SENATE BILL REPORT
ESSB 6656

As Passed Senate, March 29, 2016

Title: An act relating to the reform of practices at state hospitals.

Brief Description: Concerning state hospital practices.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Hill, Hargrove, Ranker, Darneille, Parlette, Becker, Braun, Fain and Bailey).

Brief History:
Committee Activity: Ways & Means: 2/23/16, 3/03/16 [DPS, w/oRec].
First Special Session: Passed Senate: 3/29/16, 32-11.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6656 be substituted therefor, and the substitute bill do pass.
Signed by Senators Braun, Vice Chair; Dammeier, Vice Chair; Honeyford, Vice Chair, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Ranking Minority Member, Operating; Bailey, Becker, Brown, Darneille, Hewitt, Nelson, O'Ban, Padden, Parlette, Pedersen, Rolfes, Schoesler and Warnick.

Minority Report: That it be referred without recommendation.
Signed by Senators Conway and Hasegawa.

Staff: Kevin Black (786-7747)

Background: Western State Hospital, Eastern State Hospital, and the Child Study and Treatment Center are state hospitals designated by the state of Washington to care for persons with mental illness. The state hospitals treat court-committed patients who are civilly committed based on a mental disorder which causes the patient to present a likelihood of serious harm or to be gravely disabled, and patients who are forensically committed for psychiatric services related to criminal insanity and competency to stand trial. State hospital administration is overseen by the Department of Social and Health Services (DSHS).

Civil beds at Western State Hospital and Eastern State Hospital are distributed by providing bed allocations to each of the state's 11 regional support networks (RSN). An RSN is a county or group of counties which administers a treatment network that provides publically

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funded community mental health treatment to persons with a specific geographic area. State hospital bed allocations are determined by agreement or by a formula which weighs estimated incidence of mental illness within the geographic area and historical state hospital utilization patterns. An RSN is not charged for its use of the state hospital unless it exceeds its bed allocation. If the RSN's average daily census at the state hospital exceeds its bed allocation, the RSN is charged for the excess days of patient care. Half of the charge is retained to fund operations of the state hospital, and half is paid by DSHS as an incentive to RSNs who are below their bed allocation.

In April 2015, forensic operations at the adult state hospitals were placed under the supervision of a court monitor appointed by the United States District Court for the Western District of Washington, based on a permanent injunction and finding that waiting times for forensic services are violating the constitutional due process rights of state hospital patients.

In November 2015, the Centers for Medicare & Medicaid Services (CMS) conducted a surprise inspection of Western State Hospital and cited the hospital with six notices of immediate jeopardy, placing the receipt of federal funding at risk. The immediate jeopardy notices cited staffing shortages, lack of active treatment hours, lack of appropriate infection controls, and an insufficient culture of safety. In response to this action, DSHS stopped or indefinitely postponed the opening of two funded wards at Western State Hospital, citing insufficient availability of staff to assure patient safety. The immediate jeopardy notices were abated with the submission of a corrective action plan which is currently undergoing revision between DSHS and CMS. A portion of the planned expansion of state hospital capacity has been diverted to an offsite facility which is projected to begin accepting patients in March 2016.

A psychiatric advanced registered nurse practitioner (psychiatric ARNP) is a nursing professional who has obtained a graduate degree and is licensed to take an expanded role in providing health care services, including the diagnosis of patients and prescription of legend drugs and controlled substances.

Starting April 1, 2016, the role of RSNs will be expanded to include community substance abuse treatment services and the RSNs will be referred to as behavioral health organizations (BHOs). Two counties in Southwest Washington will become an early adopter region, which means that publically funded community health services will be administered by managed care organizations which combine oversight of primary health care and behavioral health care.

Summary of Engrossed Substitute Bill: The Legislature intends to explore the option of changing the financing structure and financial incentives for state hospital civil bed utilization by providing BHOs and full integration entities with the funds necessary to purchase days of care at the state hospital equivalent to the current state hospital bed allocations, but to allow for alternative uses of the funds such as purchasing beds in other locations, investing in community services, and investing in diversion from inpatient care. DSHS must develop a detailed transition plan in collaboration with consultants and with input from BHOs, full integration entities, and other stakeholders. The plan must consider methodology, payment rates, maximizing federal financial participation, timing of

implementation including use of smaller scale pilots, and other matters. The preliminary plan must be submitted by November 15, 2016, and the final plan by December 30, 2016.

The Governor's Behavioral Health Innovation Fund (Fund) is created in the state Treasury as an appropriated account under control of the Director of Office of Financial Management (OFM). DSHS may apply to OFM for the use of monies in the Fund for proposals to improve the functioning of the state hospital system. Proposals must be based on evidence-based practices, promising practices, or approaches that demonstrate quantifiable, positive results.

A Select Committee on Quality Improvement in State Hospitals (Committee) is established. The Committee must meet at least quarterly, starting in April 2016. The membership must consist of:

- four members of the Senate, consisting of the chairs and ranking members of the Health Care Committee and Human Services, Mental Health & Housing Committee;
- four members of the House of Representatives, consisting of the chairs and ranking members of the Health Care and Wellness Committee and Judiciary Committee;
- one member, appointed by the Governor, representing OFM; and
- two nonvoting members, appointed by the Governor, consisting of the Secretary of DSHS and the Director of the Department of Labor and Industries or their designees.

The Committee must meet at least quarterly, starting in April 2016 and ending in July 2019. Primary staff support must come from OFM. Two cochairs must be elected by the Committee. DSHS must provide quarterly implementation progress reports to the Committee relating to key activities, critical milestones, deliverables, and policy implementation. The Committee must receive updates, monitor, and make recommendations concerning the state hospitals in the following areas:

- planning related to the appropriate role of the state hospitals in the state mental health system;
- recommendations for the use of moneys from the Fund;
- monitoring of process and outcomes regarding policies and appropriations passed by the Legislature; and
- reviewing findings by the Department of Health concerning the safety of state hospitals and compliance with recommended corrective actions.

DSHS must require the state hospitals to implement policies in these areas:

- a standardized acuity-based staffing model which allows credentialed health providers to practice at the top of their scope of practice;
- a strategy to reduce unnecessary state hospital utilization and minimize readmission to evaluation and treatment facilities;
- a program of safety training;
- a plan to fully use appropriated funding for enhanced service facilities and other placement resources for patients who need significant assistance with activities of daily living; and
- an appeal process to the Secretary of DSHS to resolve disputes between a behavioral health organization, full integration region, and the state hospital concerning a patient's readiness for discharge where there is not mutual agreement within 14 days.

OFM must hire an external consultant to examine the current configuration and financing of the state hospital system, and DSHS must contract for an academic or independent state hospitals psychiatric clinical care model consultant. These consultants must make recommendations to the Governor, Legislature, and Committee by October 1, 2016, which must be used to inform recommendations for use of monies in the Fund. Twenty-six areas of focus related to state hospital improvement are specified for these consultants.

DSHS must identify and discharge or divert at least 30 geriatric and long-term care patients at Western State Hospital who can safely be served in community settings to alternative placements. A twenty-bed reduction must be realized by July 1, 2016, with a reduction of 10 additional beds by January 1, 2017. The resources used to serve these beds must be reinvested within the state hospital system. DSHS must provide preliminary and follow-up reports on patient outcomes to the Legislature on December 1, 2016, and August 1, 2017.

OFM must create a job class series for psychiatric advanced registered nurse practitioners, and physician assistants at the state hospital which allows these professionals to practice at the top of their scope of practice. The state hospitals must increase the employment of these professionals in a manner which allows them to reduce their reliance on psychiatrist positions.

Appropriation: None

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: In support of Section 5, Nurse Practitioners working to the full scope of their licenses can work independently to fill the gaps in services at the state hospital. Psychiatric Nurse practitioners can independently prescribe, order seclusion and restraints, admit and discharge people off the units. The scope of practice parallels a psychiatrist. Practitioners currently do not do competency evaluations. The training for these evaluations is only offered at the state hospitals, which currently do not utilize ARNPs.

OTHER: Physician assistants are currently now practicing at Western State Hospital and I request that you include the name Physician assistant alongside the Psychiatric ARNPs in Section 5. 6455 called out PAs throughout the code. A PA lost her job when ARNPs were added to the mental health law because she was seen as excluded. King County is very enthusiastic about the concept of this bill, however we do have significant concerns. We encourage you to approach this as a pilot project. This bill is consistent with the idea of treating people in the community, while decreasing lengths of stay at the State Hospital. It addresses the three step points. Individuals with DD, TBI, and dementia are difficult for the mental health system to discharge from the hospital. With community options for these people, we believe we could get throughput happening at the hospital. We have concerns about the shift of risks to the local communities. I brought you a flyer with data from Western State Hospital and Pierce County. If the allocations go away, will King County

utilize all the beds? Current bed allocation for Pierce County is 99 beds, equaling $19.5 million in hospital costs. Barriers to discharge need to be considered. This is not a fully baked solution ready for prime time this year. There is funding for an innovation fund in the house budget. Also, there are consultants in the house budget that could be utilized. Cuts over the years have had consequences. Addressing safe staffing levels and training will start to fix some of these issues. I am not sure how this would affect state hospital funding. Reducing ward size is important, but it needs to be done right. It isn't just about the size of the ward, but there needs to be wiggle room. Support services need to be brought back. Many of the concepts in this bill are things the department has looked at, is working on, or are in the governor's budget. We support the changing in incentives for the use of hospital beds, but are looking at the funding sources for this. We support looking at the staffing models as well. We are working on getting individuals out of the geriatric wards. We are concerned about some of the timelines in the bill. We support BHOs being fully at risk for their use of state hospital care. Most of the opposition, is about how this would work. Working on the state hospital is important.

CON: We are very supportive of this conversation and support serving people in the communities, but the RSNs are deep into integration to behavioral health organizations by April 1. This creates risks. This bill also creates additional risks to the community. Capacity can't be built overnight. There are significant workforce issues.

Persons Testifying: PRO: Melissa Johnson, Washington State Nurses Association; Jan Bussert, Washington State Nurses Association; David Guidry, Association of Advanced Practice Psychiatric Nurses.

CON: Abby Moore, Washington State Association of Counties.

OTHER: Kate White Tudor, Washington Academy of Physician Assistants; Lindsey Grad, SEIU Healthcare 1199NW; Matt Zuvich, WFSE; Jim Vollendroff, King County; Bea Dixon, Optum - Executive Director; Pat Lashway, Carla Reyes, Kelci Karl-Robinson, DSHS; Seth Dawson, National Alliance on Mental Illness, NAMI Washington; Joan Miller, Washington Council for Behavioral Health.

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