

2SHB 2386 - S COMM AMD

By Subcommittee on Behavioral Health

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that:

4 (a) According to the federal substance abuse and mental health
5 services administration's 2019 report, one in five adults in the
6 United States will experience some form of mental illness this year
7 and one in thirteen will need substance use disorder treatment;

8 (b) Fewer than half of all individuals needing behavioral health
9 treatment receive those services;

10 (c) An untreated behavioral health need can have long-term
11 negative impacts on an individual's health, well-being, and
12 productivity;

13 (d) The state has significant investments in the efficacy of the
14 publicly funded behavioral health system and its providers;

15 (e) Behavioral health parity is required by both state and
16 federal law;

17 (f) All patients deserve to be treated and cared for with dignity
18 and respect;

19 (g) Patients often cross local and administrative boundaries when
20 seeking effective behavioral health care;

21 (h) Individuals with behavioral health needs are
22 disproportionately involved with the criminal justice system; and

23 (i) Providing robust community-based services can prevent
24 expensive hospitalizations.

25 (2) The legislature intends to create the state office of the
26 behavioral health ombuds that shall:

27 (a) Advocate for all patients seeking privately and publicly
28 funded behavioral health services;

29 (b) Advocate for all patients receiving inpatient behavioral
30 health services from a behavioral health provider or facility;

1 (c) Assure that patients are afforded all of the rights given to
2 them by state and federal laws;

3 (d) Maintain independence and be free from all conflicts of
4 interest;

5 (e) Provide consistent quality services across the state; and

6 (f) Retain an office within the boundaries of the region served
7 by each behavioral health administrative services organization.

8 NEW SECTION. **Sec. 2.** The definitions in this section apply
9 throughout this chapter unless the context clearly requires
10 otherwise.

11 (1) "Behavioral health provider or facility" means:

12 (a) A behavioral health provider, as defined in RCW 71.24.025;

13 (b) A licensed or certified behavioral health agency, as defined
14 in RCW 71.24.025;

15 (c) A long-term care facility, as defined in RCW 43.190.020, in
16 which adults or children with behavioral health conditions reside;

17 (d) A state hospital, as defined in RCW 72.23.010; or

18 (e) A facility or agency that receives funds from the state to
19 provide behavioral health treatment services to adults or children
20 with a behavioral health condition.

21 (2) "Department" means the department of commerce.

22 NEW SECTION. **Sec. 3.** (1) By January 1, 2021, the department
23 shall contract with a private nonprofit organization to provide
24 behavioral health ombuds services. The department shall assure all
25 program and staff support necessary to enable the ombuds to
26 effectively protect the interests of persons with behavioral health
27 needs in accordance with this chapter. The department shall designate
28 the organization to be the state office of the behavioral health
29 ombuds by a competitive bidding process and shall assure that the
30 designated agency (a) has demonstrated financial stability and meets
31 the qualifications for ombuds identified in this chapter, and (b)
32 does not have any conflicts of interest that would interfere with the
33 duties identified in this chapter.

34 (2) Following the designation of the organization to be the state
35 office of the behavioral health ombuds, the department shall not
36 redesignate the organization except upon a showing of misconduct or
37 neglect of duty and proof that the organization is failing to provide
38 services as specified in section 4 of this act, has a demonstrated

1 conflict of interest, or for other reasons specified in contract.
2 Prior to redesignating the organization, the department shall provide
3 an opportunity for comment by the organization and the public and
4 provide the organization the opportunity to appeal the redesignation
5 to the department.

6 (3) The department shall adopt rules to carry out the purposes of
7 this chapter.

8 NEW SECTION. **Sec. 4.** The state office of the behavioral health
9 ombuds shall have the following powers and duties:

10 (1) Certifying and coordinating the activities of the behavioral
11 health ombuds throughout the state;

12 (2) Establish procedures consistent with this act for appropriate
13 access by behavioral health ombuds to behavioral health providers or
14 facilities;

15 (3) Establish a toll-free telephone number, web site, and other
16 appropriate technology to facilitate access to ombuds services for
17 patients, residents, and clients of behavioral health providers or
18 facilities;

19 (4) Establish a statewide uniform reporting system to collect and
20 analyze data relating to complaints, conditions, and service quality
21 provided by behavioral health providers or facilities for the purpose
22 of identifying and resolving significant problems, with permission to
23 submit the data to all appropriate state agencies on a regular basis;

24 (5) Establish procedures consistent with section 13 of this act
25 to protect the confidentiality of ombuds records, including the
26 records of patients, residents, clients, providers, and complainants;

27 (6) Establish a statewide advisory council that shall include:

- 28 (a) Individuals with a history of mental illness;
- 29 (b) Individuals with a history of substance use disorder;
- 30 (c) Family members of individuals with behavioral health needs;
- 31 (d) One or more representatives of an organization representing
32 consumers of behavioral health services;

33 (e) One or more representatives of behavioral health providers or
34 facilities, including representatives of facilities offering
35 inpatient behavioral health services;

36 (f) One or more certified peer counselors;

37 (g) One medical clinician serving individuals with behavioral
38 health needs;

1 (h) One or more nonmedical providers serving individuals with
2 behavioral health needs;

3 (i) One representative from a behavioral health administrative
4 services organization; and

5 (j) Other community representatives, as determined by the state
6 office of the behavioral health ombuds;

7 (7) Monitor the development of and recommend improvements in the
8 implementation of federal, state, and local laws, rules, regulations,
9 and policies with respect to the provision of behavioral health
10 services in the state and advocate for consumers; and

11 (8) Report to the governor and the legislature and all
12 appropriate public agencies regarding the quality of services,
13 complaints, problems for individuals receiving services from
14 behavioral health providers or facilities, and any recommendations
15 for improved services for behavioral health consumers.

16 NEW SECTION. **Sec. 5.** A certified behavioral health ombuds
17 shall:

18 (1) Identify, investigate, and resolve complaints made by, or on
19 behalf of, patients, residents, and clients of behavioral health
20 providers or facilities relating to administrative action, inaction,
21 or decisions that may adversely affect the health, safety, welfare,
22 and rights of these individuals;

23 (2) Assist and advocate on behalf of patients, residents, and
24 clients of behavioral health providers or facilities by using
25 informal complaint resolution methods or formal grievance processes
26 including, if applicable, a fair hearing process;

27 (3) Inform patients, residents, and clients or their
28 representatives about applicable patient and resident rights, and
29 provide information, as appropriate, to patients, residents, clients,
30 family members, guardians, resident representatives, employees of
31 behavioral health providers or facilities, and others regarding the
32 rights of patients and residents;

33 (4) Monitor and make recommendations for improvements to the
34 quality of services provided to patients, residents, and clients of
35 behavioral health providers or facilities; and

36 (5) With the consent of the patient, resident, or client, involve
37 family members, friends, or other designated individuals in the
38 process of resolving complaints.

1 NEW SECTION. **Sec. 6.** (1) The state office of the behavioral
2 health ombuds and all certified behavioral health ombuds shall have
3 the right of entry to behavioral health providers or facilities at
4 any time deemed necessary and reasonable to effectively carry out the
5 provisions of this chapter, with provisions made for the privacy of
6 patients, residents, and clients. The state office of the behavioral
7 health ombuds must develop policies and procedures to allow certified
8 behavioral health ombuds to have access to patients, residents, and
9 clients of behavioral health providers or facilities for the purpose
10 of hearing, investigating, and resolving complaints, as well as
11 monitoring the quality of services.

12 (2) Nothing in this chapter restricts, limits, or increases any
13 existing right of any organizations or individuals not described in
14 subsection (1) of this section to enter or provide assistance to
15 patients, residents, and clients of behavioral health providers or
16 facilities.

17 (3) Nothing in this chapter restricts any right or privilege of a
18 patient, resident, or client of a behavioral health provider or
19 facility to receive visitors of their choice.

20 NEW SECTION. **Sec. 7.** (1) Every behavioral health provider or
21 facility shall post in a conspicuous location a notice providing the
22 state office of the behavioral health ombuds' toll-free number and
23 web site as well as the name, address, and phone number of the office
24 of the appropriate local behavioral health ombuds and a brief
25 description of the services provided by the office. The form of the
26 notice must be approved by the office of the behavioral health
27 ombuds. This information must also be distributed to the patients,
28 residents, and clients of behavioral health providers or facilities,
29 upon application for behavioral health services and upon admission to
30 a behavioral health facility. The information shall also be provided
31 to the family members and legal guardians of the patients, residents,
32 or clients of a behavioral health provider or facility, as allowed by
33 state and federal privacy laws.

34 (2) Every behavioral health provider or facility must provide
35 access to a free telephone for the express purpose of contacting the
36 state office of the behavioral health ombuds.

37 NEW SECTION. **Sec. 8.** The state office of the behavioral health
38 ombuds shall develop a process to train and certify all behavioral

1 health ombuds, whether paid or volunteer, authorized by this chapter
2 as follows:

3 (1) Certified behavioral health ombuds must have training or
4 experience in the following areas:

5 (a) Behavioral health and other related social services programs;

6 (b) The legal system, including differences in state or federal
7 law between voluntary and involuntary patients, residents, or
8 clients;

9 (c) Advocacy and supporting self-advocacy;

10 (d) Dispute or problem resolution techniques, including
11 investigation, mediation, and negotiation; and

12 (e) All applicable patient, resident, and client rights
13 established by either state or federal law.

14 (2) A certified behavioral health ombuds may not have been
15 employed by any behavioral health provider or facility within the
16 previous twelve months, except as a certified peer specialist or
17 where prior to the effective date of this section the person has been
18 employed by a regional behavioral health ombuds.

19 (3) No certified behavioral health ombuds or any member of a
20 certified behavioral health ombuds' family may have, or have had,
21 within the previous twelve months, any significant ownership or
22 financial interest in the provision of behavioral health services.

23 NEW SECTION. **Sec. 9.** (1) The state office of the behavioral
24 health ombuds shall develop referral procedures for all certified
25 behavioral health ombuds to refer any complaint, in accordance with a
26 mutually established working agreement, to an appropriate state or
27 local government agency. The appropriate agency shall respond to any
28 complaint referred to it by a certified behavioral health ombuds, in
29 accordance with a mutually established working agreement.

30 (2) State agencies shall review a complaint against a behavioral
31 health provider or facility which was referred to it by a certified
32 behavioral health ombuds, in accordance with a mutually established
33 working agreement, and shall forward to that certified behavioral
34 health ombuds a summary of the results of the review or investigation
35 and action proposed or taken.

36 (3) State agencies that regulate or contract with behavioral
37 health providers or facilities shall adopt necessary rules to
38 effectively work in coordination with the state office of the
39 behavioral health ombuds.

1 NEW SECTION. **Sec. 10.** (1) The state office of the behavioral
2 health ombuds shall develop and implement working agreements with the
3 protection and advocacy agency, the long-term care ombuds, the
4 developmental disabilities ombuds, the corrections ombuds, and the
5 children and family ombuds, and work in cooperation to assure
6 efficient, coordinated service.

7 (2) The state office of the behavioral health ombuds shall
8 develop working agreements with each managed care organization,
9 behavioral health administrative services organization, the state and
10 private psychiatric hospitals, all appropriate state and local
11 agencies, and other such entities as necessary to carry out their
12 duties. Working agreements must include:

13 (a) The roles of the state office of the behavioral health ombuds
14 and the agency in complaint investigations, complaint referral
15 criteria, and a process for sharing information regarding complaint
16 review and investigation, as appropriate; and

17 (b) Processes and procedures to assure timely and seamless
18 information sharing among all interested parties and that the state
19 office of the behavioral health ombuds is responsive to all local
20 information requests.

21 NEW SECTION. **Sec. 11.** (1) No certified behavioral health ombuds
22 is liable for good faith performance of responsibilities under this
23 chapter.

24 (2) No discriminatory, disciplinary, or retaliatory action may be
25 taken against an employee or volunteer of a behavioral health
26 provider or facility, or a patient, resident, or client of a
27 behavioral health provider or facility, for any communication made,
28 or information given or disclosed, to aid the certified behavioral
29 health ombuds in carrying out duties and responsibilities under this
30 chapter, unless the same was done maliciously or without good faith.
31 This subsection is not intended to infringe on the rights of the
32 employer to supervise, discipline, or terminate an employee or
33 volunteer for other reasons, and shall serve as a defense to any
34 action in libel or slander.

35 (3) All communications by a certified behavioral health ombuds,
36 if reasonably related to the requirements of that individual's
37 responsibilities under this chapter and done in good faith, are
38 privileged and confidential, subject to the procedures established by
39 the state office of the behavioral health ombuds.

1 NEW SECTION. **Sec. 12.** It is the intent of the legislature that:

2 (1) Regional behavioral health ombuds programs existing prior to
3 this act be integrated into this new statewide program and the ombuds
4 from those programs be assessed and certified by the state office of
5 the behavioral health ombuds;

6 (2) There shall be a behavioral health ombuds office within the
7 boundaries of the region served by each behavioral health
8 administrative services organization; and

9 (3) Federal medicaid requirements be complied with.

10 NEW SECTION. **Sec. 13.** (1) All records and files of the state
11 office of the behavioral health ombuds and any certified behavioral
12 health ombuds related to any complaint or investigation made pursuant
13 to carrying out their duties and the identities of complainants,
14 witnesses, patients, residents, or clients and information that could
15 reasonably identify any of these individuals shall remain
16 confidential unless disclosure is authorized in writing by the
17 subject of the information, or the subject's guardian or legal
18 representative.

19 (2) No disclosures of records and files related to a complaint or
20 investigation may be made pursuant to chapter 42.56 RCW to any
21 organization or individual outside the state office of the behavioral
22 health ombuds without the written consent of any named witnesses,
23 complainants, patients, residents, or clients unless the disclosure
24 is made without the identity of any of these individuals and without
25 information that could reasonably identify any of these individuals
26 unless such disclosure is required in carrying out its duties under
27 this chapter.

28 (3) Notwithstanding subsections (1) and (2) of this section,
29 disclosures of records and files may be made pursuant to a court
30 order.

31 (4) All disclosures must be compliant with state and federal
32 privacy laws applicable to the type of information that is sought for
33 disclosure.

34 **Sec. 14.** RCW 71.24.045 and 2019 c 325 s 1008 are each amended to
35 read as follows:

36 (1) The behavioral health administrative services organization
37 contracted with the authority pursuant to RCW 71.24.381 shall:

1 (a) Administer crisis services for the assigned regional service
2 area. Such services must include:

3 (i) A behavioral health crisis hotline for its assigned regional
4 service area;

5 (ii) Crisis response services twenty-four hours a day, seven days
6 a week, three hundred sixty-five days a year;

7 (iii) Services related to involuntary commitments under chapters
8 71.05 and 71.34 RCW;

9 (iv) Additional noncrisis behavioral health services, within
10 available resources, to individuals who meet certain criteria set by
11 the authority in its contracts with the behavioral health
12 administrative services organization. These services may include
13 services provided through federal grant funds, provisos, and general
14 fund state appropriations;

15 (v) Care coordination, diversion services, and discharge planning
16 for nonmedicaid individuals transitioning from state hospitals or
17 inpatient settings to reduce rehospitalization and utilization of
18 crisis services, as required by the authority in contract; and

19 (vi) Regional coordination, cross-system and cross-jurisdiction
20 coordination with tribal governments, and capacity building efforts,
21 such as supporting the behavioral health advisory board(~~(the~~
22 ~~behavioral health ombuds,~~) and efforts to support access to services
23 or to improve the behavioral health system;

24 (b) Administer and provide for the availability of an adequate
25 network of evaluation and treatment services to ensure access to
26 treatment, investigation, transportation, court-related, and other
27 services provided as required under chapter 71.05 RCW;

28 (c) Coordinate services for individuals under RCW 71.05.365;

29 (d) Administer and provide for the availability of resource
30 management services, residential services, and community support
31 services as required under its contract with the authority;

32 (e) Contract with a sufficient number, as determined by the
33 authority, of licensed or certified providers for crisis services and
34 other behavioral health services required by the authority;

35 (f) Maintain adequate reserves or secure a bond as required by
36 its contract with the authority;

37 (g) Establish and maintain quality assurance processes;

38 (h) Meet established limitations on administrative costs for
39 agencies that contract with the behavioral health administrative
40 services organization; and

1 (i) Maintain patient tracking information as required by the
2 authority.

3 (2) The behavioral health administrative services organization
4 must collaborate with the authority and its contracted managed care
5 organizations to develop and implement strategies to coordinate care
6 with tribes and community behavioral health providers for individuals
7 with a history of frequent crisis system utilization.

8 (3) The behavioral health administrative services organization
9 shall:

10 (a) Assure that the special needs of minorities, older adults,
11 individuals with disabilities, children, and low-income persons are
12 met;

13 (b) Collaborate with local government entities to ensure that
14 policies do not result in an adverse shift of persons with mental
15 illness into state and local correctional facilities; and

16 (c) Work with the authority to expedite the enrollment or
17 reenrollment of eligible persons leaving state or local correctional
18 facilities and institutions for mental diseases.

19 **Sec. 15.** RCW 71.24.380 and 2019 c 325 s 1022 are each amended to
20 read as follows:

21 (1) The director shall purchase behavioral health services
22 primarily through managed care contracting, but may continue to
23 purchase behavioral health services directly from providers serving
24 medicaid clients who are not enrolled in a managed care organization.

25 (2) The director shall require that contracted managed care
26 organizations have a sufficient network of providers to provide
27 adequate access to behavioral health services for residents of the
28 regional service area that meet eligibility criteria for services,
29 and for maintenance of quality assurance processes. Contracts with
30 managed care organizations must comply with all federal medicaid and
31 state law requirements related to managed health care contracting,
32 including RCW 74.09.522.

33 (3) A managed care organization must contract with the
34 authority's selected behavioral health administrative services
35 organization for the assigned regional service area for the
36 administration of crisis services. The contract shall require the
37 managed care organization to reimburse the behavioral health
38 administrative services organization for behavioral health crisis

1 services delivered to individuals enrolled in the managed care
2 organization.

3 (4) A managed care organization must contract with the state
4 office of the behavioral health ombuds established in section 3 of
5 this act for the provision of behavioral health ombuds services
6 delivered to individuals enrolled in the managed care organization.
7 The contract shall require the managed care organization to reimburse
8 the state office of the behavioral health ombuds for behavioral
9 health ombuds services delivered to individuals enrolled in the
10 managed care organization.

11 (5) A managed care organization must collaborate with the
12 authority and its contracted behavioral health administrative
13 services organization to develop and implement strategies to
14 coordinate care with tribes and community behavioral health providers
15 for individuals with a history of frequent crisis system utilization.

16 ~~((+5))~~ (6) A managed care organization must work closely with
17 designated crisis responders, behavioral health administrative
18 services organizations, and behavioral health providers to maximize
19 appropriate placement of persons into community services, ensuring
20 the client receives the least restrictive level of care appropriate
21 for their condition. Additionally, the managed care organization
22 shall work with the authority to expedite the enrollment or
23 reenrollment of eligible persons leaving state or local correctional
24 facilities and institutions for mental diseases.

25 ~~((+6))~~ (7) As an incentive to county authorities to become early
26 adopters of fully integrated purchasing of medical and behavioral
27 health services, the standards adopted by the authority shall provide
28 for an incentive payment to counties which elect to move to full
29 integration by January 1, 2016. Subject to federal approval, the
30 incentive payment shall be targeted at ten percent of savings
31 realized by the state within the regional service area in which the
32 fully integrated purchasing takes place. Savings shall be calculated
33 in alignment with the outcome and performance measures established in
34 RCW 71.24.435, 70.320.020, and 71.36.025, and incentive payments for
35 early adopter counties shall be made available for up to a six-year
36 period, or until full integration of medical and behavioral health
37 services is accomplished statewide, whichever comes sooner, according
38 to rules to be developed by the authority.

1 **Sec. 16.** RCW 41.05.021 and 2018 c 260 s 6 and 2018 c 201 s 7002
2 are each reenacted and amended to read as follows:

3 (1) The Washington state health care authority is created within
4 the executive branch. The authority shall have a director appointed
5 by the governor, with the consent of the senate. The director shall
6 serve at the pleasure of the governor. The director may employ a
7 deputy director, and such assistant directors and special assistants
8 as may be needed to administer the authority, who shall be exempt
9 from chapter 41.06 RCW, and any additional staff members as are
10 necessary to administer this chapter. The director may delegate any
11 power or duty vested in him or her by law, including authority to
12 make final decisions and enter final orders in hearings conducted
13 under chapter 34.05 RCW. The primary duties of the authority shall be
14 to: Administer insurance benefits for employees, retired or disabled
15 state and school employees, and school employees; administer the
16 basic health plan pursuant to chapter 70.47 RCW; administer the
17 children's health program pursuant to chapter 74.09 RCW; study state
18 purchased health care programs in order to maximize cost containment
19 in these programs while ensuring access to quality health care;
20 implement state initiatives, joint purchasing strategies, and
21 techniques for efficient administration that have potential
22 application to all state-purchased health services; and administer
23 grants that further the mission and goals of the authority. The
24 authority's duties include, but are not limited to, the following:

25 (a) To administer health care benefit programs for employees,
26 retired or disabled state and school employees, and school employees
27 as specifically authorized in RCW 41.05.065 and 41.05.740 and in
28 accordance with the methods described in RCW 41.05.075, 41.05.140,
29 and other provisions of this chapter;

30 (b) To analyze state purchased health care programs and to
31 explore options for cost containment and delivery alternatives for
32 those programs that are consistent with the purposes of those
33 programs, including, but not limited to:

34 (i) Creation of economic incentives for the persons for whom the
35 state purchases health care to appropriately utilize and purchase
36 health care services, including the development of flexible benefit
37 plans to offset increases in individual financial responsibility;

38 (ii) Utilization of provider arrangements that encourage cost
39 containment, including but not limited to prepaid delivery systems,
40 utilization review, and prospective payment methods, and that ensure

1 access to quality care, including assuring reasonable access to local
2 providers, especially for employees and school employees residing in
3 rural areas;

4 (iii) Coordination of state agency efforts to purchase drugs
5 effectively as provided in RCW 70.14.050;

6 (iv) Development of recommendations and methods for purchasing
7 medical equipment and supporting services on a volume discount basis;

8 (v) Development of data systems to obtain utilization data from
9 state purchased health care programs in order to identify cost
10 centers, utilization patterns, provider and hospital practice
11 patterns, and procedure costs, utilizing the information obtained
12 pursuant to RCW 41.05.031; and

13 (vi) In collaboration with other state agencies that administer
14 state purchased health care programs, private health care purchasers,
15 health care facilities, providers, and carriers:

16 (A) Use evidence-based medicine principles to develop common
17 performance measures and implement financial incentives in contracts
18 with insuring entities, health care facilities, and providers that:

19 (I) Reward improvements in health outcomes for individuals with
20 chronic diseases, increased utilization of appropriate preventive
21 health services, and reductions in medical errors; and

22 (II) Increase, through appropriate incentives to insuring
23 entities, health care facilities, and providers, the adoption and use
24 of information technology that contributes to improved health
25 outcomes, better coordination of care, and decreased medical errors;

26 (B) Through state health purchasing, reimbursement, or pilot
27 strategies, promote and increase the adoption of health information
28 technology systems, including electronic medical records, by
29 hospitals as defined in RCW 70.41.020, integrated delivery systems,
30 and providers that:

31 (I) Facilitate diagnosis or treatment;

32 (II) Reduce unnecessary duplication of medical tests;

33 (III) Promote efficient electronic physician order entry;

34 (IV) Increase access to health information for consumers and
35 their providers; and

36 (V) Improve health outcomes;

37 (C) Coordinate a strategy for the adoption of health information
38 technology systems using the final health information technology
39 report and recommendations developed under chapter 261, Laws of 2005;

1 (c) To analyze areas of public and private health care
2 interaction;

3 (d) To provide information and technical and administrative
4 assistance to the board;

5 (e) To review and approve or deny applications from counties,
6 municipalities, and other political subdivisions of the state to
7 provide state-sponsored insurance or self-insurance programs to their
8 employees in accordance with the provisions of RCW 41.04.205 and (g)
9 of this subsection, setting the premium contribution for approved
10 groups as outlined in RCW 41.05.050;

11 (f) To review and approve or deny the application when the
12 governing body of a tribal government applies to transfer their
13 employees to an insurance or self-insurance program administered by
14 the public employees' benefits board. In the event of an employee
15 transfer pursuant to this subsection (1)(f), members of the governing
16 body are eligible to be included in such a transfer if the members
17 are authorized by the tribal government to participate in the
18 insurance program being transferred from and subject to payment by
19 the members of all costs of insurance for the members. The authority
20 shall: (i) Establish the conditions for participation; (ii) have the
21 sole right to reject the application; and (iii) set the premium
22 contribution for approved groups as outlined in RCW 41.05.050.
23 Approval of the application by the authority transfers the employees
24 and dependents involved to the insurance, self-insurance, or health
25 care program administered by the public employees' benefits board;

26 (g) To ensure the continued status of the employee insurance or
27 self-insurance programs administered under this chapter as a
28 governmental plan under section 3(32) of the employee retirement
29 income security act of 1974, as amended, the authority shall limit
30 the participation of employees of a county, municipal, school
31 district, educational service district, or other political
32 subdivision, the Washington health benefit exchange, or a tribal
33 government, including providing for the participation of those
34 employees whose services are substantially all in the performance of
35 essential governmental functions, but not in the performance of
36 commercial activities. Charter schools established under chapter
37 28A.710 RCW are employers and are school employees' benefits board
38 organizations unless:

39 (i) The authority receives guidance from the internal revenue
40 service or the United States department of labor that participation

1 jeopardizes the status of plans offered under this chapter as
2 governmental plans under the federal employees' retirement income
3 security act or the internal revenue code; or

4 (ii) The charter schools are not in compliance with regulations
5 issued by the internal revenue service and the United States treasury
6 department pertaining to section 414(d) of the federal internal
7 revenue code;

8 (h) To establish billing procedures and collect funds from school
9 employees' benefits board organizations in a way that minimizes the
10 administrative burden on districts;

11 (i) Through December 31, 2019, to publish and distribute to
12 nonparticipating school districts and educational service districts
13 by October 1st of each year a description of health care benefit
14 plans available through the authority and the estimated cost if
15 school districts and educational service district employees were
16 enrolled;

17 (j) To apply for, receive, and accept grants, gifts, and other
18 payments, including property and service, from any governmental or
19 other public or private entity or person, and make arrangements as to
20 the use of these receipts to implement initiatives and strategies
21 developed under this section;

22 (k) To issue, distribute, and administer grants that further the
23 mission and goals of the authority;

24 (l) To adopt rules consistent with this chapter as described in
25 RCW 41.05.160 including, but not limited to:

26 (i) Setting forth the criteria established by the public
27 employees' benefits board under RCW 41.05.065, and by the school
28 employees' benefits board under RCW 41.05.740, for determining
29 whether an employee or school employee is eligible for benefits;

30 (ii) Establishing an appeal process in accordance with chapter
31 34.05 RCW by which an employee or school employee may appeal an
32 eligibility determination;

33 (iii) Establishing a process to assure that the eligibility
34 determinations of an employing agency comply with the criteria under
35 this chapter, including the imposition of penalties as may be
36 authorized by the board;

37 (m) (i) To administer the medical services programs established
38 under chapter 74.09 RCW as the designated single state agency for
39 purposes of Title XIX of the federal social security act;

1 (ii) To administer the state children's health insurance program
2 under chapter 74.09 RCW for purposes of Title XXI of the federal
3 social security act;

4 (iii) To enter into agreements with the department of social and
5 health services for administration of medical care services programs
6 under Titles XIX and XXI of the social security act and programs
7 under chapters 71.05, 71.24, and 71.34 RCW. The agreements shall
8 establish the division of responsibilities between the authority and
9 the department with respect to mental health, chemical dependency,
10 and long-term care services, including services for persons with
11 developmental disabilities. The agreements shall be revised as
12 necessary, to comply with the final implementation plan adopted under
13 section 116, chapter 15, Laws of 2011 1st sp. sess.;

14 (iv) To adopt rules to carry out the purposes of chapter 74.09
15 RCW;

16 (v) To appoint such advisory committees or councils as may be
17 required by any federal statute or regulation as a condition to the
18 receipt of federal funds by the authority. The director may appoint
19 statewide committees or councils in the following subject areas: (A)
20 Health facilities; (B) children and youth services; (C) blind
21 services; (D) medical and health care; (E) drug abuse and alcoholism;
22 (F) rehabilitative services; and (G) such other subject matters as
23 are or come within the authority's responsibilities. The statewide
24 councils shall have representation from both major political parties
25 and shall have substantial consumer representation. Such committees
26 or councils shall be constituted as required by federal law or as the
27 director in his or her discretion may determine. The members of the
28 committees or councils shall hold office for three years except in
29 the case of a vacancy, in which event appointment shall be only for
30 the remainder of the unexpired term for which the vacancy occurs. No
31 member shall serve more than two consecutive terms. Members of such
32 state advisory committees or councils may be paid their travel
33 expenses in accordance with RCW 43.03.050 and 43.03.060 as now
34 existing or hereafter amended;

35 (n) To review and approve or deny the application from the
36 governing board of the Washington health benefit exchange to provide
37 public employees' benefits board state-sponsored insurance or self-
38 insurance programs to employees of the exchange. The authority shall
39 (i) establish the conditions for participation; (ii) have the sole

1 right to reject an application; and (iii) set the premium
2 contribution for approved groups as outlined in RCW 41.05.050; and

3 (o) To adopt rules necessary to coordinate with the state office
4 of the behavioral health ombuds as provided in section 9 of this act.

5 (2) The public employees' benefits board and the school
6 employees' benefits board may implement strategies to promote managed
7 competition among employee and school employee health benefit plans.
8 Strategies may include but are not limited to:

9 (a) Standardizing the benefit package;

10 (b) Soliciting competitive bids for the benefit package;

11 (c) Limiting the state's contribution to a percent of the lowest
12 priced qualified plan within a geographical area;

13 (d) Monitoring the impact of the approach under this subsection
14 with regards to: Efficiencies in health service delivery, cost shifts
15 to subscribers, access to and choice of managed care plans statewide,
16 and quality of health services. The health care authority shall also
17 advise on the value of administering a benchmark employer-managed
18 plan to promote competition among managed care plans.

19 NEW SECTION. Sec. 17. A new section is added to chapter 43.20A
20 RCW to read as follows:

21 The department may adopt rules necessary to coordinate with the
22 state office of the behavioral health ombuds as provided in section 9
23 of this act.

24 NEW SECTION. Sec. 18. A new section is added to chapter 43.70
25 RCW to read as follows:

26 The department may adopt rules necessary to coordinate with the
27 state office of the behavioral health ombuds as provided in section 9
28 of this act.

29 NEW SECTION. Sec. 19. A new section is added to chapter 43.330
30 RCW to read as follows:

31 The department may adopt rules necessary to establish and
32 coordinate with the state office of the behavioral health ombuds
33 pursuant to chapter 71.--- RCW (the new chapter created in section 21
34 of this act).

35 NEW SECTION. Sec. 20. RCW 71.24.350 (Behavioral health ombuds
36 office) and 2019 c 325 s 1020, 2018 c 201 s 4019, 2016 sp.s. c 29 s

1 523, 2014 c 225 s 41, 2013 c 23 s 189, & 2005 c 504 s 803 are each
2 repealed.

3 NEW SECTION. **Sec. 21.** Sections 1 through 13 of this act
4 constitute a new chapter in Title 71 RCW.

5 NEW SECTION. **Sec. 22.** Sections 15 and 20 of this act take
6 effect January 1, 2021."

2SHB 2386 - S COMM AMD

By Subcommittee on Behavioral Health

7 On page 1, line 2 of the title, after "ombuds;" strike the
8 remainder of the title and insert "amending RCW 71.24.045 and
9 71.24.380; reenacting and amending RCW 41.05.021; adding a new
10 section to chapter 43.20A RCW; adding a new section to chapter 43.70
11 RCW; adding a new section to chapter 43.330 RCW; adding a new chapter
12 to Title 71 RCW; repealing RCW 71.24.350; and providing an effective
13 date."

EFFECT: Allows the designation of the State Ombuds to be rescinded for reasons specified in contract. Removes statement of intent that the Department of Commerce spend at least as much funds on the State Ombuds as were spent on regional Ombuds. Allows executive agencies to make rules necessary to coordinate with the State Ombuds. Makes other technical and clarifying amendments.

--- END ---