
11 appropriations act.

12 (7) Each certified regional support network and licensed service
13 provider shall file with the secretary, on request, such data,
14 statistics, schedules, and information as the secretary reasonably
15 requires. A certified regional support network or licensed service
16 provider which, without good cause, fails to furnish any data,
17 statistics, schedules, or information as requested, or files fraudulent
18 reports thereof, may have its certification or license revoked or
19 suspended.

20 (8) The secretary may suspend, revoke, limit, or restrict a
21 certification or license, or refuse to grant a certification or license
22 for failure to conform to: (a) The law; (b) applicable rules and
23 regulations; (c) applicable standards; or (d) state minimum standards.

24 (9) The superior court may restrain any regional support network or
25 service provider from operating without certification or a license or
26 any other violation of this section. The court may also review,
27 pursuant to procedures contained in chapter 34.05 RCW, any denial,
28 suspension, limitation, restriction, or revocation of certification or
29 license, and grant other relief required to enforce the provisions of
30 this chapter.

31 (10) Upon petition by the secretary, and after hearing held upon
32 reasonable notice to the facility, the superior court may issue a
33 warrant to an officer or employee of the secretary authorizing him or
34 her to enter at reasonable times, and examine the records, books, and
35 accounts of any regional support network or service provider refusing
36 to consent to inspection or examination by the authority.

37 (11) Notwithstanding the existence or pursuit of any other remedy,
38 the secretary may file an action for an injunction or other process

1 against any person or governmental unit to restrain or prevent the
2 establishment, conduct, or operation of a regional support network or
3 service provider without certification or a license under this chapter.

4 (12) The standards for certification of evaluation and treatment
5 facilities shall include standards relating to maintenance of good
6 physical and mental health and other services to be afforded persons
7 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall
8 otherwise assure the effectuation of the purposes of these chapters.

9 (13) The standards for certification of crisis stabilization units
10 shall include standards that:

11 (a) Permit location of the units at a jail facility if the unit is
12 physically separate from the general population of the jail;

13 (b) Require administration of the unit by mental health
14 professionals who direct the stabilization and rehabilitation efforts;
15 and

16 (c) Provide an environment affording security appropriate with the
17 alleged criminal behavior and necessary to protect the public safety.

18 (14) The standards for certification of a clubhouse shall at a
19 minimum include:

20 (a) The facilities may be peer-operated and must be
21 recovery-focused;

22 (b) Members and employees must work together;

23 (c) Members must have the opportunity to participate in all the
24 work of the clubhouse, including administration, research, intake and
25 orientation, outreach, hiring, training and evaluation of staff, public
26 relations, advocacy, and evaluation of clubhouse effectiveness;

27 (d) Members and staff and ultimately the clubhouse director must be
28 responsible for the operation of the clubhouse, central to this
29 responsibility is the engagement of members and staff in all aspects of
30 clubhouse operations;

31 (e) Clubhouse programs must be comprised of structured activities
32 including but not limited to social skills training, vocational
33 rehabilitation, employment training and job placement, and community
34 resource development;

35 (f) Clubhouse programs must provide in-house educational programs
36 that significantly utilize the teaching and tutoring skills of members
37 and assist members by helping them to take advantage of adult education
38 opportunities in the community;

1 (g) Clubhouse programs must focus on strengths, talents, and
2 abilities of its members;

3 (h) The work-ordered day may not include medication clinics, day
4 treatment, or other therapy programs within the clubhouse.

5 (15) The department shall distribute appropriated state and federal
6 funds in accordance with any priorities, terms, or conditions specified
7 in the appropriations act.

8 (16) The secretary shall assume all duties assigned to the
9 nonparticipating regional support networks under chapters 71.05, 71.34,
10 and 71.24 RCW. Such responsibilities shall include those which would
11 have been assigned to the nonparticipating counties in regions where
12 there are not participating regional support networks.

13 The regional support networks, or the secretary's assumption of all
14 responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be
15 included in all state and federal plans affecting the state mental
16 health program including at least those required by this chapter, the
17 medicaid program, and P.L. 99-660. Nothing in these plans shall be
18 inconsistent with the intent and requirements of this chapter.

19 (17) The secretary shall:

20 (a) Disburse funds for the regional support networks within sixty
21 days of approval of the biennial contract. The department must either
22 approve or reject the biennial contract within sixty days of receipt.

23 (b) Enter into biennial contracts with regional support networks.
24 The contracts shall be consistent with available resources. No
25 contract shall be approved that does not include progress toward
26 meeting the goals of this chapter by taking responsibility for: (i)
27 Short-term commitments; (ii) residential care; and (iii) emergency
28 response systems.

29 (c) Notify regional support networks of their allocation of
30 available resources at least sixty days prior to the start of a new
31 biennial contract period.

32 (d) Deny all or part of the funding allocations to regional support
33 networks based solely upon formal findings of noncompliance with the
34 terms of the regional support network's contract with the department.
35 Regional support networks disputing the decision of the secretary to
36 withhold funding allocations are limited to the remedies provided in
37 the department's contracts with the regional support networks.

1 (18) The department, in cooperation with the state congressional
2 delegation, shall actively seek waivers of federal requirements and
3 such modifications of federal regulations as are necessary to allow
4 federal medicaid reimbursement for services provided by freestanding
5 evaluation and treatment facilities certified under chapter 71.05 RCW.
6 The department shall periodically report its efforts to the appropriate
7 committees of the senate and the house of representatives.

8 **Sec. 5.** RCW 71.05.150 and 2007 c 375 s 7 are each amended to read
9 as follows:

10 (1) When a designated mental health professional receives
11 information alleging that a person, as a result of a mental disorder:
12 (i) Presents a likelihood of serious harm; or (ii) is gravely disabled;
13 the designated mental health professional may, after investigation and
14 evaluation of the specific facts alleged and of the reliability and
15 credibility of any person providing information to initiate detention,
16 if satisfied that the allegations are true and that the person will not
17 voluntarily seek appropriate treatment, file a petition for initial
18 detention. Before filing the petition, the designated mental health
19 professional must personally interview the person, unless the person
20 refuses an interview, and determine whether the person will voluntarily
21 receive appropriate evaluation and treatment at an evaluation and
22 treatment facility (~~or in a~~), crisis stabilization unit, or triage
23 facility.

24 (2)(a) An order to detain to a designated evaluation and treatment
25 facility for not more than a seventy-two-hour evaluation and treatment
26 period may be issued by a judge of the superior court upon request of
27 a designated mental health professional, whenever it appears to the
28 satisfaction of a judge of the superior court:

29 (i) That there is probable cause to support the petition; and
30 (ii) That the person has refused or failed to accept appropriate
31 evaluation and treatment voluntarily.

32 (b) The petition for initial detention, signed under penalty of
33 perjury, or sworn telephonic testimony may be considered by the court
34 in determining whether there are sufficient grounds for issuing the
35 order.

36 (c) The order shall designate retained counsel or, if counsel is

1 appointed from a list provided by the court, the name, business
2 address, and telephone number of the attorney appointed to represent
3 the person.

4 (3) The designated mental health professional shall then serve or
5 cause to be served on such person, his or her guardian, and
6 conservator, if any, a copy of the order together with a notice of
7 rights, and a petition for initial detention. After service on such
8 person the designated mental health professional shall file the return
9 of service in court and provide copies of all papers in the court file
10 to the evaluation and treatment facility and the designated attorney.
11 The designated mental health professional shall notify the court and
12 the prosecuting attorney that a probable cause hearing will be held
13 within seventy-two hours of the date and time of outpatient evaluation
14 or admission to the evaluation and treatment facility. The person
15 shall be permitted to be accompanied by one or more of his or her
16 relatives, friends, an attorney, a personal physician, or other
17 professional or religious advisor to the place of evaluation. An
18 attorney accompanying the person to the place of evaluation shall be
19 permitted to be present during the admission evaluation. Any other
20 individual accompanying the person may be present during the admission
21 evaluation. The facility may exclude the individual if his or her
22 presence would present a safety risk, delay the proceedings, or
23 otherwise interfere with the evaluation.

24 (4) The designated mental health professional may notify a peace
25 officer to take such person or cause such person to be taken into
26 custody and placed in an evaluation and treatment facility. At the
27 time such person is taken into custody there shall commence to be
28 served on such person, his or her guardian, and conservator, if any, a
29 copy of the original order together with a notice of rights and a
30 petition for initial detention."

31 Renumber the remaining sections consecutively and correct any
32 internal references accordingly.

33 On page 9, line 20 of the amendment, strike "providing triage
34 services" and insert "operating as triage facilities as defined in RCW
35 71.05.020, whether or not they are certified by the department of
36 social and health services,"

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1 On page 10, beginning on line 2 of the title amendment, after
2 "71.05.153" strike all material through "71.05.020" on line 3 and
3 insert ", 10.31.110, and 71.05.150; reenacting and amending RCW
4 71.05.020 and 71.24.035"

EFFECT: This amendment makes technical changes that clarify the duties of the Department of Social and Health Services under this legislation.

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