

**EHB 2107 - H AMD 604**

By Representatives Schmick, Cody

ADOPTED 05/25/2017

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 71.24  
4 RCW to read as follows:

5 The legislature finds that concentrating all long-term placements  
6 for mental health patients at eastern and western state hospitals is  
7 not a sustainable model for the future. There is insufficient  
8 capacity at eastern and western state hospitals to meet current and  
9 growing demand for services and patients, and families are better  
10 supported when care is provided in communities closer to their homes.  
11 Therefore, the legislature intends to facilitate the addition of  
12 services to the existing system by making long-term placement for  
13 mental health patients available in community hospitals and  
14 evaluation and treatment facilities that voluntarily contract and are  
15 certified by the department of social and health services.

16 **Sec. 2.** RCW 71.24.310 and 2017 c 222 s 1 are each amended to  
17 read as follows:

18 The legislature finds that administration of chapter 71.05 RCW  
19 and this chapter can be most efficiently and effectively implemented  
20 as part of the behavioral health organization defined in RCW  
21 71.24.025. For this reason, the legislature intends that the  
22 department and the behavioral health organizations shall work  
23 together to implement chapter 71.05 RCW as follows:

24 (1) By June 1, 2006, behavioral health organizations shall  
25 recommend to the department the number of state hospital beds that  
26 should be allocated for use by each behavioral health organization.  
27 The statewide total allocation shall not exceed the number of state  
28 hospital beds offering long-term inpatient care, as defined in this  
29 chapter, for which funding is provided in the biennial appropriations  
30 act.

1 (2) If there is consensus among the behavioral health  
2 organizations regarding the number of state hospital beds that should  
3 be allocated for use by each behavioral health organization, the  
4 department shall contract with each behavioral health organization  
5 accordingly.

6 (3) If there is not consensus among the behavioral health  
7 organizations regarding the number of beds that should be allocated  
8 for use by each behavioral health organization, the department shall  
9 establish by emergency rule the number of state hospital beds that  
10 are available for use by each behavioral health organization. The  
11 emergency rule shall be effective September 1, 2006. The primary  
12 factor used in the allocation shall be the estimated number of adults  
13 with acute and chronic mental illness in each behavioral health  
14 organization area, based upon population-adjusted incidence and  
15 utilization.

16 (4) The allocation formula shall be updated at least every three  
17 years to reflect demographic changes, and new evidence regarding the  
18 incidence of acute and chronic mental illness and the need for long-  
19 term inpatient care. In the updates, the statewide total allocation  
20 shall include (a) all state hospital beds offering long-term  
21 inpatient care for which funding is provided in the biennial  
22 appropriations act; plus (b) the estimated equivalent number of beds  
23 or comparable diversion services contracted in accordance with  
24 subsection (5) of this section.

25 (5)(a) The department (~~(is encouraged to)~~) shall enter into  
26 performance-based contracts with behavioral health organizations to  
27 provide some or all of the behavioral health organization's allocated  
28 long-term inpatient treatment capacity in the community, rather than  
29 in the state hospital, to the extent that willing certified  
30 facilities are available. The performance contracts shall specify the  
31 number of patient days of care available for use by the behavioral  
32 health organization in the state hospital and the number of patient  
33 days of care available for use by the behavioral health organization  
34 in a facility certified by the department to provide treatment to  
35 adults on a ninety or one hundred eighty day inpatient involuntary  
36 commitment order, including hospitals licensed under chapters 70.41  
37 and 71.12 RCW and evaluation and treatment facilities certified under  
38 chapter 71.05 RCW.

39 (b) Nothing in this section requires a hospital licensed under  
40 chapter 70.41 or 71.12 RCW to contract or become certified to treat

1 patients on ninety or one hundred eighty day involuntary commitment  
2 orders as a condition for continuing to treat adults who are waiting  
3 for placement at either the state hospital or in certified facilities  
4 that voluntarily contract to provide treatment to patients on ninety  
5 or one hundred eighty day involuntary commitment orders.

6 (6) If a behavioral health organization uses more state hospital  
7 patient days of care than it has been allocated under subsection (3)  
8 or (4) of this section, or than it has contracted to use under  
9 subsection (5) of this section, whichever is less, it shall reimburse  
10 the department for that care. Reimbursements must be calculated using  
11 quarterly average census data to determine an average number of days  
12 used in excess of the bed allocation for the quarter. The  
13 reimbursement rate per day shall be the hospital's total annual  
14 budget for long-term inpatient care, divided by the total patient  
15 days of care assumed in development of that budget.

16 (7) One-half of any reimbursements received pursuant to  
17 subsection (6) of this section shall be used to support the cost of  
18 operating the state hospital and, during the 2007-2009 fiscal  
19 biennium, implementing new services that will enable a behavioral  
20 health organization to reduce its utilization of the state hospital.  
21 The department shall distribute the remaining half of such  
22 reimbursements among behavioral health organizations that have used  
23 less than their allocated or contracted patient days of care at that  
24 hospital, proportional to the number of patient days of care not  
25 used.

26 **Sec. 3.** RCW 71.24.380 and 2014 c 225 s 5 are each amended to  
27 read as follows:

28 (1) The secretary shall purchase mental health and chemical  
29 dependency treatment services primarily through managed care  
30 contracting, but may continue to purchase behavioral health services  
31 directly from tribal clinics and other tribal providers.

32 (2)(a) The secretary shall request a detailed plan from the  
33 entities identified in (b) of this subsection that demonstrates  
34 compliance with the contractual elements of RCW 43.20A.894 and  
35 federal regulations related to medicaid managed care contracting((7))  
36 including, but not limited to: Having a sufficient network of  
37 providers to provide adequate access to mental health and chemical  
38 dependency services for residents of the regional service area that  
39 meet eligibility criteria for services, ability to maintain and

1 manage adequate reserves, and maintenance of quality assurance  
2 processes. In addition, such entities must demonstrate the ability to  
3 contract for a minimum number of patient days, to be determined by  
4 the secretary, in a facility certified by the department to provide  
5 treatment to adults on a ninety or one hundred eighty day inpatient  
6 involuntary commitment order, including at hospitals licensed under  
7 chapters 70.41 and 71.12 RCW and evaluation and treatment facilities  
8 certified under chapter 71.05 RCW, to the extent that willing  
9 certified facilities are available. Any responding entity that  
10 submits a detailed plan that demonstrates that it can meet the  
11 requirements of this section must be awarded the contract to serve as  
12 the behavioral health organization.

13 (b)(i) For purposes of responding to the request for a detailed  
14 plan under (a) of this subsection, the entities from which a plan  
15 will be requested are:

16 (A) A county in a single county regional service area that  
17 currently serves as the regional support network for that area;

18 (B) In the event that a county has made a decision prior to  
19 January 1, 2014, not to contract as a regional support network, any  
20 private entity that serves as the regional support network for that  
21 area;

22 (C) All counties within a regional service area that includes  
23 more than one county, which shall form a responding entity through  
24 the adoption of an interlocal agreement. The interlocal agreement  
25 must specify the terms by which the responding entity shall serve as  
26 the behavioral health organization within the regional service area.

27 (ii) In the event that a regional service area is comprised of  
28 multiple counties including one that has made a decision prior to  
29 January 1, 2014, not to contract as a regional support network the  
30 counties shall adopt an interlocal agreement and may respond to the  
31 request for a detailed plan under (a) of this subsection and the  
32 private entity may also respond to the request for a detailed plan.  
33 If both responding entities meet the requirements of this section,  
34 the responding entities shall follow the department's procurement  
35 process established in subsection (3) of this section.

36 (3) If an entity that has received a request under this section  
37 to submit a detailed plan does not respond to the request, a  
38 responding entity under subsection (1) of this section is unable to  
39 substantially meet the requirements of the request for a detailed  
40 plan, or more than one responding entity substantially meets the

1 requirements for the request for a detailed plan, the department  
2 shall use a procurement process in which other entities recognized by  
3 the secretary may bid to serve as the behavioral health organization  
4 in that regional service area.

5 (4) Contracts for behavioral health organizations must begin on  
6 April 1, 2016.

7 (5) Upon request of all of the county authorities in a regional  
8 service area, the department and the health care authority may  
9 jointly purchase behavioral health services through an integrated  
10 medical and behavioral health services contract with a behavioral  
11 health organization or a managed health care system as defined in RCW  
12 74.09.522, pursuant to standards to be developed jointly by the  
13 secretary and the health care authority. Any contract for such a  
14 purchase must comply with all federal medicaid and state law  
15 requirements related to managed health care contracting.

16 (6) As an incentive to county authorities to become early  
17 adopters of fully integrated purchasing of medical and behavioral  
18 health services, the standards adopted by the secretary and the  
19 health care authority under subsection (5) of this section shall  
20 provide for an incentive payment to counties which elect to move to  
21 full integration by January 1, 2016. Subject to federal approval, the  
22 incentive payment shall be targeted at ten percent of savings  
23 realized by the state within the regional service area in which the  
24 fully integrated purchasing takes place. Savings shall be calculated  
25 in alignment with the outcome and performance measures established in  
26 RCW 43.20A.895, 70.320.020, and 71.36.025, and incentive payments for  
27 early adopter counties shall be made available for up to a six-year  
28 period, or until full integration of medical and behavioral health  
29 services is accomplished statewide, whichever comes sooner, according  
30 to rules to be developed by the secretary and health care authority.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 71.24  
32 RCW to read as follows:

33 (1) The department and the entities identified in RCW 71.24.310  
34 and 71.24.380 shall: (a) Work with willing community hospitals  
35 licensed under chapters 70.41 and 71.12 RCW and evaluation and  
36 treatment facilities certified under chapter 71.05 RCW to assess  
37 their capacity to become certified to provide long-term mental health  
38 placements and to meet the requirements of this chapter; and (b)  
39 enter into contracts and payment arrangements with such hospitals and

1 evaluation and treatment facilities choosing to provide long-term  
2 mental health placements, to the extent that willing certified  
3 facilities are available. Nothing in this chapter requires any  
4 community hospital or evaluation and treatment facility to be  
5 certified to provide long-term mental health placements.

6 (2) The department must establish reporting requirements for  
7 certified facilities. The reporting standards must allow the  
8 department to monitor the performance of the certified facilities and  
9 compare results with the state hospitals in a consistent format. The  
10 measures must align with the data reported by the department to the  
11 select committee on quality improvement in state hospitals, including  
12 the length of stay of patients, outcomes after discharge, employee-  
13 related measures, and demographic information.

14 NEW SECTION. **Sec. 5.** A new section is added to chapter 71.24  
15 RCW to read as follows:

16 The legislature finds that concentrating all long-term placements  
17 for mental health patients at eastern and western state hospitals is  
18 not a sustainable model for the future. There is insufficient  
19 capacity at eastern and western state hospitals to meet current and  
20 growing demand for services and patients, and families are better  
21 supported when care is provided in communities closer to their homes.  
22 Therefore, the legislature intends to facilitate the addition of  
23 services to the existing system by making long-term placement for  
24 mental health patients available in community hospitals and  
25 evaluation and treatment facilities that voluntarily contract and are  
26 certified by the department of health.

27 **Sec. 6.** RCW 71.24.310 and 2017 c 222 s 1 are each amended to  
28 read as follows:

29 The legislature finds that administration of chapter 71.05 RCW  
30 and this chapter can be most efficiently and effectively implemented  
31 as part of the behavioral health organization defined in RCW  
32 71.24.025. For this reason, the legislature intends that the  
33 (~~department~~) authority and the behavioral health organizations  
34 shall work together to implement chapter 71.05 RCW as follows:

35 (1) (~~By June 1, 2006,~~) Behavioral health organizations shall  
36 recommend to the (~~department~~) authority the number of state  
37 hospital beds that should be allocated for use by each behavioral  
38 health organization. The statewide total allocation shall not exceed

1 the number of state hospital beds offering long-term inpatient care,  
2 as defined in this chapter, for which funding is provided in the  
3 biennial appropriations act.

4 (2) If there is consensus among the behavioral health  
5 organizations regarding the number of state hospital beds that should  
6 be allocated for use by each behavioral health organization, the  
7 (~~department~~) authority shall contract with each behavioral health  
8 organization accordingly.

9 (3) If there is not consensus among the behavioral health  
10 organizations regarding the number of beds that should be allocated  
11 for use by each behavioral health organization, the (~~department~~)  
12 authority shall establish by emergency rule the number of state  
13 hospital beds that are available for use by each behavioral health  
14 organization. (~~The emergency rule shall be effective September 1,~~  
15 ~~2006.~~) The primary factor used in the allocation shall be the  
16 estimated number of adults with acute and chronic mental illness in  
17 each behavioral health organization area, based upon population-  
18 adjusted incidence and utilization.

19 (4) The allocation formula shall be updated at least every three  
20 years to reflect demographic changes, and new evidence regarding the  
21 incidence of acute and chronic mental illness and the need for long-  
22 term inpatient care. In the updates, the statewide total allocation  
23 shall include (a) all state hospital beds offering long-term  
24 inpatient care for which funding is provided in the biennial  
25 appropriations act; plus (b) the estimated equivalent number of beds  
26 or comparable diversion services contracted in accordance with  
27 subsection (5) of this section.

28 (5)(a) The (~~department is encouraged to~~) authority shall enter  
29 into performance-based contracts with behavioral health organizations  
30 to provide some or all of the behavioral health organization's  
31 allocated long-term inpatient treatment capacity in the community,  
32 rather than in the state hospital, to the extent that willing  
33 certified facilities are available. The performance contracts shall  
34 specify the number of patient days of care available for use by the  
35 behavioral health organization in the state hospital and the number  
36 of patient days of care available for use by the behavioral health  
37 organization in a facility certified by the department to provide  
38 treatment to adults on a ninety or one hundred eighty day inpatient  
39 involuntary commitment order, including hospitals licensed under

1 chapters 70.41 and 71.12 RCW and evaluation and treatment facilities  
2 certified under chapter 71.05 RCW.

3 (b) Nothing in this section requires a hospital licensed under  
4 chapter 70.41 or 71.12 RCW to contract or become certified to treat  
5 patients on ninety or one hundred eighty day involuntary commitment  
6 orders as a condition for continuing to treat adults who are waiting  
7 for placement at either the state hospital or in certified facilities  
8 that voluntarily contract to provide treatment to patients on ninety  
9 or one hundred eighty day involuntary commitment orders.

10 (6) If a behavioral health organization uses more state hospital  
11 patient days of care than it has been allocated under subsection (3)  
12 or (4) of this section, or than it has contracted to use under  
13 subsection (5) of this section, whichever is less, it shall reimburse  
14 the ((department)) authority for that care. Reimbursements must be  
15 calculated using quarterly average census data to determine an  
16 average number of days used in excess of the bed allocation for the  
17 quarter. The reimbursement rate per day shall be the hospital's total  
18 annual budget for long-term inpatient care, divided by the total  
19 patient days of care assumed in development of that budget.

20 (7) One-half of any reimbursements received pursuant to  
21 subsection (6) of this section shall be used to support the cost of  
22 operating the state hospital ((and, during the 2007-2009 fiscal  
23 biennium, implementing new services that will enable a behavioral  
24 health organization to reduce its utilization of the state  
25 hospital)). The ((department)) authority shall distribute the  
26 remaining half of such reimbursements among behavioral health  
27 organizations that have used less than their allocated or contracted  
28 patient days of care at that hospital, proportional to the number of  
29 patient days of care not used.

30 **Sec. 7.** RCW 71.24.380 and 2014 c 225 s 5 are each amended to  
31 read as follows:

32 (1) The ((secretary)) director shall purchase mental health and  
33 chemical dependency treatment services primarily through managed care  
34 contracting, but may continue to purchase behavioral health services  
35 directly from tribal clinics and other tribal providers.

36 (2)(a) The ((secretary)) director shall request a detailed plan  
37 from the entities identified in (b) of this subsection that  
38 demonstrates compliance with the contractual elements of RCW  
39 43.20A.894 and federal regulations related to medicaid managed care



1 contracting((7)) including, but not limited to: Having a sufficient  
2 network of providers to provide adequate access to mental health and  
3 chemical dependency services for residents of the regional service  
4 area that meet eligibility criteria for services, ability to maintain  
5 and manage adequate reserves, and maintenance of quality assurance  
6 processes. In addition, such entities must demonstrate the ability to  
7 contract for a minimum number of patient days, to be determined by  
8 the secretary, in a facility certified by the department to provide  
9 treatment to adults on a ninety or one hundred eighty day inpatient  
10 involuntary commitment order, including at hospitals licensed under  
11 chapters 70.41 and 71.12 RCW and evaluation and treatment facilities  
12 certified under chapter 71.05 RCW, to the extent that willing  
13 certified facilities are available. Any responding entity that  
14 submits a detailed plan that demonstrates that it can meet the  
15 requirements of this section must be awarded the contract to serve as  
16 the behavioral health organization.

17 (b)(i) For purposes of responding to the request for a detailed  
18 plan under (a) of this subsection, the entities from which a plan  
19 will be requested are:

20 (A) A county in a single county regional service area that  
21 currently serves as the regional support network for that area;

22 (B) In the event that a county has made a decision prior to  
23 January 1, 2014, not to contract as a regional support network, any  
24 private entity that serves as the regional support network for that  
25 area;

26 (C) All counties within a regional service area that includes  
27 more than one county, which shall form a responding entity through  
28 the adoption of an interlocal agreement. The interlocal agreement  
29 must specify the terms by which the responding entity shall serve as  
30 the behavioral health organization within the regional service area.

31 (ii) In the event that a regional service area is comprised of  
32 multiple counties including one that has made a decision prior to  
33 January 1, 2014, not to contract as a regional support network the  
34 counties shall adopt an interlocal agreement and may respond to the  
35 request for a detailed plan under (a) of this subsection and the  
36 private entity may also respond to the request for a detailed plan.  
37 If both responding entities meet the requirements of this section,  
38 the responding entities shall follow the ((department's)) authority's  
39 procurement process established in subsection (3) of this section.

1 (3) If an entity that has received a request under this section  
2 to submit a detailed plan does not respond to the request, a  
3 responding entity under subsection (1) of this section is unable to  
4 substantially meet the requirements of the request for a detailed  
5 plan, or more than one responding entity substantially meets the  
6 requirements for the request for a detailed plan, the ~~((department))~~  
7 authority shall use a procurement process in which other entities  
8 recognized by the ~~((secretary))~~ director may bid to serve as the  
9 behavioral health organization in that regional service area.

10 (4) Contracts for behavioral health organizations must begin on  
11 April 1, 2016.

12 (5) Upon request of all of the county authorities in a regional  
13 service area, the ~~((department and the health care))~~ authority may  
14 ~~((jointly))~~ purchase behavioral health services through an integrated  
15 medical and behavioral health services contract with a behavioral  
16 health organization or a managed health care system as defined in RCW  
17 74.09.522, pursuant to standards to be developed ~~((jointly))~~ by the  
18 ~~((secretary and the health care))~~ authority. Any contract for such a  
19 purchase must comply with all federal medicaid and state law  
20 requirements related to managed health care contracting.

21 (6) As an incentive to county authorities to become early  
22 adopters of fully integrated purchasing of medical and behavioral  
23 health services, the standards adopted by the ~~((secretary and the~~  
24 ~~health care))~~ authority under subsection (5) of this section shall  
25 provide for an incentive payment to counties which elect to move to  
26 full integration by January 1, 2016. Subject to federal approval, the  
27 incentive payment shall be targeted at ten percent of savings  
28 realized by the state within the regional service area in which the  
29 fully integrated purchasing takes place. Savings shall be calculated  
30 in alignment with the outcome and performance measures established in  
31 RCW 43.20A.895, 70.320.020, and 71.36.025, and incentive payments for  
32 early adopter counties shall be made available for up to a six-year  
33 period, or until full integration of medical and behavioral health  
34 services is accomplished statewide, whichever comes sooner, according  
35 to rules to be developed by the ~~((secretary and health care))~~  
36 authority.

37 NEW SECTION. **Sec. 8.** A new section is added to chapter 71.24  
38 RCW to read as follows:

1 (1) The authority and the entities identified in RCW 71.24.310  
2 and 71.24.380 shall: (a) Work with willing community hospitals  
3 licensed under chapters 70.41 and 71.12 RCW and evaluation and  
4 treatment facilities certified under chapter 71.05 RCW to assess  
5 their capacity to become certified to provide long-term mental health  
6 placements and to meet the requirements of this chapter; and (b)  
7 enter into contracts and payment arrangements with such hospitals and  
8 evaluation and treatment facilities choosing to provide long-term  
9 mental health placements, to the extent that willing certified  
10 facilities are available. Nothing in this chapter requires any  
11 community hospital or evaluation and treatment facility to be  
12 certified to provide long-term mental health placements.

13 (2) The authority must establish reporting requirements for  
14 certified facilities. The reporting standards must allow the  
15 authority to monitor the performance of the certified facilities and  
16 compare results with the state hospitals in a consistent format. The  
17 measures must align with the data reported by the authority to the  
18 select committee on quality improvement in state hospitals, including  
19 the length of stay of patients, outcomes after discharge, employee-  
20 related measures, and demographic information.

21 NEW SECTION. **Sec. 9.** Sections 1 through 4 of this act take  
22 effect only if neither Substitute House Bill No. 1388 (including any  
23 later amendments or substitutes) nor Substitute Senate Bill No. 5259  
24 (including any later amendments or substitutes) is signed into law by  
25 the governor by the effective date of this section.

26 NEW SECTION. **Sec. 10.** Sections 5 through 8 of this act take  
27 effect only if Substitute House Bill No. 1388 (including any later  
28 amendments or substitutes) or Substitute Senate Bill No. 5259  
29 (including any later amendments or substitutes) is signed into law by  
30 the governor by the effective date of this section."

31 Correct the title.

EFFECT: Updates underlying statutory language to reflect  
statutory changes that were enacted in the regular session.

--- END ---