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**ENGROSSED SUBSTITUTE HOUSE BILL 1427**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** House Health Care & Wellness (originally sponsored by Representatives Cody, Jinkins, Peterson, and Pollet)

AN ACT Relating to opioid treatment programs; amending RCW 71.24.560, 71.24.585, 71.24.590, 71.24.590, 71.24.595, and 71.24.595; and providing contingent effective dates.

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

**Sec.**  RCW 71.24.560 and 2016 sp.s. c 29 s 506 are each amended to read as follows:

(1) All approved ((~~opiate substitution~~)) opioid treatment programs that provide services to women who are pregnant are required to disseminate up-to-date and accurate health education information to all their pregnant clients concerning the possible addiction and health risks that their ((~~opiate substitution~~)) treatment may have on their baby. All pregnant clients must also be advised of the risks to both them and their baby associated with not remaining on the ((~~opiate substitute~~)) opioid treatment program. The information must be provided to these clients both verbally and in writing. The health education information provided to the pregnant clients must include referral options for the ((~~addicted~~)) substance-exposed baby.

(2) The department shall adopt rules that require all ((~~opiate~~)) opioid treatment programs to educate all pregnant women in their program on the benefits and risks of ((~~methadone~~)) medication-assisted treatment to their fetus before they are provided these medications, as part of their ((~~addiction~~)) treatment. The department shall meet the requirements under this subsection within the appropriations provided for ((~~opiate~~)) opioid treatment programs. The department, working with treatment providers and medical experts, shall develop and disseminate the educational materials to all certified ((~~opiate~~)) opioid treatment programs.

**Sec.**  RCW 71.24.585 and 2016 sp.s. c 29 s 519 are each amended to read as follows:

((~~The state of Washington declares that there is no fundamental right to opiate substitution treatment. The state of Washington further declares that while opiate substitution drugs used in the treatment of opiate dependency are addictive substances, that they nevertheless have several legal, important, and justified uses and that one of their appropriate and legal uses is, in conjunction with other required therapeutic procedures, in the treatment of persons addicted to or habituated to opioids. Opiate substitution treatment should only be used for participants who are deemed appropriate to need this level of intervention and should not be the first treatment intervention for all opiate addicts~~)) The state of Washington recognizes as evidence-based for the management of opioid use disorders the treatment approaches acknowledged by the University of Washington alcohol and drug abuse institute, as well as the medications approved by the federal food and drug administration for the treatment of opioid use disorder.

Because ((~~opiate substitution drugs, used in the treatment of opiate dependency are addictive and are listed as a schedule II~~)) some such medications are controlled substances in chapter 69.50 RCW, the state of Washington ((~~has~~)) maintains the legal obligation and right to regulate the ((~~use of opiate substitution treatment. The state of Washington declares its authority to control and regulate carefully, in consultation with counties and cities, all clinical uses of opiate substitution drugs used in the treatment of opiate addiction~~)) clinical uses of these medications in the treatment of opioid use disorder.

The state declares that choices between recognized treatment options for opioid use disorder should be patient-centered and determined by shared decision making between patients and their health care providers.

Further, the state declares that a person lawfully possessing or using lawfully prescribed medication for the treatment of opioid use disorder must be treated the same in judicial and administrative proceedings as a person lawfully possessing or using other lawfully prescribed medications.

Further, the state declares that the primary goals of ((~~opiate substitution treatment is total abstinence from substance use for the individuals who participate in the treatment program. The state recognizes that a small percentage of persons who participate in opiate substitution treatment programs require treatment for an extended period of time. Opiate substitution treatment programs shall provide a comprehensive transition program to eliminate substance use, including opiate and opiate substitute addiction of program participants~~)) treatment for persons with opioid use disorder is the cessation of unprescribed opioid use, reduced morbidity, and restoration of the ability to lead a productive and fulfilling life.

Nothing in this chapter creates an entitlement to medication assisted treatment.

**Sec.**  RCW 71.24.590 and 2001 c 242 s 2 are each amended to read as follows:

(1) ((~~For purposes of this section, "area" means the county in which an applicant proposes to locate a certified program and counties adjacent, or near to, the county in which the program is proposed to be located.~~))

When making a decision on an application for certification of a program, the department shall:

(a) Consult with the county legislative authorities in the area in which an applicant proposes to locate a program and the city legislative authority in any city in which an applicant proposes to locate a program;

(b) Certify only programs that will be sited in accordance with the appropriate county or city land use ordinances. Counties and cities may require conditional ((~~or special~~)) use permits with reasonable conditions for the siting of programs. Pursuant to RCW 36.70A.200, no local comprehensive plan or development regulation may preclude the siting of essential public facilities;

(c) Not discriminate in its certification decision on the basis of the corporate structure of the applicant;

(d) Consider the size of the population in need of treatment in the area in which the program would be located and certify only applicants whose programs meet the necessary treatment needs of that population;

(e) ((~~Demonstrate a need in the community for opiate substitution treatment and not certify more program slots than justified by the need in that community. No program shall exceed three hundred fifty participants unless specifically authorized by the county in which the program is certified;~~

~~(f)~~)) Consider the availability of other certified opioid treatment programs near the area in which the applicant proposes to locate the program;

((~~(g)~~)) (f) Consider the transportation systems that would provide service to the program and whether the systems will provide reasonable opportunities to access the program for persons in need of treatment;

((~~(h)~~)) (g) Consider whether the applicant has, or has demonstrated in the past, the capability to provide the appropriate services to assist the persons who utilize the program in meeting goals established by the legislature, including ((~~abstinence from opiates and opiate substitutes,~~)) obtaining ((~~mental~~)) behavioral health treatment services, improving economic independence, and reducing adverse consequences associated with illegal use of controlled substances. The department shall prioritize certification to applicants who have demonstrated such capability;

((~~(i)~~)) (h) Hold ((~~at least~~)) one public hearing in the ((~~county~~)) community in which the facility is proposed to be located ((~~and one hearing in the area in which the facility is proposed to be located~~)). The hearing shall be held at a time and location that are most likely to permit the largest number of interested persons to attend and present testimony. The department shall notify all appropriate media outlets of the time, date, and location of the hearing at least three weeks in advance of the hearing.

(2) A county may impose a maximum capacity for a program of not
less than three hundred fifty participants if necessary to address
specific local conditions cited by the county.

(3) A program applying for certification from the department and a program applying for a contract from a state agency that has been denied the certification or contract shall be provided with a written notice specifying the rationale and reasons for the denial.

((~~(3)~~)) (4) For the purpose of this chapter, ((~~opiate substitution~~)) opioid treatment program means:

(a) Dispensing ((~~an opiate substitution drug~~)) a medication approved by the federal drug administration for the treatment of ((~~opiate addiction~~)) opioid use disorder; and

(b) Providing a comprehensive range of medical and rehabilitative services.

**Sec.**  RCW 71.24.590 and 2001 c 242 s 2 are each amended to read as follows:

(1) ((~~For purposes of this section, "area" means the county in which an applicant proposes to locate a certified program and counties adjacent, or near to, the county in which the program is proposed to be located.~~))

When making a decision on an application for licensing or certification of a program, the department shall:

(a) Consult with the county legislative authorities in the area in which an applicant proposes to locate a program and the city legislative authority in any city in which an applicant proposes to locate a program;

(b) License or certify only programs that will be sited in accordance with the appropriate county or city land use ordinances. Counties and cities may require conditional ((~~or special~~)) use permits with reasonable conditions for the siting of programs. Pursuant to RCW 36.70A.200, no local comprehensive plan or development regulation may preclude the siting of essential public facilities;

(c) Not discriminate in its licensing or certification decision on the basis of the corporate structure of the applicant;

(d) Consider the size of the population in need of treatment in the area in which the program would be located and license or certify only applicants whose programs meet the necessary treatment needs of that population;

(e) ((~~Demonstrate a need in the community for opiate substitution treatment and not certify more program slots than justified by the need in that community. No program shall exceed three hundred fifty participants unless specifically authorized by the county in which the program is certified;~~

~~(f)~~)) Consider the availability of other licensed or certified opioid treatment programs near the area in which the applicant proposes to locate the program;

((~~(g)~~)) (f) Consider the transportation systems that would provide service to the program and whether the systems will provide reasonable opportunities to access the program for persons in need of treatment;

((~~(h)~~)) (g) Consider whether the applicant has, or has demonstrated in the past, the capability to provide the appropriate services to assist the persons who utilize the program in meeting goals established by the legislature, including ((~~abstinence from opiates and opiate substitutes,~~)) obtaining ((~~mental~~)) behavioral health treatment services, improving economic independence, and reducing adverse consequences associated with illegal use of controlled substances. The department shall prioritize licensing or certification to applicants who have demonstrated such capability;

((~~(i)~~)) (h) Hold ((~~at least~~)) one public hearing in the ((~~county~~)) community in which the facility is proposed to be located ((~~and one hearing in the area in which the facility is proposed to be located~~)). The hearing shall be held at a time and location that are most likely to permit the largest number of interested persons to attend and present testimony. The department shall notify all appropriate media outlets of the time, date, and location of the hearing at least three weeks in advance of the hearing.

(2) A county may impose a maximum capacity for a program of not
less than three hundred fifty participants if necessary to address
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(3) A program applying for licensing or certification from the department and a program applying for a contract from a state agency that has been denied the licensing or certification or contract shall be provided with a written notice specifying the rationale and reasons for the denial.

((~~(3)~~)) (4) For the purpose of this chapter, ((~~opiate substitution~~)) opioid treatment program means:

(a) Dispensing ((~~an opiate substitution drug~~)) a medication approved by the federal drug administration for the treatment of ((~~opiate addiction~~)) opioid use disorder; and

(b) Providing a comprehensive range of medical and rehabilitative services.

**Sec.**  RCW 71.24.595 and 2003 c 207 s 6 are each amended to read as follows:

(1) The department, in consultation with ((~~opiate substitution~~)) opioid treatment program service providers and counties and cities, shall establish statewide treatment standards for certified ((~~opiate substitution~~)) opioid treatment programs. The department shall enforce these treatment standards. The treatment standards shall include, but not be limited to, reasonable provisions for all appropriate and necessary medical procedures, counseling requirements, urinalysis, and other suitable tests as needed to ensure compliance with this chapter.

(2) The department, in consultation with ((~~opiate substitution~~)) opioid treatment programs and counties, shall establish statewide operating standards for certified ((~~opiate substitution~~)) opioid treatment programs. The department shall enforce these operating standards. The operating standards shall include, but not be limited to, reasonable provisions necessary to enable the department and counties to monitor certified and licensed ((~~opiate substitution~~)) opioid treatment programs for compliance with this chapter and the treatment standards authorized by this chapter and to minimize the impact of the ((~~opiate substitution~~)) opioid treatment programs upon the business and residential neighborhoods in which the program is located.

(3) ((~~The department shall establish criteria for evaluating the compliance of opiate substitution treatment programs with the goals and standards established under this chapter. As a condition of certification, opiate substitution programs shall submit an annual report to the department and county legislative authority, including data as specified by the department necessary for outcome analysis. The department shall analyze and evaluate the data submitted by each treatment program and take corrective action where necessary to ensure compliance with the goals and standards enumerated under this chapter~~)) Opioid treatment programs are subject to the oversight required for other substance use disorder treatment programs, as described in this chapter.

**Sec.**  RCW 71.24.595 and 2003 c 207 s 6 are each amended to read as follows:

(1) The department, in consultation with ((~~opiate substitution~~)) opioid treatment program service providers and counties and cities, shall establish statewide treatment standards for licensed or certified ((~~opiate substitution~~)) opioid treatment programs. The department shall enforce these treatment standards. The treatment standards shall include, but not be limited to, reasonable provisions for all appropriate and necessary medical procedures, counseling requirements, urinalysis, and other suitable tests as needed to ensure compliance with this chapter.

(2) The department, in consultation with ((~~opiate substitution~~)) opioid treatment programs and counties, shall establish statewide operating standards for certified ((~~opiate substitution~~)) opioid treatment programs. The department shall enforce these operating standards. The operating standards shall include, but not be limited to, reasonable provisions necessary to enable the department and counties to monitor certified ((~~and~~)) or licensed ((~~opiate substitution~~)) opioid treatment programs for compliance with this chapter and the treatment standards authorized by this chapter and to minimize the impact of the ((~~opiate substitution~~)) opioid treatment programs upon the business and residential neighborhoods in which the program is located.

(3) ((~~The department shall establish criteria for evaluating the compliance of opiate substitution treatment programs with the goals and standards established under this chapter. As a condition of certification, opiate substitution programs shall submit an annual report to the department and county legislative authority, including data as specified by the department necessary for outcome analysis. The department shall analyze and evaluate the data submitted by each treatment program and take corrective action where necessary to ensure compliance with the goals and standards enumerated under this chapter~~)) Opioid treatment programs are subject to the oversight required for other substance use disorder treatment programs, as described in this chapter.

NEW SECTION. **Sec.**  Sections 3 and 5 of this act take effect only if neither Substitute House Bill No. 1388 (including any later amendments or substitutes) nor Substitute Senate Bill No. 5259 (including any later amendments or substitutes) is signed into law by the governor by the effective date of this section.

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

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