
SUBSTITUTE SENATE BILL 5705

State of Washington

65th Legislature

2017 Regular Session

By Senate Ways & Means (originally sponsored by Senators Becker, O'Ban, Rivers, Bailey, Miloscia, Schoesler, Warnick, Brown, Zeiger, and Honeyford)

READ FIRST TIME 02/24/17.

1 AN ACT Relating to inspection and review of state contracted
2 behavioral health and recovery agencies; amending RCW 43.20A.894; and
3 creating a new section.

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

5 **Sec. 1.** RCW 43.20A.894 and 2014 c 225 s 3 are each amended to
6 read as follows:

7 (1) Any agreement or contract by the department or the health
8 care authority to provide behavioral health services as defined under
9 RCW 71.24.025 to persons eligible for benefits under medicaid, Title
10 XIX of the social security act, and to persons not eligible for
11 medicaid must include the following:

12 (a) Contractual provisions consistent with the intent expressed
13 in RCW 71.24.015, 71.36.005, (~~(70.96A.010,)~~) and 70.96A.011;

14 (b) Standards regarding the quality of services to be provided,
15 including increased use of evidence-based, research-based, and
16 promising practices, as defined in RCW 71.24.025;

17 (c) Accountability for the client outcomes established in RCW
18 43.20A.895, 70.320.020, and 71.36.025 and performance measures linked
19 to those outcomes;

20 (d) Standards requiring behavioral health organizations to
21 maintain a network of appropriate providers that is supported by

1 written agreements sufficient to provide adequate access to all
2 services covered under the contract with the department or the health
3 care authority and to protect essential existing behavioral health
4 system infrastructure and capacity, including a continuum of chemical
5 dependency services;

6 (e) Provisions to require that medically necessary chemical
7 dependency and mental health treatment services be available to
8 clients;

9 (f) Standards requiring the use of behavioral health service
10 provider reimbursement methods that incentivize improved performance
11 with respect to the client outcomes established in RCW 43.20A.895 and
12 71.36.025, integration of behavioral health and primary care services
13 at the clinical level, and improved care coordination for individuals
14 with complex care needs;

15 (g) Standards related to the financial integrity of the
16 responding organization. The department shall adopt rules
17 establishing the solvency requirements and other financial integrity
18 standards for behavioral health organizations. This subsection does
19 not limit the authority of the department to take action under a
20 contract upon finding that a behavioral health organization's
21 financial status jeopardizes the organization's ability to meet its
22 contractual obligations;

23 (h) Mechanisms for monitoring performance under the contract and
24 remedies for failure to substantially comply with the requirements of
25 the contract including, but not limited to, financial deductions,
26 termination of the contract, receivership, reprocurement of the
27 contract, and injunctive remedies;

28 (i) Provisions to maintain the decision-making independence of
29 designated mental health professionals or designated chemical
30 dependency specialists; and

31 (j) Provisions stating that public funds appropriated by the
32 legislature may not be used to promote or deter, encourage, or
33 discourage employees from exercising their rights under Title 29,
34 chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

35 (2) The following factors must be given significant weight in any
36 purchasing process:

37 (a) Demonstrated commitment and experience in serving low-income
38 populations;

39 (b) Demonstrated commitment and experience serving persons who
40 have mental illness, chemical dependency, or co-occurring disorders;

1 (c) Demonstrated commitment to and experience with partnerships
2 with county and municipal criminal justice systems, housing services,
3 and other critical support services necessary to achieve the outcomes
4 established in RCW 43.20A.895, 70.320.020, and 71.36.025;

5 (d) Recognition that meeting enrollees' physical and behavioral
6 health care needs is a shared responsibility of contracted behavioral
7 health organizations, managed health care systems, service providers,
8 the state, and communities;

9 (e) Consideration of past and current performance and
10 participation in other state or federal behavioral health programs as
11 a contractor; and

12 (f) The ability to meet requirements established by the
13 department.

14 (3) For purposes of purchasing behavioral health services and
15 medical care services for persons eligible for benefits under
16 medicaid, Title XIX of the social security act and for persons not
17 eligible for medicaid, the department and the health care authority
18 must use common regional service areas. The regional service areas
19 must be established by the department and the health care authority
20 as provided in RCW 43.20A.893.

21 (4) Consideration must be given to using multiple-biennia
22 contracting periods.

23 (5) Each behavioral health organization operating pursuant to a
24 contract issued under this section shall enroll clients within its
25 regional service area who meet the department's eligibility criteria
26 for mental health and chemical dependency services.

27 (6) The state finds that the department should not reduce the
28 number of license violations found by field inspectors for the
29 purpose of allowing agency licensees to avoid liability in a manner
30 that permits the violating agency to stay open at the risk of public
31 safety. Any settlement agreement entered into between the department
32 and behavioral health provider licensees to resolve administrative
33 complaints, license violations, license suspensions, or license
34 revocations may not reduce the number of violations reported by the
35 department unless the department concludes, based on evidence
36 gathered by inspectors, that the agency did not commit one or more of
37 the violations.

38 (7) The state recognizes the need to prohibit sham transfers of
39 licenses between behavioral health licensees found in violation of
40 the terms of their license agreement and their family members. In

1 cases where an agency in violation of their license attempts to
2 transfer title of the license to a family member, such transfers
3 should be made solely for the purpose of remedying license violations
4 and achieving full compliance with the terms of their license.
5 Transfers to family members should be prohibited in cases where the
6 purpose of the transfer is to avoid liability or reset the number of
7 license violations found before the transfer.

8 NEW SECTION. **Sec. 2.** If specific funding for the purposes of
9 this act, referencing this act by bill or chapter number, is not
10 provided by June 30, 2017, in the omnibus appropriations act, this
11 act is null and void.

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