
SECOND ENGROSSED HOUSE BILL 2107

State of Washington

65th Legislature

2017 Regular Session

By Representatives Schmick, Cody, and Ormsby

Read first time 02/15/17. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to the addition of services for long-term
2 placement of mental health patients in community settings that
3 voluntarily contract to provide the services; amending RCW 71.24.310,
4 71.24.380, 71.24.310, and 71.24.380; adding new sections to chapter
5 71.24 RCW; and providing contingent effective dates.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 71.24
8 RCW to read as follows:

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

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

3 The legislature finds that administration of chapter 71.05 RCW
4 and this chapter can be most efficiently and effectively implemented
5 as part of the behavioral health organization defined in RCW
6 71.24.025. For this reason, the legislature intends that the
7 department and the behavioral health organizations shall work
8 together to implement chapter 71.05 RCW as follows:

9 (1) By June 1, 2006, behavioral health organizations shall
10 recommend to the department the number of state hospital beds that
11 should be allocated for use by each behavioral health organization.
12 The statewide total allocation shall not exceed the number of state
13 hospital beds offering long-term inpatient care, as defined in this
14 chapter, for which funding is provided in the biennial appropriations
15 act.

16 (2) If there is consensus among the behavioral health
17 organizations regarding the number of state hospital beds that should
18 be allocated for use by each behavioral health organization, the
19 department shall contract with each behavioral health organization
20 accordingly.

21 (3) If there is not consensus among the behavioral health
22 organizations regarding the number of beds that should be allocated
23 for use by each behavioral health organization, the department shall
24 establish by emergency rule the number of state hospital beds that
25 are available for use by each behavioral health organization. The
26 emergency rule shall be effective September 1, 2006. The primary
27 factor used in the allocation shall be the estimated number of adults
28 with acute and chronic mental illness in each behavioral health
29 organization area, based upon population-adjusted incidence and
30 utilization.

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

1 (5)(a) The department (~~is encouraged to~~) shall enter into
2 performance-based contracts with behavioral health organizations to
3 provide some or all of the behavioral health organization's allocated
4 long-term inpatient treatment capacity in the community, rather than
5 in the state hospital, to the extent that willing certified
6 facilities are available. The performance contracts shall specify the
7 number of patient days of care available for use by the behavioral
8 health organization in the state hospital and the number of patient
9 days of care available for use by the behavioral health organization
10 in a facility certified by the department to provide treatment to
11 adults on a ninety or one hundred eighty day inpatient involuntary
12 commitment order, including hospitals licensed under chapters 70.41
13 and 71.12 RCW and evaluation and treatment facilities certified under
14 chapter 71.05 RCW.

15 (b) Nothing in this section requires a hospital licensed under
16 chapter 70.41 or 71.12 RCW to contract or become certified to treat
17 patients on ninety or one hundred eighty day involuntary commitment
18 orders as a condition for continuing to treat adults who are waiting
19 for placement at either the state hospital or in certified facilities
20 that voluntarily contract to provide treatment to patients on ninety
21 or one hundred eighty day involuntary commitment orders.

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

32 (7) One-half of any reimbursements received pursuant to
33 subsection (6) of this section shall be used to support the cost of
34 operating the state hospital and, during the 2007-2009 fiscal
35 biennium, implementing new services that will enable a behavioral
36 health organization to reduce its utilization of the state hospital.
37 The department shall distribute the remaining half of such
38 reimbursements among behavioral health organizations that have used
39 less than their allocated or contracted patient days of care at that

1 hospital, proportional to the number of patient days of care not
2 used.

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

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

9 (2)(a) The secretary shall request a detailed plan from the
10 entities identified in (b) of this subsection that demonstrates
11 compliance with the contractual elements of RCW 43.20A.894 and
12 federal regulations related to medicaid managed care contracting((7))
13 including, but not limited to: Having a sufficient network of
14 providers to provide adequate access to mental health and chemical
15 dependency services for residents of the regional service area that
16 meet eligibility criteria for services, ability to maintain and
17 manage adequate reserves, and maintenance of quality assurance
18 processes. In addition, such entities must demonstrate the ability to
19 contract for a minimum number of patient days, to be determined by
20 the secretary, in a facility certified by the department to provide
21 treatment to adults on a ninety or one hundred eighty day inpatient
22 involuntary commitment order, including at hospitals licensed under
23 chapters 70.41 and 71.12 RCW and evaluation and treatment facilities
24 certified under chapter 71.05 RCW, to the extent that willing
25 certified facilities are available. Any responding entity that
26 submits a detailed plan that demonstrates that it can meet the
27 requirements of this section must be awarded the contract to serve as
28 the behavioral health organization.

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

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

34 (B) In the event that a county has made a decision prior to
35 January 1, 2014, not to contract as a regional support network, any
36 private entity that serves as the regional support network for that
37 area;

38 (C) All counties within a regional service area that includes
39 more than one county, which shall form a responding entity through

1 the adoption of an interlocal agreement. The interlocal agreement
2 must specify the terms by which the responding entity shall serve as
3 the behavioral health organization within the regional service area.

4 (ii) In the event that a regional service area is comprised of
5 multiple counties including one that has made a decision prior to
6 January 1, 2014, not to contract as a regional support network the
7 counties shall adopt an interlocal agreement and may respond to the
8 request for a detailed plan under (a) of this subsection and the
9 private entity may also respond to the request for a detailed plan.
10 If both responding entities meet the requirements of this section,
11 the responding entities shall follow the department's procurement
12 process established in subsection (3) of this section.

13 (3) If an entity that has received a request under this section
14 to submit a detailed plan does not respond to the request, a
15 responding entity under subsection (1) of this section is unable to
16 substantially meet the requirements of the request for a detailed
17 plan, or more than one responding entity substantially meets the
18 requirements for the request for a detailed plan, the department
19 shall use a procurement process in which other entities recognized by
20 the secretary may bid to serve as the behavioral health organization
21 in that regional service area.

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

24 (5) Upon request of all of the county authorities in a regional
25 service area, the department and the health care authority may
26 jointly purchase behavioral health services through an integrated
27 medical and behavioral health services contract with a behavioral
28 health organization or a managed health care system as defined in RCW
29 74.09.522, pursuant to standards to be developed jointly by the
30 secretary and the health care authority. Any contract for such a
31 purchase must comply with all federal medicaid and state law
32 requirements related to managed health care contracting.

33 (6) As an incentive to county authorities to become early
34 adopters of fully integrated purchasing of medical and behavioral
35 health services, the standards adopted by the secretary and the
36 health care authority under subsection (5) of this section shall
37 provide for an incentive payment to counties which elect to move to
38 full integration by January 1, 2016. Subject to federal approval, the
39 incentive payment shall be targeted at ten percent of savings
40 realized by the state within the regional service area in which the

1 fully integrated purchasing takes place. Savings shall be calculated
2 in alignment with the outcome and performance measures established in
3 RCW 43.20A.895, 70.320.020, and 71.36.025, and incentive payments for
4 early adopter counties shall be made available for up to a six-year
5 period, or until full integration of medical and behavioral health
6 services is accomplished statewide, whichever comes sooner, according
7 to rules to be developed by the secretary and health care authority.

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

10 (1) The department and the entities identified in RCW 71.24.310
11 and 71.24.380 shall: (a) Work with willing community hospitals
12 licensed under chapters 70.41 and 71.12 RCW and evaluation and
13 treatment facilities certified under chapter 71.05 RCW to assess
14 their capacity to become certified to provide long-term mental health
15 placements and to meet the requirements of this chapter; and (b)
16 enter into contracts and payment arrangements with such hospitals and
17 evaluation and treatment facilities choosing to provide long-term
18 mental health placements, to the extent that willing certified
19 facilities are available. Nothing in this chapter requires any
20 community hospital or evaluation and treatment facility to be
21 certified to provide long-term mental health placements.

22 (2) The department must establish reporting requirements for
23 certified facilities. The reporting standards must allow the
24 department to monitor the performance of the certified facilities and
25 compare results with the state hospitals in a consistent format. The
26 measures must align with the data reported by the department to the
27 select committee on quality improvement in state hospitals, including
28 the length of stay of patients, outcomes after discharge, employee-
29 related measures, and demographic information.

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

32 The legislature finds that concentrating all long-term placements
33 for mental health patients at eastern and western state hospitals is
34 not a sustainable model for the future. There is insufficient
35 capacity at eastern and western state hospitals to meet current and
36 growing demand for services and patients, and families are better
37 supported when care is provided in communities closer to their homes.
38 Therefore, the legislature intends to facilitate the addition of

1 services to the existing system by making long-term placement for
2 mental health patients available in community hospitals and
3 evaluation and treatment facilities that voluntarily contract and are
4 certified by the department of health.

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

7 The legislature finds that administration of chapter 71.05 RCW
8 and this chapter can be most efficiently and effectively implemented
9 as part of the behavioral health organization defined in RCW
10 71.24.025. For this reason, the legislature intends that the
11 ~~((department))~~ authority and the behavioral health organizations
12 shall work together to implement chapter 71.05 RCW as follows:

13 (1) ~~((By June 1, 2006,))~~ Behavioral health organizations shall
14 recommend to the ~~((department))~~ authority the number of state
15 hospital beds that should be allocated for use by each behavioral
16 health organization. The statewide total allocation shall not exceed
17 the number of state hospital beds offering long-term inpatient care,
18 as defined in this chapter, for which funding is provided in the
19 biennial appropriations act.

20 (2) If there is consensus among the behavioral health
21 organizations regarding the number of state hospital beds that should
22 be allocated for use by each behavioral health organization, the
23 ~~((department))~~ authority shall contract with each behavioral health
24 organization accordingly.

25 (3) If there is not consensus among the behavioral health
26 organizations regarding the number of beds that should be allocated
27 for use by each behavioral health organization, the ~~((department))~~
28 authority shall establish by emergency rule the number of state
29 hospital beds that are available for use by each behavioral health
30 organization. ~~((The emergency rule shall be effective September 1,
31 2006.))~~ The primary factor used in the allocation shall be the
32 estimated number of adults with acute and chronic mental illness in
33 each behavioral health organization area, based upon population-
34 adjusted incidence and utilization.

35 (4) The allocation formula shall be updated at least every three
36 years to reflect demographic changes, and new evidence regarding the
37 incidence of acute and chronic mental illness and the need for long-
38 term inpatient care. In the updates, the statewide total allocation
39 shall include (a) all state hospital beds offering long-term

1 inpatient care for which funding is provided in the biennial
2 appropriations act; plus (b) the estimated equivalent number of beds
3 or comparable diversion services contracted in accordance with
4 subsection (5) of this section.

5 (5)(a) ~~The ((department is encouraged to))~~ authority shall enter
6 into performance-based contracts with behavioral health organizations
7 to provide some or all of the behavioral health organization's
8 allocated long-term inpatient treatment capacity in the community,
9 rather than in the state hospital, to the extent that willing
10 certified facilities are available. The performance contracts shall
11 specify the number of patient days of care available for use by the
12 behavioral health organization in the state hospital and the number
13 of patient days of care available for use by the behavioral health
14 organization in a facility certified by the department to provide
15 treatment to adults on a ninety or one hundred eighty day inpatient
16 involuntary commitment order, including hospitals licensed under
17 chapters 70.41 and 71.12 RCW and evaluation and treatment facilities
18 certified under chapter 71.05 RCW.

19 (b) Nothing in this section requires a hospital licensed under
20 chapter 70.41 or 71.12 RCW to contract or become certified to treat
21 patients on ninety or one hundred eighty day involuntary commitment
22 orders as a condition for continuing to treat adults who are waiting
23 for placement at either the state hospital or in certified facilities
24 that voluntarily contract to provide treatment to patients on ninety
25 or one hundred eighty day involuntary commitment orders.

26 (6) If a behavioral health organization uses more state hospital
27 patient days of care than it has been allocated under subsection (3)
28 or (4) of this section, or than it has contracted to use under
29 subsection (5) of this section, whichever is less, it shall reimburse
30 the ~~((department))~~ authority for that care. Reimbursements must be
31 calculated using quarterly average census data to determine an
32 average number of days used in excess of the bed allocation for the
33 quarter. The reimbursement rate per day shall be the hospital's total
34 annual budget for long-term inpatient care, divided by the total
35 patient days of care assumed in development of that budget.

36 (7) One-half of any reimbursements received pursuant to
37 subsection (6) of this section shall be used to support the cost of
38 operating the state hospital ~~((and, during the 2007-2009 fiscal~~
39 ~~biennium, implementing new services that will enable a behavioral~~
40 ~~health organization to reduce its utilization of the state~~

1 hospital)). The ((department)) authority shall distribute the
2 remaining half of such reimbursements among behavioral health
3 organizations that have used less than their allocated or contracted
4 patient days of care at that hospital, proportional to the number of
5 patient days of care not used.

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

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

12 (2)(a) The ((secretary)) director shall request a detailed plan
13 from the entities identified in (b) of this subsection that
14 demonstrates compliance with the contractual elements of RCW
15 43.20A.894 and federal regulations related to medicaid managed care
16 contracting((7)) including, but not limited to: Having a sufficient
17 network of providers to provide adequate access to mental health and
18 chemical dependency services for residents of the regional service
19 area that meet eligibility criteria for services, ability to maintain
20 and manage adequate reserves, and maintenance of quality assurance
21 processes. In addition, such entities must demonstrate the ability to
22 contract for a minimum number of patient days, to be determined by
23 the secretary, in a facility certified by the department to provide
24 treatment to adults on a ninety or one hundred eighty day inpatient
25 involuntary commitment order, including at hospitals licensed under
26 chapters 70.41 and 71.12 RCW and evaluation and treatment facilities
27 certified under chapter 71.05 RCW, to the extent that willing
28 certified facilities are available. Any responding entity that
29 submits a detailed plan that demonstrates that it can meet the
30 requirements of this section must be awarded the contract to serve as
31 the behavioral health organization.

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

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

37 (B) In the event that a county has made a decision prior to
38 January 1, 2014, not to contract as a regional support network, any

1 private entity that serves as the regional support network for that
2 area;

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

8 (ii) In the event that a regional service area is comprised of
9 multiple counties including one that has made a decision prior to
10 January 1, 2014, not to contract as a regional support network the
11 counties shall adopt an interlocal agreement and may respond to the
12 request for a detailed plan under (a) of this subsection and the
13 private entity may also respond to the request for a detailed plan.
14 If both responding entities meet the requirements of this section,
15 the responding entities shall follow the ~~((department's))~~ authority's
16 procurement process established in subsection (3) of this section.

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

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

28 (5) Upon request of all of the county authorities in a regional
29 service area, the ~~((department and the health care))~~ authority may
30 ~~((jointly))~~ purchase behavioral health services through an integrated
31 medical and behavioral health services contract with a behavioral
32 health organization or a managed health care system as defined in RCW
33 74.09.522, pursuant to standards to be developed ~~((jointly))~~ by the
34 ~~((secretary and the health care))~~ authority. Any contract for such a
35 purchase must comply with all federal medicaid and state law
36 requirements related to managed health care contracting.

37 (6) As an incentive to county authorities to become early
38 adopters of fully integrated purchasing of medical and behavioral
39 health services, the standards adopted by the ~~((secretary and the~~
40 ~~health care))~~ authority under subsection (5) of this section shall

1 provide for an incentive payment to counties which elect to move to
2 full integration by January 1, 2016. Subject to federal approval, the
3 incentive payment shall be targeted at ten percent of savings
4 realized by the state within the regional service area in which the
5 fully integrated purchasing takes place. Savings shall be calculated
6 in alignment with the outcome and performance measures established in
7 RCW 43.20A.895, 70.320.020, and 71.36.025, and incentive payments for
8 early adopter counties shall be made available for up to a six-year
9 period, or until full integration of medical and behavioral health
10 services is accomplished statewide, whichever comes sooner, according
11 to rules to be developed by the ((secretary and health care))
12 authority.

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

15 (1) The authority and the entities identified in RCW 71.24.310
16 and 71.24.380 shall: (a) Work with willing community hospitals
17 licensed under chapters 70.41 and 71.12 RCW and evaluation and
18 treatment facilities certified under chapter 71.05 RCW to assess
19 their capacity to become certified to provide long-term mental health
20 placements and to meet the requirements of this chapter; and (b)
21 enter into contracts and payment arrangements with such hospitals and
22 evaluation and treatment facilities choosing to provide long-term
23 mental health placements, to the extent that willing certified
24 facilities are available. Nothing in this chapter requires any
25 community hospital or evaluation and treatment facility to be
26 certified to provide long-term mental health placements.

27 (2) The authority must establish reporting requirements for
28 certified facilities. The reporting standards must allow the
29 authority to monitor the performance of the certified facilities and
30 compare results with the state hospitals in a consistent format. The
31 measures must align with the data reported by the authority to the
32 select committee on quality improvement in state hospitals, including
33 the length of stay of patients, outcomes after discharge, employee-
34 related measures, and demographic information.

35 NEW SECTION. **Sec. 9.** Sections 1 through 4 of this act take
36 effect only if neither Substitute House Bill No. 1388 (including any
37 later amendments or substitutes) nor Substitute Senate Bill No. 5259

1 (including any later amendments or substitutes) is signed into law by
2 the governor by the effective date of this section.

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

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