
SENATE BILL 6496

State of Washington

65th Legislature

2018 Regular Session

By Senators Becker, Rivers, and Brown

1 AN ACT Relating to encouraging transparency within the department
2 of social and health services; amending RCW 71.24.037; and adding a
3 new section to chapter 71.24 RCW.

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

5 **Sec. 1.** RCW 71.24.037 and 2017 c 330 s 2 are each amended to
6 read as follows:

7 (1) The secretary shall by rule establish state minimum standards
8 for licensed behavioral health service providers and services,
9 whether those service providers and services are licensed to provide
10 solely mental health services, substance use disorder treatment
11 services, or services to persons with co-occurring disorders.

12 (2) Minimum standards for licensed behavioral health service
13 providers shall, at a minimum, establish: Qualifications for staff
14 providing services directly to persons with mental disorders,
15 substance use disorders, or both, the intended result of each
16 service, and the rights and responsibilities of persons receiving
17 behavioral health services pursuant to this chapter. The secretary
18 shall provide for deeming of licensed behavioral health service
19 providers as meeting state minimum standards as a result of
20 accreditation by a recognized behavioral health accrediting body
21 recognized and having a current agreement with the department.

1 (3) Minimum standards for community support services and resource
2 management services shall include at least qualifications for
3 resource management services, client tracking systems, and the
4 transfer of patient information between behavioral health service
5 providers.

6 (4) The department may suspend, revoke, limit, restrict, or
7 modify an approval, or refuse to grant approval, for failure to meet
8 the provisions of this chapter, or the standards adopted under this
9 chapter. RCW 43.20A.205 governs notice of a license denial,
10 revocation, suspension, or modification and provides the right to an
11 adjudicative proceeding.

12 (5) No licensed behavioral health service provider may advertise
13 or represent itself as a licensed behavioral health service provider
14 if approval has not been granted, has been denied, suspended,
15 revoked, or canceled.

16 (6) Licensure as a behavioral health service provider is
17 effective for one calendar year from the date of issuance of the
18 license. The license must specify the types of services provided by
19 the behavioral health service provider that meet the standards
20 adopted under this chapter. Renewal of a license must be made in
21 accordance with this section for initial approval and in accordance
22 with the standards set forth in rules adopted by the secretary.

23 (7) Licensure as a licensed behavioral health service provider
24 must specify the types of services provided that meet the standards
25 adopted under this chapter. Renewal of a license must be made in
26 accordance with this section for initial approval and in accordance
27 with the standards set forth in rules adopted by the secretary.

28 (8) Licensed behavioral health service providers may not provide
29 types of services for which the licensed behavioral health service
30 provider has not been certified. Licensed behavioral health service
31 providers may provide services for which approval has been sought and
32 is pending, if approval for the services has not been previously
33 revoked or denied.

34 (9) The department periodically shall inspect licensed behavioral
35 health service providers at reasonable times and in a reasonable
36 manner.

37 (10) Upon petition of the department and after a hearing held
38 upon reasonable notice to the facility, the superior court may issue
39 a warrant to an officer or employee of the department authorizing him
40 or her to enter and inspect at reasonable times, and examine the

1 books and accounts of, any licensed behavioral health service
2 provider refusing to consent to inspection or examination by the
3 department or which the department has reasonable cause to believe is
4 operating in violation of this chapter.

5 (11) The department shall maintain and periodically publish a
6 current list of licensed behavioral health service providers.

7 (12) Each licensed behavioral health service provider shall file
8 with the department upon request, data, statistics, schedules, and
9 information the department reasonably requires. A licensed behavioral
10 health service provider that without good cause fails to furnish any
11 data, statistics, schedules, or information as requested, or files
12 fraudulent returns thereof, may have its license revoked or
13 suspended.

14 (13) The department shall use the data provided in subsection
15 (12) of this section to evaluate each program that admits children to
16 inpatient substance use disorder treatment upon application of their
17 parents. The evaluation must be done at least once every twelve
18 months. In addition, the department shall randomly select and review
19 the information on individual children who are admitted on
20 application of the child's parent for the purpose of determining
21 whether the child was appropriately placed into substance use
22 disorder treatment based on an objective evaluation of the child's
23 condition and the outcome of the child's treatment.

24 (14) Any settlement agreement entered into between the department
25 and licensed behavioral health service providers to resolve
26 administrative complaints, license violations, license suspensions,
27 or license revocations may not reduce the number of violations
28 reported by the department unless the department concludes, based on
29 evidence gathered by inspectors, that the licensed behavioral health
30 service provider did not commit one or more of the violations.

31 (15) In cases in which a behavioral health service provider that
32 is in violation of licensing standards attempts to transfer or sell
33 the behavioral health service provider to a family member, the
34 transfer or sale may only be made for the purpose of remedying
35 license violations and achieving full compliance with the terms of
36 the license. Transfers or sales to family members are prohibited in
37 cases in which the purpose of the transfer or sale is to avoid
38 liability or reset the number of license violations found before the
39 transfer or sale. If the department finds that the owner intends to
40 transfer or sell, or has completed the transfer or sale of, ownership

1 of the behavioral health service provider to a family member solely
2 for the purpose of resetting the number of violations found before
3 the transfer or sale, the department may not renew the behavioral
4 health service provider's license or issue a new license to the
5 behavioral health service provider.

6 (16) The secretary shall direct the department to issue a request
7 for proposal in accordance with the parameters set forth in section 2
8 of this act.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 71.24
10 RCW to read as follows:

11 (1) The department must immediately contract with an independent
12 malpractice or risk management firm to perform a review and issue a
13 report of the department's rules, policies, and procedures related to
14 the scope of work and training requirements for behavioral health
15 service providers, department behavioral health provider inspection
16 and certification staff, and department office managers. The
17 contracted firm shall review all settlements, corrective action
18 plans, and legal agreements made between the department's division of
19 behavioral health and recovery and behavioral health service
20 providers from 2010 to 2018 for misfeasance and misuse of official
21 capacity or authority by department personnel.

22 (2) The review and report referenced in subsection (1) of this
23 section must:

24 (a) Identify areas in which training and certification for
25 providers is inadequate based on the client population they serve;

26 (b) Identify areas in which training and certification
27 requirements for department behavioral health inspectors, certifiers,
28 and office managers are inadequate based on each respective
29 position's scope of work and current best practices;

30 (c) Issue recommendations for how to improve transparency within
31 the department's division of behavioral health and recovery;

32 (d) Issue recommendations for how to remedy past instances of
33 departmental misfeasance and unethical behavior according to current
34 best practices;

35 (e) Issue recommendations for how to implement continuous future
36 oversight of departmental misfeasance and unethical behavior
37 according to current best practices;

38 (f) Present a comparative analysis of review results and current
39 nationally accepted best practices regarding behavioral health

1 provider staffing models, behavioral health provider training and
2 certification requirements, department inspection and certification
3 procedures, department office manager training requirements, and
4 settlement procedures between similarly situated state departments
5 and state contracted behavioral health providers; and

6 (g) Be completed and delivered to the legislature by December 1,
7 2018.

8 (3) Reviews conducted by an independent malpractice or risk
9 management firm contracted by the department must:

10 (a) Rely on a sampling methodology to conduct reviews of
11 personnel files and clinical records based on written guidelines
12 established by the department that are consistent with the standards
13 of other licensing and accrediting bodies;

14 (b) Be distributed to each behavioral health organization,
15 licensed behavioral health provider, department inspector, and major
16 local publications;

17 (c) Coordinate review functions between the contracted firm and
18 the department to eliminate redundancies; and

19 (d) Ensure that reviews involving evidence or research-based
20 programs are conducted to the extent practicable by personnel
21 familiar with the department's provision of behavioral health
22 services, program model, department structure, and administrative
23 framework and in a manner consistent with the documentation
24 requirements of the program.

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