
ENGROSSED SUBSTITUTE SENATE BILL 5019

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Patterson, Thibaudeau and McAuliffe)

Read first time 02/17/1999.

1 AN ACT Relating to opiate substitution treatment programs; amending
2 RCW 70.96A.400, 70.96A.410, and 70.96A.420; creating new sections; and
3 providing expiration dates.

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

5 **Sec. 1.** RCW 70.96A.400 and 1995 c 321 s 1 are each amended to read
6 as follows:

7 The state of Washington declares that there is no fundamental right
8 to opiate substitution treatment. The state of Washington further
9 declares that while (~~methadone and other like pharmacological~~) opiate
10 substitution drugs(~~(7)~~) used in the treatment of opiate dependency are
11 addictive substances, that they nevertheless have several legal,
12 important, and justified uses and that one of their appropriate and
13 legal uses is, in conjunction with other required therapeutic
14 procedures, in the treatment of persons addicted to or habituated to
15 opioids.

16 Because (~~methadone and other like pharmacological~~) opiate
17 substitution drugs, used in the treatment of opiate dependency are
18 addictive and are listed as a schedule II controlled substance in
19 chapter 69.50 RCW, the state of Washington (~~and authorizing counties~~

1 ~~on behalf of their citizens have))~~ has the legal obligation and right
2 to regulate the use of opiate substitution treatment. The state of
3 Washington declares its authority to control and regulate carefully, in
4 ~~((cooperation))~~ consultation with ~~((the authorizing))~~ counties and
5 cities, all clinical uses of ~~((methadone and other pharmacological))~~
6 opiate substitution drugs used in the treatment of opiate addiction.

7 Further, the state declares that the primary goal of opiate
8 substitution treatment is total abstinence from chemical dependency for
9 the individuals who participate in the treatment program. The state
10 recognizes that a small percentage of persons who participate in opiate
11 ~~((substitute [substitution]))~~ substitution treatment programs require
12 treatment for an extended period of time. Opiate substitution
13 treatment programs shall provide a comprehensive transition program to
14 eliminate chemical dependency~~((?))~~, including opiate and opiate
15 substitute addiction of program participants.

16 **Sec. 2.** RCW 70.96A.410 and 1995 c 321 s 2 are each amended to read
17 as follows:

18 (1) ~~((A county legislative authority may prohibit opiate~~
19 ~~substitution treatment in that county. The department shall not~~
20 ~~certify an opiate substitution treatment program in a county where the~~
21 ~~county legislative authority has prohibited opiate substitution~~
22 ~~treatment. If a county legislative authority authorizes opiate~~
23 ~~substitution treatment programs, it shall limit by ordinance the number~~
24 ~~of opiate substitution treatment programs operating in that county by~~
25 ~~limiting the number of licenses granted in that county. If a county~~
26 ~~has authorized opiate substitution treatment programs in that county,~~
27 ~~it shall only license opiate substitution treatment programs that~~
28 ~~comply with the department's operating and treatment standards under~~
29 ~~this section and RCW 70.96A.420. A county that authorizes opiate~~
30 ~~substitution treatment may operate the programs directly or through a~~
31 ~~local health department or health district or it may authorize~~
32 ~~certified opiate substitution treatment programs that the county~~
33 ~~licenses to provide the services within the county. Counties shall~~
34 ~~monitor opiate substitution treatment programs for compliance with the~~
35 ~~department's operating and treatment regulations under this section and~~
36 ~~RCW 70.96A.420.~~

37 (2) ~~A county that authorizes opiate substitution treatment programs~~
38 ~~shall develop and enact by ordinance licensing standards, consistent~~

1 with this chapter and the operating and treatment standards adopted
2 under this chapter, that govern the application for, issuance of,
3 renewal of, and revocation of the licenses. — Certified programs
4 existing before May 18, 1987, applying for renewal of licensure in
5 subsequent years, that maintain certification and meet all other
6 requirements for licensure, shall be given preference.

7 (3) ~~In certifying programs, the department shall not discriminate~~
8 ~~against an opiate substitution treatment program on the basis of its~~
9 ~~corporate structure. — In licensing programs, the county shall not~~
10 ~~discriminate against an opiate substitution treatment program on the~~
11 ~~basis of its corporate structure.~~

12 (4)) For purposes of this section and section 3 of this act,
13 "area" means the county in which an applicant proposes to locate a
14 certified program and counties adjacent, or near to, the county in
15 which the program is proposed to be located.

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

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

22 (b) Certify only programs that will be sited in accordance with the
23 appropriate county or city land use ordinances;

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

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

29 (e) Consider the availability of other certified programs near the
30 area in which the applicant proposes to locate the program;

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

34 (g) Consider whether the applicant has, or has demonstrated in the
35 past, the capability to provide the appropriate services to assist the
36 persons who utilize the program in meeting goals established by the
37 legislature, including abstinence from opiates and opiate substitutes,
38 obtaining mental health treatment, improving economic independence, and
39 reducing adverse consequences associated with illegal use of controlled

1 substances. The department shall prioritize certification to
2 applicants who have demonstrated such capability;

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

10 (2) A program applying for certification from the department and a
11 program applying for a contract from a state agency that has been
12 denied the certification or contract shall be provided with a written
13 notice specifying the rationale and reasons for the denial. ((A
14 program applying for a license or a contract from a county that has
15 been denied the license or contract shall be provided with a written
16 notice specifying the rationale and reasons for the denial.

17 ~~(5) A license is effective for one calendar year from the date of~~
18 ~~issuance. The license shall be renewed in accordance with the~~
19 ~~provisions of this section for initial approval; the goals for~~
20 ~~treatment programs under RCW 70.96A.400; the standards set forth in RCW~~
21 ~~70.96A.420; and the rules adopted by the secretary.~~

22 ~~(6))~~ (3) For the purpose of this chapter, opiate substitution
23 treatment means:

24 (a) Dispensing an opiate substitution drug approved by the federal
25 drug administration for the treatment of opiate addiction; and

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

28 (4) The department may expand the number of certified programs at
29 an annual rate not to exceed ten percent, subject to appropriations.
30 The department shall propose in its biennial budget request specific
31 funding necessary to expand the number of certified programs in areas
32 certified as needing additional treatment capacity, but not to exceed
33 the maximum annual growth rate.

34 NEW SECTION. Sec. 3. (1) The department may operate a pilot
35 program to determine the benefits and costs to the public by
36 authorizing dispensing of opiate substitutes under this section. The
37 pilot program shall be limited to not more than ten physicians around

1 the state and shall be subject to the conditions established in this
2 section.

3 (2) The department shall establish by rule, and in consultation
4 with the Washington institute for public policy, information to be
5 provided by physicians who participate in the pilot project for
6 purposes of the evaluation requirement established in section 6 of this
7 act.

8 (3) A physician licensed under chapter 18.57 or 18.71 RCW may
9 operate a certified program at the physician's usual place of business.
10 Physician-operated certified programs are not subject to the siting
11 requirements of section 2 of this act if the physician operates the
12 program within his or her existing medical practice and his or her
13 existing medical practice serves patients with a variety of medical
14 conditions. Opiate substitution services cannot be the physician's
15 exclusive practice.

16 (4) The department shall not certify any physician to dispense
17 opiate substitutes unless the department determines:

18 (a) There is a need for an appropriate physician-based dispensing
19 program;

20 (b) The physician is adequately trained to diagnose the need for
21 opiate substitutes; and

22 (c) There are adequate safeguards in place to assure (i) regular
23 and ongoing testing of patients to verify there is no unlawful use of
24 controlled substances; and (ii) opiate substitutes dispensed by a
25 certified physician are taken only by the patient to whom the
26 substitute is dispensed.

27 (5) In determining whether there is a need for a physician-based
28 dispensing program, the department shall:

29 (a) Consider the size of the population in the area who would be
30 appropriately served by physician dispensing of opiate substitutes and
31 certify only the number of applicants necessary to meet the treatment
32 needs of that community;

33 (b) Consult with the county legislative authorities in the area in
34 which the certified physician will conduct business;

35 (c) Consult with the city legislative authority in any city in
36 which an applicant will conduct business;

37 (d) Certify only physicians who will dispense opiate substitutes in
38 facilities sited in accordance with appropriate county or city land use
39 ordinances; and

1 (e) Consult with any other individual or entity the secretary deems
2 necessary.

3 (6) In determining the adequacy of training, the department shall:

4 (a) Give strong consideration to certification and educational
5 standards developed by appropriate professional associations;

6 (b) Determine whether the physician is willing and able to work in
7 consultation with certified opiate substitution programs to assure that
8 patients served by the physician are appropriate for physician-based
9 services rather than by a certified program established under RCW
10 70.96A.410; and

11 (c) Determine whether the physician is capable of recognizing and
12 referring patients to appropriate mental health treatment services and
13 agrees to do so.

14 (7) This section expires June 1, 2002.

15 **Sec. 4.** RCW 70.96A.420 and 1998 c 245 s 135 are each amended to
16 read as follows:

17 (1) The department, in consultation with opiate substitution
18 treatment service providers and counties (~~((authorizing opiate
19 substitution treatment programs))~~) and cities, shall establish state-
20 wide treatment standards for certified opiate substitution treatment
21 programs. The department (~~((and counties that authorize opiate
22 substitution treatment programs))~~) shall enforce these treatment
23 standards. The treatment standards shall include, but not be limited
24 to, reasonable provisions for all appropriate and necessary medical
25 procedures, counseling requirements, urinalysis, and other suitable
26 tests as needed to ensure compliance with this chapter. (~~((A opiate
27 substitution treatment program shall not have a caseload in excess of
28 three hundred fifty persons.))~~)

29 (2) The department, in consultation with opiate substitution
30 treatment programs and counties (~~((authorizing opiate substitution
31 treatment programs))~~), shall establish state-wide operating standards
32 for certified opiate substitution treatment programs. The department
33 (~~((and counties that authorize opiate substitution treatment programs))~~)
34 shall enforce these operating standards. The operating standards shall
35 include, but not be limited to, reasonable provisions necessary to
36 enable the department and (~~((authorizing))~~) counties to monitor certified
37 and licensed opiate substitution treatment programs for compliance with
38 this chapter and the treatment standards authorized by this chapter and

1 to minimize the impact of the opiate substitution treatment programs
2 upon the business and residential neighborhoods in which the program is
3 located.

4 (3) The department shall establish criteria for evaluating the
5 compliance of opiate substitution treatment programs with the goals and
6 standards established under this chapter. As a condition of
7 certification, opiate substitution programs shall submit an annual
8 report to the department and county legislative authority, including
9 data as specified by the department necessary for outcome analysis.
10 The department shall analyze and evaluate the data submitted by each
11 treatment program and take corrective action where necessary to ensure
12 compliance with the goals and standards enumerated under this chapter.

13 (4) Before January 1st of each year, the secretary shall submit a
14 report to the legislature and governor. The report shall include the
15 number of persons enrolled in each treatment program during the period
16 covered by the report, the number of persons who leave each treatment
17 program voluntarily and involuntarily, and an outcome analysis of each
18 treatment program. For purposes of this subsection, "outcome analysis"
19 shall include but not be limited to: The number of people who, as a
20 result of participation in the program, are able to abstain from
21 opiates; reduction in use of opiates; reduction in criminal conduct;
22 achievement of economic independence; and reduction in utilization of
23 health care. The report shall include information on an annual and
24 cumulative basis beginning on the effective date of this section.

25 NEW SECTION. Sec. 5. (1) The governor and the department of
26 social and health services shall seek all necessary exemptions and
27 waivers from and amendments to federal statutes, rules, and regulations
28 to secure the federal changes to permit physicians to dispense opiate
29 substitutes at their usual place of business in accordance with RCW
30 70.96A.410 at the earliest possible date.

31 (2) This section expires June 30, 2004.

32 NEW SECTION. Sec. 6. (1) The Washington institute for public
33 policy shall evaluate the pilot project established in section 3 of
34 this act. The evaluation shall determine:

35 (a) Whether dispensing of opiate substitutes by physicians causes
36 an increase in the use of the substitutes by persons other than the
37 clients of physicians;

1 (b) The impact of physician dispensing on the achievement of
2 legislative goals established as set forth in RCW 70.96A.410(1)(g);

3 (c) The impact of participation by a physician in the pilot project
4 on the remainder of the physician's professional practice;

5 (d) Whether there are conditions or restrictions which impede the
6 achievement of legislative goals through physician dispensing of opiate
7 substitutes and, if so, how those conditions or restrictions can be
8 addressed.

9 (2) The evaluation shall be presented to the legislature and the
10 department of social and health services not later than June 1, 2001.

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