SENATE BILL REPORT
2ESHB 1388

As Passed Senate, February 28, 2018

Title: An act relating to changing the designation of the state behavioral health authority from the department of social and health services to the health care authority and transferring the related powers, functions, and duties to the health care authority and the department of health.

Brief Description: Changing the designation of the state behavioral health authority from the department of social and health services to the health care authority and transferring the related powers, functions, and duties to the health care authority and the department of health.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Rodne, Harris, Macri and Frame; by request of Governor Inslee).

Brief History: Passed House: 3/02/17, 73-25; 5/25/17, 68-26; 2/07/18, 98-0.
Committee Activity: Health & Long Term Care: 2/19/18, 2/20/18 [DP-WM].
Ways & Means: 2/24/18, 2/26/18 [DP, w/oRec].
Floor Activity:
Passed Senate: 2/28/18, 44-2.

Brief Summary of Bill

- Transfers responsibilities for the oversight and purchasing of behavioral health services from the Department of Social and Health Services (DSHS) to the Health Care Authority (Authority), except for the operation of the state hospitals.
- Transfers responsibilities for the certification of behavioral health providers from DSHS to the Department of Health (DOH).

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: Do pass and be referred to Committee on Ways & Means.
Signed by Senators Cleveland, Chair; Kuderer, Vice Chair; Rivers, Ranking Member; Bailey, Becker, Conway, Fain, Keiser, Mullet and Van De Wege.

Staff: Evan Klein (786-7483)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.
Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Braun, Ranking Member; Bailey, Becker, Billig, Brown, Carlyle, Conway, Darneille, Fain, Hasegawa, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker, Rivers, Van De Wege, Wagoner and Warnick.

Minority Report: That it be referred without recommendation.
Signed by Senators Honeyford, Assistant Ranking Member; Schoesler.

Staff: Sandy Stith (786-7710)

Background: Administration of Medical Assistance. The Authority administers the Medicaid program which is a state-federal program that pays for health care for low-income state residents who meet certain eligibility criteria. Federal law requires each state that participates in Medicaid to designate a single state agency responsible for administration and supervision of the state's Medicaid program. Since 2011, in Washington, that agency has been the Authority.

The Authority primarily administers the Medicaid program through contracts with managed care organizations under the name Washington Apple Health. The managed care organizations provide a prepaid, comprehensive system of medical and health care delivery, including preventive, primary, specialty, and ancillary health services. There are currently six managed care organizations participating in Washington Apple Health.

Administration of Community Behavioral Health Services. DSHS has contracted with behavioral health organizations to oversee the delivery of mental health and substance use disorder services for adults and children since April 1, 2016. A behavioral health organization may be a county, group of counties, or a nonprofit entity. Behavioral health organizations are paid by the state on a capitation basis and funding is adjusted based on caseload. Behavioral health organizations contract with local providers to provide an array of mental health services, monitor the activities of local providers, and oversee the distribution of funds under the state managed care plan.

In 2014, legislation was passed to direct all behavioral health services to integrate into Medicaid managed organizations by 2020. Behavioral health services have already been integrated into the contracts of Medicaid managed care organizations in one regional service area in Southwest Washington.

Behavioral health organizations are also responsible for the administration of community-based commitments and services under the Involuntary Treatment Act, which is the statutory scheme that governs the civil commitment of persons who, due to a mental disorder, pose a likelihood of serious harm or are gravely disabled. Inpatient commitments for 90 or 180 days of treatment take place at one of two state hospitals operated by DSHS. Under the involuntary substance use disorder treatment system, an adult or minor may be committed upon a finding by clear, cogent, and convincing evidence that the person, due to substance use disorder, poses a likelihood of serious harm or is gravely disabled. In 2016, legislation

was enacted which integrates the involuntary treatment systems for substance use disorders and mental health, effective April 1, 2018.

Behavioral Health Licensing Activities. DSHS certifies behavioral health programs that meet established standards, including evaluation and treatment facilities, substance use disorder treatment providers, crisis stabilization units, and triage facilities. DOH licenses and certifies several behavioral health professionals, including social workers, mental health counselors, marriage and family therapists, psychologists, and chemical dependency professionals who meet educational, experience, and examination requirements established by DOH.

Summary of Bill: Responsibilities of the Authority. The Authority is designated as the state behavioral health authority, rather than DSHS, and is recognized as the single state authority for substance use disorders and mental health. Responsibilities for the community mental health system are transferred from DSHS to the Authority, including developing the state behavioral health program, developing contracts with behavioral health organizations, and any Medicaid waiver requests to the federal government. The Authority assumes the responsibility for establishing behavioral health organizations and regional service area boundaries. In the event that a behavioral health organization fails to meet state minimum standards, the Authority may be designated as the new behavioral health organization.

The responsibility for substance use disorder programs is shifted from DSHS to the Authority. These responsibilities include developing statewide and local programs for the prevention of drug addiction, assuring that contracts for substance use disorder services provide medically necessary services, coordinating substance use disorder activities with other agencies, and developing and implementing educational programs for persons with substance use disorders.

The responsibility for administering the Involuntary Treatment Act is changed from DSHS and the behavioral health organizations to the Authority and the behavioral health organizations. If the behavioral health organizations are not able to agree upon an allocation of state hospital beds for each behavioral health organization, the Authority must make the determination. The Authority assumes the responsibility for making single-bed certification decisions, adopting standard reporting forms and receiving reports from designated mental health professionals and designated crisis responders, and sharing reports with behavioral health organizations. The Authority must combine the functions of designated mental health providers and designated chemical dependency specialists into the single role of a designated crisis responder.

Responsibilities are shifted from DSHS to the Authority to evaluate the quality, effectiveness, efficiency, and use of services and standards for commitment, and establish criteria and procedures for the placement and transfer of committed minors. The Authority assumes oversight duties for psychiatric or substance use disorder evaluations of minors. The Authority assumes responsibilities for minors placed on 180-day inpatient commitments. The Authority and DSHS share authority over minors who fail to comply with less restrictive alternative treatment conditions.

Notifications related to the restoration of a person's right to possess a firearm are sent to the Authority, rather than DSHS. DSHS's electronic database that must be consulted when

determining a person's eligibility to possess a firearm is changed to the Authority's electronic database.

Psychiatric nurse practitioners are added to the definition of mental health professionals in the children's mental health laws and integrated crisis response laws. The requirement that psychiatric nurses have either two or three years of experience treating persons with mental health conditions is removed.

The Authority must collaborate with the county authorities within a regional service area, upon the counties' request, to establish an interlocal leadership structure. The interlocal leadership structure must include participation from counties and managed health care systems and representation from physical and behavioral health providers, tribes, and other entities in the regional service area. The purpose of the interlocal leadership structure is to design and implement a fully integrated managed care model for the regional service area that places clients at the center of care delivery and supports the integrated delivery of physical and behavioral health care. The interlocal leadership structure may address:

- aligning contracting and administrative functions;
- monitoring implementation of fully integrated managed care in the regional service area;
- developing a regional service area process for coordinating capital infrastructure requests, local capacity building, and other community investments;
- identifying and using measures and data to track and maintain regional service area accountability for delivery system performance; and
- discussing the possibility of managed health care systems subcontracting with county or local administrative service organizations to provide services to support a bi-directional system of care.

For regional service areas that adopt fully integrated managed care after 2016 and prior to 2020, the interlocal leadership structure must be allowed one year to develop and implement a local plan to transition to fully integrated managed care. The local plan may include provisions for county organizations to maintain existing contracts until 2019. Interlocal leadership structures expire on December 1, 2021, unless continued by the local leadership group.

Responsibilities of DOH. The responsibility for certifying and licensing behavioral health service providers is transferred from DSHS to DOH. DOH assumes the responsibility for establishing minimum standards for service providers and community support services and for disciplining those entities that do not meet the standards. The licensing and certification functions apply to evaluation and treatment facilities, crisis stabilization units, clubhouses, triage facilities, substance use disorder programs, and secured detoxification facilities. DOH must develop notifications for evaluation and treatment facilities, emergency departments, and inpatient facilities to give to parents regarding all treatment options available for a minor.

Persons who are licensed as mental health counselors, mental health counselor associates, marriage family therapists, or marriage family therapist associates are added to the list of professions who may become designated crisis responders.

Responsibilities of DSHS. DSHS retains authority over the operation and maintenance of the state hospitals and the Child Study and Treatment Center.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony (Health & Long Term Care): PRO: It is time to get this bill done this year. The version before the committee passed the House unanimously. This bill is a step in the process of treating the whole person, by aligning state agencies to better service patients, purchasers, and providers. This bill will increase the stability of HCA's work and better leverage the work of HCA. This will help HCA move towards full integration, and will improve the delivery of mental health care to the public.

Persons Testifying (Health & Long Term Care): PRO: Representative Eileen Cody, Prime Sponsor; Rashi Gupta, Governors Policy Office; Sue Birch, Director, HCA; Donald Bremmer, citizen.

Persons Signed In To Testify But Not Testifying (Health & Long Term Care): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: Legislation in 2014 set out a bipartisan vision and a mandate to integrate care for substance use disorders, mental health conditions, and physical health. This will help HCA move towards full integration, and will improve the delivery of behavioral health care to the public.

Persons Testifying (Ways & Means): PRO: Rashi Gupta, Governor's Policy Office.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.