

HB 2107 - H AMD 108

By Representative Cody

ADOPTED 03/01/2017

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

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

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

16 **Sec. 2.** RCW 71.24.310 and 2014 c 225 s 40 are each amended to
17 read as follows:

18 The legislature finds that administration of chapter 71.05 RCW
19 and this chapter can be most efficiently and effectively implemented
20 as part of the behavioral health organization defined in RCW
21 71.24.025. For this reason, the legislature intends that the
22 department and the behavioral health organizations shall work
23 together to implement chapter 71.05 RCW as follows:

24 (1) By June 1, 2006, behavioral health organizations shall
25 recommend to the department the number of state hospital beds that
26 should be allocated for use by each behavioral health organization.
27 The statewide total allocation shall not exceed the number of state
28 hospital beds offering long-term inpatient care, as defined in this
29 chapter, for which funding is provided in the biennial appropriations
30 act.

1 (2) If there is consensus among the behavioral health
2 organizations regarding the number of state hospital beds that should
3 be allocated for use by each behavioral health organization, the
4 department shall contract with each behavioral health organization
5 accordingly.

6 (3) If there is not consensus among the behavioral health
7 organizations regarding the number of beds that should be allocated
8 for use by each behavioral health organization, the department shall
9 establish by emergency rule the number of state hospital beds that
10 are available for use by each behavioral health organization. The
11 emergency rule shall be effective September 1, 2006. The primary
12 factor used in the allocation shall be the estimated number of adults
13 with acute and chronic mental illness in each behavioral health
14 organization area, based upon population-adjusted incidence and
15 utilization.

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

25 (5)(a) The department (~~(is encouraged to)~~) shall enter into
26 performance-based contracts with behavioral health organizations to
27 provide some or all of the behavioral health organization's allocated
28 long-term inpatient treatment capacity in the community, rather than
29 in the state hospital, to the extent that willing certified
30 facilities are available. The performance contracts shall specify the
31 number of patient days of care available for use by the behavioral
32 health organization in the state hospital and the number of patient
33 days of care available for use by the behavioral health organization
34 in a facility certified by the department to provide treatment to
35 adults on a ninety or one hundred eighty day inpatient involuntary
36 commitment order, including hospitals licensed under chapters 70.41
37 and 71.12 RCW and evaluation and treatment facilities certified under
38 chapter 71.05 RCW.

39 (b) Nothing in this section requires a hospital licensed under
40 chapter 70.41 or 71.12 RCW to contract or become certified to treat

1 patients on ninety or one hundred eighty day involuntary commitment
2 orders as a condition for continuing to treat adults who are waiting
3 for placement at either the state hospital or in certified facilities
4 that voluntarily contract to provide treatment to patients on ninety
5 or one hundred eighty day involuntary commitment orders.

6 (6) If a behavioral health organization uses more state hospital
7 patient days of care than it has been allocated under subsection (3)
8 or (4) of this section, or than it has contracted to use under
9 subsection (5) of this section, whichever is less, it shall reimburse
10 the department for that care, except during the period of July 1,
11 2012, through December 31, 2013, where reimbursements may be
12 temporarily altered per section 204, chapter 4, Laws of 2013 2nd sp.
13 sess. The reimbursement rate per day shall be the hospital's total
14 annual budget for long-term inpatient care, divided by the total
15 patient days of care assumed in development of that budget.

16 (7) One-half of any reimbursements received pursuant to
17 subsection (6) of this section shall be used to support the cost of
18 operating the state hospital and, during the 2007-2009 fiscal
19 biennium, implementing new services that will enable a behavioral
20 health organization to reduce its utilization of the state hospital.
21 The department shall distribute the remaining half of such
22 reimbursements among behavioral health organizations that have used
23 less than their allocated or contracted patient days of care at that
24 hospital, proportional to the number of patient days of care not
25 used.

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

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

32 (2)(a) The secretary shall request a detailed plan from the
33 entities identified in (b) of this subsection that demonstrates
34 compliance with the contractual elements of RCW 43.20A.894 and
35 federal regulations related to medicaid managed care contracting((7))
36 including, but not limited to: Having a sufficient network of
37 providers to provide adequate access to mental health and chemical
38 dependency services for residents of the regional service area that
39 meet eligibility criteria for services, ability to maintain and

1 manage adequate reserves, and maintenance of quality assurance
2 processes. In addition, such entities must demonstrate the ability to
3 contract for a minimum number of patient days, to be determined by
4 the secretary, in a facility certified by the department to provide
5 treatment to adults on a ninety or one hundred eighty day inpatient
6 involuntary commitment order, including at hospitals licensed under
7 chapters 70.41 and 71.12 RCW and evaluation and treatment facilities
8 certified under chapter 71.05 RCW, to the extent that willing
9 certified facilities are available. Any responding entity that
10 submits a detailed plan that demonstrates that it can meet the
11 requirements of this section must be awarded the contract to serve as
12 the behavioral health organization.

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

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

18 (B) In the event that a county has made a decision prior to
19 January 1, 2014, not to contract as a regional support network, any
20 private entity that serves as the regional support network for that
21 area;

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

27 (ii) In the event that a regional service area is comprised of
28 multiple counties including one that has made a decision prior to
29 January 1, 2014, not to contract as a regional support network the
30 counties shall adopt an interlocal agreement and may respond to the
31 request for a detailed plan under (a) of this subsection and the
32 private entity may also respond to the request for a detailed plan.
33 If both responding entities meet the requirements of this section,
34 the responding entities shall follow the department's procurement
35 process established in subsection (3) of this section.

36 (3) If an entity that has received a request under this section
37 to submit a detailed plan does not respond to the request, a
38 responding entity under subsection (1) of this section is unable to
39 substantially meet the requirements of the request for a detailed
40 plan, or more than one responding entity substantially meets the

1 requirements for the request for a detailed plan, the department
2 shall use a procurement process in which other entities recognized by
3 the secretary may bid to serve as the behavioral health organization
4 in that regional service area.

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

7 (5) Upon request of all of the county authorities in a regional
8 service area, the department and the health care authority may
9 jointly purchase behavioral health services through an integrated
10 medical and behavioral health services contract with a behavioral
11 health organization or a managed health care system as defined in RCW
12 74.09.522, pursuant to standards to be developed jointly by the
13 secretary and the health care authority. Any contract for such a
14 purchase must comply with all federal medicaid and state law
15 requirements related to managed health care contracting.

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

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

33 (1) The department and the entities identified in RCW 71.24.310
34 and 71.24.380 shall: (a) Work with willing community hospitals
35 licensed under chapters 70.41 and 71.12 RCW and evaluation and
36 treatment facilities certified under chapter 71.05 RCW to assess
37 their capacity to become certified to provide long-term mental health
38 placements and to meet the requirements of this chapter; and (b)
39 enter into contracts and payment arrangements with such hospitals and

1 evaluation and treatment facilities choosing to provide long-term
2 mental health placements, to the extent that willing certified
3 facilities are available. Nothing in this chapter requires any
4 community hospital or evaluation and treatment facility to be
5 certified to provide long-term mental health placements.

6 (2) The department must establish reporting requirements for
7 certified facilities. The reporting standards must allow the
8 department to monitor the performance of the certified facilities and
9 compare results with the state hospitals in a consistent format. The
10 measures must align with the data reported by the department to the
11 select committee on quality improvement in state hospitals, including
12 the length of stay of patients, outcomes after discharge, employee-
13 related measures, and demographic information.

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

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

27 **Sec. 6.** RCW 71.24.310 and 2014 c 225 s 40 are each amended to
28 read as follows:

29 The legislature finds that administration of chapter 71.05 RCW
30 and this chapter can be most efficiently and effectively implemented
31 as part of the behavioral health organization defined in RCW
32 71.24.025. For this reason, the legislature intends that the
33 (~~department~~) authority and the behavioral health organizations
34 shall work together to implement chapter 71.05 RCW as follows:

35 (1) (~~By June 1, 2006,~~) Behavioral health organizations shall
36 recommend to the (~~department~~) authority the number of state
37 hospital beds that should be allocated for use by each behavioral
38 health organization. The statewide total allocation shall not exceed

1 the number of state hospital beds offering long-term inpatient care,
2 as defined in this chapter, for which funding is provided in the
3 biennial appropriations act.

4 (2) If there is consensus among the behavioral health
5 organizations regarding the number of state hospital beds that should
6 be allocated for use by each behavioral health organization, the
7 (~~department~~) authority shall contract with each behavioral health
8 organization accordingly.

9 (3) If there is not consensus among the behavioral health
10 organizations regarding the number of beds that should be allocated
11 for use by each behavioral health organization, the (~~department~~)
12 authority shall establish by emergency rule the number of state
13 hospital beds that are available for use by each behavioral health
14 organization. (~~The emergency rule shall be effective September 1,~~
15 ~~2006.~~) The primary factor used in the allocation shall be the
16 estimated number of adults with acute and chronic mental illness in
17 each behavioral health organization area, based upon population-
18 adjusted incidence and utilization.

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

28 (5)(a) The (~~department is encouraged to~~) authority shall enter
29 into performance-based contracts with behavioral health organizations
30 to provide some or all of the behavioral health organization's
31 allocated long-term inpatient treatment capacity in the community,
32 rather than in the state hospital, to the extent that willing
33 certified facilities are available. The performance contracts shall
34 specify the number of patient days of care available for use by the
35 behavioral health organization in the state hospital and the number
36 of patient days of care available for use by the behavioral health
37 organization in a facility certified by the department to provide
38 treatment to adults on a ninety or one hundred eighty day inpatient
39 involuntary commitment order, including hospitals licensed under

1 chapters 70.41 and 71.12 RCW and evaluation and treatment facilities
2 certified under chapter 71.05 RCW.

3 (b) Nothing in this section requires a hospital licensed under
4 chapter 70.41 or 71.12 RCW to contract or become certified to treat
5 patients on ninety or one hundred eighty day involuntary commitment
6 orders as a condition for continuing to treat adults who are waiting
7 for placement at either the state hospital or in certified facilities
8 that voluntarily contract to provide treatment to patients on ninety
9 or one hundred eighty day involuntary commitment orders.

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

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

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

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

37 (2)(a) The ((secretary)) director shall request a detailed plan
38 from the entities identified in (b) of this subsection that
39 demonstrates compliance with the contractual elements of RCW

1 43.20A.894 and federal regulations related to medicaid managed care
2 contracting((7)) including, but not limited to: Having a sufficient
3 network of providers to provide adequate access to mental health and
4 chemical dependency services for residents of the regional service
5 area that meet eligibility criteria for services, ability to maintain
6 and manage adequate reserves, and maintenance of quality assurance
7 processes. In addition, such entities must demonstrate the ability to
8 contract for a minimum number of patient days, to be determined by
9 the secretary, in a facility certified by the department to provide
10 treatment to adults on a ninety or one hundred eighty day inpatient
11 involuntary commitment order, including at hospitals licensed under
12 chapters 70.41 and 71.12 RCW and evaluation and treatment facilities
13 certified under chapter 71.05 RCW, to the extent that willing
14 certified facilities are available. Any responding entity that
15 submits a detailed plan that demonstrates that it can meet the
16 requirements of this section must be awarded the contract to serve as
17 the behavioral health organization.

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

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

23 (B) In the event that a county has made a decision prior to
24 January 1, 2014, not to contract as a regional support network, any
25 private entity that serves as the regional support network for that
26 area;

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

32 (ii) In the event that a regional service area is comprised of
33 multiple counties including one that has made a decision prior to
34 January 1, 2014, not to contract as a regional support network the
35 counties shall adopt an interlocal agreement and may respond to the
36 request for a detailed plan under (a) of this subsection and the
37 private entity may also respond to the request for a detailed plan.
38 If both responding entities meet the requirements of this section,
39 the responding entities shall follow the ((department's)) authority's
40 procurement process established in subsection (3) of this section.

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

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

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

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

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

1 (1) The authority and the entities identified in RCW 71.24.310
2 and 71.24.380 shall: (a) Work with willing community hospitals
3 licensed under chapters 70.41 and 71.12 RCW and evaluation and
4 treatment facilities certified under chapter 71.05 RCW to assess
5 their capacity to become certified to provide long-term mental health
6 placements and to meet the requirements of this chapter; and (b)
7 enter into contracts and payment arrangements with such hospitals and
8 evaluation and treatment facilities choosing to provide long-term
9 mental health placements, to the extent that willing certified
10 facilities are available. Nothing in this chapter requires any
11 community hospital or evaluation and treatment facility to be
12 certified to provide long-term mental health placements.

13 (2) The authority must establish reporting requirements for
14 certified facilities. The reporting standards must allow the
15 authority to monitor the performance of the certified facilities and
16 compare results with the state hospitals in a consistent format. The
17 measures must align with the data reported by the authority to the
18 select committee on quality improvement in state hospitals, including
19 the length of stay of patients, outcomes after discharge, employee-
20 related measures, and demographic information.

21 NEW SECTION. **Sec. 9.** Sections 1 through 4 of this act take
22 effect only if neither Substitute House Bill No. 1388 (including any
23 later amendments or substitutes) nor Substitute Senate Bill No. 5259
24 (including any later amendments or substitutes) is signed into law by
25 the governor by the effective date of this section.

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

31 Correct the title.

EFFECT: Allows evaluation and treatment facilities to provide treatment to adults on 90- and 180-day involuntary commitment orders and contract with behavioral health organizations to provide that treatment to the same extent as community hospitals.

Clarifies that the requirement that behavioral health organizations contract with facilities certified to provide long-term

inpatient treatment in the community is only applicable to the extent that willing certified facilities are available.

Allows hospitals, without having to contract or become certified, to treat adults who are subject to a 90- or 180-day involuntary commitment order if they are waiting for placement at the state hospital or a certified facility that voluntarily contracts to provide treatment to patients on a 90- or 180-day involuntary commitment order.

Directs the Department of Social and Health Services (DSHS) to adopt reporting requirements for facilities certified to provide long-term mental health placements so that the performance of the certified facilities may be monitored and compared with the performance of the state hospitals. Requires the measures to align with data reported to the select committee on quality improvement in state hospitals, including length of stay, outcomes after discharge, employee-related measures, and demographic information.

Provides for consistent agency designations in the event that either HB 1388 or SB 5259, relating to transferring responsibilities for behavioral health services from the DSHS to the Health Care Authority and the Department of Health, is enacted.

--- END ---