
Health Care & Wellness Committee

HB 2319

Brief Description: Concerning substance use disorder treatment.

Sponsors: Representatives Davis, Macri, Mosbrucker, Griffey, Stearns, Fosse, Ramel, Simmons, Nance, Kloba, Farivar, Bateman, Reed, Ryu, Chopp, Ortiz-Self, Eslick, Jacobsen, Goodman, Alvarado, Peterson, Pollet and Shavers.

Brief Summary of Bill

- Directs behavioral health agencies to submit policies to the Department of Health (Department) related to the transfer or discharge of a person without the person's consent and requires the Department to adopt a model policy based on the policies that it receives.
- Requires behavioral health agencies to provide counseling on treatment options for patients with opioid use disorder or alcohol use disorder, including any available pharmacological treatments.
- Prohibits the Public Employees Benefits Board (PEBB), private health insurers, and Medicaid managed care organizations from initiating utilization management review within 28 days of an enrollee's admission for inpatient or residential substance use disorder treatment.
- Prohibits the PEBB, private health insurers, and Medicaid managed care organizations from considering a patient's length of abstinence when determining whether or not services are medically necessary and from considering the patient's length of stay at the behavioral health agency when making decisions regarding authorization to continue care at the agency.

Hearing Date: 1/23/24

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

Staff: Chris Blake (786-7392).

Background:

Behavioral Health Agency Credentialing.

Behavioral health agencies are licensed by the Department of Health to provide services related to the prevention, treatment of, and recovery from substance use disorders, mental health disorders, co-occurring disorders, or problem gambling and gambling disorders. A behavioral health agency must obtain a license for its main site and any branch sites that it operates as well as certification for the behavioral health services that it provides. A behavioral health agency may receive one or more of 16 different types of behavioral health certifications, including behavioral health outpatient intervention, assessment, and treatment; behavioral health outpatient crisis, observations, and intervention; designated crisis responder services; opioid treatment program; withdrawal management; behavioral health residential or inpatient interventions, assessment, and treatment; involuntary behavioral health residential or inpatient; and crisis stabilization unit and triage.

Utilization Management Review for Withdrawal Management Services and Inpatient or Residential Substance Use Disorder Treatment Services.

The Public Employees Benefits Board, private health insurers, and Medicaid managed care organizations (insuring entities) are prohibited from requiring enrollees to obtain prior authorization before seeking withdrawal management services or inpatient or residential services in a behavioral health agency.

Before conducting a utilization management review, an insuring entity must provide coverage for an enrollee for:

- at least two days, excluding weekends and holidays, of inpatient or residential substance use disorder treatment; and
- at least three days of withdrawal management services.

After the initial waiting period, insuring entities may initiate a medical necessity review. If the insuring entity determines within one business day from the start of the medical necessity review period that the admission to the facility was not medically necessary, the health plan is not required to pay the facility for any services that are delivered after the start of the medical necessity review period. If the insuring entity's medical necessity review is completed more than one business day after the start of the medical necessity review period, then the insuring entity must pay for the services delivered from the time of admission until the time the medical necessity review is complete, and the behavioral health agency has been notified.

Summary of Bill:

Behavioral Health Agency Transfer and Discharge Policies.

By October 1, 2024, certain behavioral health agencies must submit to the Department of Health (Department) their policies related to the transfer or discharge of a person without the person's

consent. Specifically, the submission requirement applies to policies regarding situations in which the agency transfers or discharges a person without the person's consent, therapeutic progressive disciplinary processes used by the agency, and procedures to assure a safe transfer and discharge when the person is discharged without the person's consent. The requirement applies to behavioral health agencies that provide voluntary inpatient or residential substance use disorder treatment service or withdrawal management services.

By April 1, 2025, the Department must adopt a model policy for the transfer or discharge of a person without the person's consent. The model policy must establish factors to be used in making decisions to transfer or discharge a person without the person's consent. Factors may include the person's medical condition, the clinical determination that the person no longer requires treatment or withdrawal management service, the risk of physical injury that the person presents, the extent to which the person's behavioral risks the recovery of other persons, and the extent to which a therapeutic progressive disciplinary process has been used. The Department must consider the policies that it receives when adopting the model policy.

Beginning April 1, 2025, behavioral health agencies must file a report with the Department each time a person is discharged or transferred without the person's consent or when a person leaves treatment prematurely. The report must describe the circumstances related to the departure, including whether the departure was voluntary or involuntary, the agency's use of a therapeutic progressive disciplinary process, the person's self-reported understanding of the reasons for the discharge, the efforts made to avoid the discharge, and the efforts to establish a safe discharge plan prior to the person's departure.

Counseling for Opioid Use Disorder and Alcohol Use Disorder.

Behavioral health agencies must provide every patient who has opioid use disorder or alcohol use disorder with counseling related to treatment options specific to the patient's condition. The counseling must include an unbiased explanation of all recognized possible forms of treatment, including any available pharmacological treatments. The behavioral health agency must facilitate access to the patient's chosen course of treatment. Behavioral health agencies that do not comply with the counseling and facilitation requirements may not advertise that they treat opioid use disorder or alcohol use disorder or treat patients for opioid use disorder or alcohol use disorder. Failure to meet the counseling and facilitation requirements may be an element of proof in a legal action related to failure to secure informed consent and may be the basis for disciplinary action.

The Addictions, Drug, and Alcohol Institute (Institute) at the University of Washington must create a patient shared decision-making tool to assist behavioral health providers when discussing medication treatment options for patients with alcohol use disorder. The Institute must distribute the tool to behavioral health providers and instruct them on ways to incorporate it into their practices.

Health Coverage for Inpatient or Residential Substance Use Disorder Treatment Services.

Beginning January 1, 2025, the Public Employees Benefits Board, private health insurers, and

Medicaid managed care organizations (insuring entities) may not initiate utilization management review within 28 days of an enrollee's admission to a behavioral health agency for inpatient or residential substance use disorder treatment services. The prohibition does not apply to the insuring entities' authorization to conduct an initial medical necessity review or to assist with a transfer to a more appropriate level of care.

When conducting an initial medical necessity review for inpatient or residential substance use disorder treatment services, insuring entities may not consider a patient's length of abstinence as part of the determination.

Insuring entities may not consider the patient's length of stay at a behavioral health agency when making decisions regarding the authorization to continue care at the agency.

Continuation of Medications.

Behavioral health providers and behavioral health agencies providing withdrawal management services may not require a patient to discontinue use of a medication that the patient has been using in accordance with the directions of a prescribing health care provider.

Appropriation: None.

Fiscal Note: Requested on January 17, 2024.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.