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**SUBSTITUTE SENATE BILL 5434**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By** Senate Human Services, Mental Health & Housing (originally sponsored by Senators Rivers and Cleveland)

READ FIRST TIME 02/16/17.

1 AN ACT Relating to the addition of services for long-term  
2 placement of mental health patients in community hospitals that  
3 voluntarily contract and are certified by the department of social  
4 and health services; amending RCW 71.24.310 and 71.24.380; and adding  
5 new sections to chapter 71.24 RCW.

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 that  
18 voluntarily contract and are certified by the department of social  
19 and health services.

1       **Sec. 2.** RCW 71.24.310 and 2014 c 225 s 40 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) 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. The performance contracts shall specify the  
6 number of patient days of care available for use by the behavioral  
7 health organization in the state hospital and the number of patient  
8 days of care available for use by the behavioral health organization  
9 in a facility certified by the department to provide treatment to  
10 adults on a ninety or one hundred eighty day inpatient involuntary  
11 commitment order, including hospitals licensed under chapters 70.41  
12 and 71.12 RCW. Nothing in this section requires a hospital licensed  
13 under chapter 70.41 or 71.12 RCW to contract to serve patients on  
14 ninety or one hundred eighty day inpatient involuntary commitment  
15 orders in order to continue to treat adults who are waiting for  
16 placement at either the state hospital or in facilities that  
17 voluntarily contract for services.

18 (6) If a behavioral health organization uses more state hospital  
19 patient days of care than it has been allocated under subsection (3)  
20 or (4) of this section, or than it has contracted to use under  
21 subsection (5) of this section, whichever is less, it shall reimburse  
22 the department for that care, except during the period of July 1,  
23 2012, through December 31, 2013, where reimbursements may be  
24 temporarily altered per section 204, chapter 4, Laws of 2013 2nd sp.  
25 sess. The reimbursement rate per day shall be the hospital's total  
26 annual budget for long-term inpatient care, divided by the total  
27 patient days of care assumed in development of that budget.

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

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

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

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

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

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

28 (B) In the event that a county has made a decision prior to  
29 January 1, 2014, not to contract as a regional support network, any  
30 private entity that serves as the regional support network for that  
31 area;

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

37 (ii) In the event that a regional service area is comprised of  
38 multiple counties including one that has made a decision prior to  
39 January 1, 2014, not to contract as a regional support network the  
40 counties shall adopt an interlocal agreement and may respond to the

1 request for a detailed plan under (a) of this subsection and the  
2 private entity may also respond to the request for a detailed plan.  
3 If both responding entities meet the requirements of this section,  
4 the responding entities shall follow the department's procurement  
5 process established in subsection (3) of this section.

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

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

17 (5) Upon request of all of the county authorities in a regional  
18 service area, the department and the health care authority may  
19 jointly purchase behavioral health services through an integrated  
20 medical and behavioral health services contract with a behavioral  
21 health organization or a managed health care system as defined in RCW  
22 74.09.522, pursuant to standards to be developed jointly by the  
23 secretary and the health care authority. Any contract for such a  
24 purchase must comply with all federal medicaid and state law  
25 requirements related to managed health care contracting.

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

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

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

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