

SENATE BILL REPORT

SB 5041

As of February 20, 2019

Title: An act relating to development of community long-term involuntary treatment capacity.

Brief Description: Concerning development of community long-term involuntary treatment capacity.

Sponsors: Senators O'Ban, Becker, Zeiger and Wagoner.

Brief History:

Committee Activity: Behavioral Health Subcommittee to Health & Long Term Care: 2/14/19.

Brief Summary of Bill

- Requires the Health Care Authority (HCA) to assess the capacity of community hospitals and evaluation and treatment facilities to become certified to provide long-term inpatient care to involuntary patients, and purchase such capacity to the extent it is available.
- Requires HCA and the Department of Health to establish a work group to determine how to appropriately manage access to long-term inpatient care for involuntary patients until such a time as the risk for such care may be transferred into managed care.
- Requires HCA to review regulations for certification of facilities to provide long-term inpatient care to ensure they are cost effective considering the comparatively lower acuity needs of long-term involuntary patients.

SENATE COMMITTEE ON BEHAVIORAL HEALTH SUBCOMMITTEE TO HEALTH & LONG TERM CARE

Staff: Kevin Black (786-7747)

Background: Long-Term Inpatient Care. Long-term inpatient care is voluntary or involuntary inpatient treatment for a mental disorder or substance use disorder which extends for periods of 90 days or more. Involuntary treatment is provided to persons who are court-

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ordered to receive treatment based on a behavioral health disorder causing them to present a likelihood of serious harm or to be gravely disabled, and whose needs, or the needs of public safety, cannot be met in a less restrictive setting. Patients receive initial short-term commitments for 72-hours and 14 days to community evaluation and treatment facilities (E&Ts) or secure detoxification facilities (secure detoxes) before becoming eligible for transfer to long-term inpatient care, if the patient continues to have needs that cannot be met in a less restrictive alternative.

Responsibility for Long-Term Inpatient Care for Involuntary Patients. Managed care organizations and, until January 1, 2020, behavioral health organizations are pre-paid, risk-bearing managed care health plans that provide for the behavioral health needs of Medicaid clients and a limited number of non-Medicaid clients. These entities receive a capitated payment to provide for the clients' medically necessary health care needs which are covered by the Medicaid State Plan. Long-term inpatient care for involuntary patients is excluded from this capitated rate, and care for adult patients is provided instead at one of two state hospitals, Western State Hospital or Eastern State Hospital. Such care may also be provided at a community facility that receives a single-bed certification, or at one of a limited number of certified, contracted community facilities.

The Department of Health (DOH) certifies E&Ts, secure detoxes, and community facilities that provide long-term inpatient care. The Joint Commission is a national accreditation agency which provides quality monitoring of health care facilities.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): HCA must work with willing community hospitals and E&Ts to assess their capacity to become certified to provide long-term inpatient care for involuntary patients. HCA must enter into contracts and payment arrangements to the extent capacity is available. Contracts must be constructed to allow HCA to identify patients who receive involuntary care and to receive notification of adverse events reportable to the DOH and other core measures reportable to the Joint Commission.

HCA must establish a work group to determine how to appropriately manage access to adult long-term inpatient care for involuntary patients until such a time as the funding and risk for such care may be transferred into managed care. The work group must provide recommendations by December 15, 2019, and include representation from:

- HCA, the Department of Social and Health Services, and DOH;
- managed care organizations and behavioral health administrative services organizations;
- the Washington State Hospital Association; and
- the Washington State Association of Counties.

HCA must confer with DOH and hospitals to review laws and regulations and identify changes in licensure or certification requirements for long-term inpatient care that may allow care to be delivered more cost effectively based on the lesser average acuity needs of adults on 90-day and 108-day commitment orders compared to short-term patients. HCA must report its findings to the Legislature and the Governor by December 15, 2019.

A Legislative finding states HCA should purchase as much long-term inpatient care capacity for involuntary patients as practicable from willing community facilities capable of providing alternatives to treatment in a state hospital, pending development of a risk model transferring the risk of this service into managed care.

Appropriation: None.

Fiscal Note: Requested on February 5, 2019.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is a moment when we have the need to develop more long-term community beds. We should have facilities available near people's families and long-term supports. This bill is an attempt to build the kind of system we need to engage private and community hospitals. We support the policy of increasing long-term care capacity, including in community facilities that are willing to treat patients on 90- and 180-day involuntary orders. Please amend the bill to provide protection for private information relating to adverse events from public disclosure. We appreciate the willingness to contract with community facilities. This is a step in the right direction. Many community agencies already provide this care pursuant to single-bed certifications for patients on the waiting list for a state hospital. Please amend the section related to consultation on appropriate rules for long-term inpatient care to include E&Ts. We appreciate the effort to engage managed care organizations in the work group to design the plan for responsibility for managed care. We look forward to working with you.

CON: We understand the need to develop new long-term inpatient care capacity in the community, but are concerned that short-term beds will be repurposed. In December, 671 people received a single-bed certification authorizing temporary treatment in an emergency room or hospital. Do not take away short-term beds. We need to build this capacity first.

OTHER: We support the intent but have concerns. Converting existing acute-care beds to long-term psychiatric care will shift the crisis to another part of the continuum. There is a shortage of short-term care beds. Please add protections to ensure that any new long-term care capacity added will not reduce short-term care resources. We share the goal to offer the right care in the right place at the right time, where people live.

Persons Testifying: PRO: Senator Steve O'Ban, Prime Sponsor; Chris Bandoli, Washington State Hospital Association; Andrea Davis, Coordinated Care; Abby Moore, Washington Council for Behavioral Health.

CON: Juliana Roe, Washington State Association of Counties.

OTHER: Celia Jackson, King County.

Persons Signed In To Testify But Not Testifying: No one.