H-4517.2

SUBSTITUTE HOUSE BILL 2453

State of Washington 64th Legislature 2016 Regular Session

By House Judiciary (originally sponsored by Representatives Jinkins, Rodne, Cody, Schmick, Chandler, Dunshee, Muri, Kilduff, and Ormsby)

READ FIRST TIME 02/25/16.

AN ACT Relating to improving oversight of the state hospitals; adding a new chapter to Title 72 RCW; providing an effective date; providing an expiration date; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** It is the intent of the legislature that the executive and legislative branches work collaboratively to maximize access to, safety of, and the therapeutic role of the state hospitals to best serve patients while ensuring the safety of patients and employees.

The legislature is working with the executive branch to make investments in the mental health system to ensure that patients get the help they need in the most appropriate setting, to stabilize the workforce of the state hospitals, to improve outcomes, and to respond to court decisions related to single bed certifications and timelines for competency services.

It is important to the state that fiscal investments result in improvements in quality of care, patient outcomes, and safety and that any restructuring represents strategic, proactive decisions to improve care in our state hospitals.

NEW SECTION. **Sec. 2.** (1) A joint legislative executive psychiatric state hospital collaborative task force is established, composed of the following members:

(a) Four members of the senate, appointed by the president of the senate, consisting of the chairs and ranking members of the committee on health care and the committee on human services, mental health and housing, or their successor committees;

(b) Four members of the house of representatives, appointed by the speaker of the house of representatives, consisting of the chair and ranking members of the committee on health care and wellness and the committee on judiciary, or their successor committees;

(c) Six members, appointed by the governor, representing the following:

(i) The secretary of the department of social and health services or a designee;

(ii) The secretary of the department of health or a designee;

(iii) The director of the department of labor and industries or a designee;

(iv) The director of the health care authority or a designee;

(v) A representative of the office of financial management; and

(vi) A representative of the governor's office.

(2) The governor or a designee shall select one task force member to serve as cochair, and the task force shall choose the other cochair from among the legislative members.

(3) The governor or a designee shall convene the initial meeting of the task force.

(4) Meetings of the task force shall be open to the public and shall provide an opportunity for public comment.

(5) Primary staff support for the task force must be provided by the office of financial management, with assistance from the department of social and health services, the department of health, and the department of labor and industries. Additional staff support may be provided by the office of program research and senate committee services.

(6) The task force shall meet, at a minimum, on a quarterly basis beginning April 2016, or as determined necessary by the task force cochairs.

(7) The state agency members of the task force shall respond in a timely manner to data requests from the cochairs.

(8) Legislative members of the task force must be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(9) The expenses of the task force must be paid jointly by the senate and the house of representatives. Task force expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

NEW SECTION. **Sec. 3.** The task force shall receive updates, monitor, and make recommendations to the governor, the office of financial management, and the legislature in the following three areas, with respect to the state hospitals:

(1) Long-term planning related to the appropriate role of the state hospitals in the state's mental health system, as well as state hospital structure, financing, staff composition, and workforce development needs to improve the quality of care, patient outcomes, safety, and operations of the state hospitals;

(2) Recommendations for the use of funds from the governor's behavioral health innovation fund, taking into consideration the information and recommendations provided by the consultants identified in section 4 of this act and the quarterly implementation progress reports provided in section 7 of this act; and

(3) Monitoring of process and outcome measures regarding the implementation of policies and appropriations passed by the legislature including, but not limited to, improved functioning in the areas identified in section 6 of this act.

NEW SECTION. **Sec. 4.** (1) Long-term planning for the state hospitals and recommendations for the use of funds from the governor's behavioral health innovation fund under section 5 of this act will be informed by the following consultants who shall make recommendations to the governor, the legislature, and the task force by October 1, 2016:

(a) The department of social and health services shall contract for the services of an external psychiatric hospital performance consultant to improve hospital performance. The consultant must

examine issues related to improving quality of care by creating a sustainable culture of wellness and recovery, increasing responsiveness to patient needs, reducing wards to an appropriate size, and establishing a quality improvement infrastructure at the state hospitals. The consultant shall assist the department of social and health services with implementation of recommended changes.

(b) The office of the governor must contract for the services of an external consultant who will examine the current configuration and financing of the state hospital system, and work with the state hospitals, local governments, community hospitals, mental health providers, substance use disorder treatment providers, and other providers, and behavioral health organizations to identify options and make recommendations related to:

(i) Identification of which populations are appropriately served at the state hospitals;

(ii) Identification of barriers to timely admission to the state hospitals of individuals who have been court ordered to ninety or one hundred eighty days of treatment under RCW 71.05.320;

(iii) Utilization of interventions to prevent or reduce psychiatric hospitalization;

(iv) Optimization of continuity of care with community providers, including but not limited to coordination with any community behavioral health provider or evaluation and treatment facility that has treated the patient immediately prior to state hospital admission, and any provider that will serve the patient upon discharge from the state hospital;

(v) Reduction of barriers to discharge, including options to:

(A) Ensure discharge planning begins at admission;

(B) Offer co-occurring substance use disorder treatment services at the state hospitals;

(C) Clarify and hold accountable state hospitals and behavioral health organizations for their respective roles in the discharge planning process;

(D) Include contract performance measures related to timely discharge planning in behavioral health organization contracts;

(E) Improve state monitoring and oversight of behavioral health organizations in their contracted responsibilities for developing an adequate network to meet the needs of their communities;

(F) Incentivize the use of community resources when clinically appropriate; and

(G) Expedite discharge for individuals who are the responsibility of the long-term care or developmental disability systems, or who are not covered by medicaid, and assure financial responsibility to appropriate systems, including the potential necessity of other state-run facilities;

(vi) Planning for the long-term integration of physical and behavioral health services, including strategies for assessing risk for the utilization of state hospital beds to health plans contracted to provide the full range of physical and behavioral health services;

(vii) Identification of the potential costs, benefits, and impacts associated with dividing one or both of the state hospitals into discrete hospitals to serve civil and forensic patients in separate facilities; and

(viii) Development of alternative financing options for state hospital services including options for shifting funding and financial responsibility for bed days at the state hospitals to behavioral health organizations or entities under RCW 71.24.380 and the long-term care and developmental disabilities programs while providing an opportunity for these entities to repurpose these funds to purchase alternative beds, diversion services, and effective community treatment. These options shall be developed to maximize federal participation for treatment and address how federal matching funds currently available through the disproportionate share hospital program can be preserved.

(c) The department of social and health services shall contract for the services of an academic or independent state hospitals psychiatric clinical care model consultant to examine the clinical role of staffing at the state hospitals. The consultant's analysis must include an examination of the clinical models of care, current staffing models, the use of interdisciplinary health care teams, and the appropriate staffing model and staffing mix to achieve optimal treatment outcomes considering patient acuity. To the extent that funding is appropriated for this purpose and necessary modification to labor practices are completed, the consultant shall assist the department of social and health services with implementation of recommended changes.

(2) The consultant services in this section shall be acquired with funds appropriated for this purpose and are exempt from the competitive solicitation requirements in RCW 39.26.125.

NEW SECTION. **Sec. 5.** The governor's behavioral health innovation fund is hereby created in the state treasury. Moneys in the fund may be spent only after appropriation. Only the director of financial management or the director's designee may authorize expenditures from the fund. Moneys in the fund are provided solely to improve quality of care, patient outcomes, patient and staff safety, and the efficiency of operations at the state hospitals.

NEW SECTION. **Sec. 6.** (1) The department of social and health services may apply to the office of financial management to receive funds from the governor's behavioral health innovation fund.

(2) The application must include proposals to increase the overall function of the state hospital system in one or more of the following categories:

(a) Instituting fund-shift pilot initiatives through contracts with behavioral health organizations or long-term care providers providing enhanced behavioral supports to move certain state hospital patients to alternative placements outside of the state hospital, contingent on federal funding. Proposals must include quality outcome measures and acuity-based staffing models of interdisciplinary teams designed for optimal treatment outcomes;

(b) Developing and utilizing step-down and transitional placements for state hospital patients;

(c) Improving staff retention and recruiting;

(d) Increasing capacity and instituting other measures to reduce backlogs and wait lists in both the civil and forensic systems;

(e) Increasing stability and predictability in the state hospitals' operating costs and budgets;

(f) Making necessary practice and staffing changes, subject to collective bargaining;

(g) Improving safety for patients and staff at the state hospitals;

(h) Increasing staff training at the state hospitals;

(i) Improving the therapeutic environment at the state hospitals; and

(j) Improving the provision of forensic mental health services.

(3) Application proposals must be based on the use of evidence-based practices, promising practices, or approaches that otherwise demonstrate quantifiable, positive results.

(4) Moneys from the governor's behavioral health innovation fund may not be used to increase compensation within the state hospitals.

(5) The office of financial management must consider input from the task force when awarding funding.

NEW SECTION. **Sec. 7.** The department of social and health services must provide quarterly implementation progress reports to the task force and the office of financial management that include at a minimum:

(1) The status of completing key activities, critical milestones, and deliverables over the prior period;

(2) Identification of specific barriers to completion of key activities, critical milestones, and deliverables and strategies that will be used for addressing these challenges;

(3) The most recent quarterly performance data on the performance measures and outcomes identified by the task force, which shall include, but are not limited to:

(a) Wait times for civil admission;

(b) Denial rates for civil admission and reasons for denial;

(c) Wait times for competency evaluation and restoration services;

(d) Comparative average length of stay at the two state hospitals for distinct subpopulations;

(e) Rates of recommitment under chapter 71.05 RCW within thirty days of discharge;

(f) Rates of voluntary hospitalization within thirty days of discharge;

(g) Rates of incarceration within thirty days of discharge;

(h) Rates of homelessness within thirty days of discharge;

(i) Percentage of patients receiving a service within seven days after discharge;

(j) Quarterly rates of seclusions and restraints;

(k) Quarterly rates of patient-to-staff and patient-to-patient assaults;

(l) Total number of hires and number of hires by job class;

(m) Percentage of hires that have exited employment;

(n) Sufficiency of staffing to meet the staffing model and staffing mix identified by the psychiatric clinical care model consultant in section 4 of this act;

(o) Scores on the department of social and health services' employee satisfaction surveys;

(p) Outcomes on the department of social and health services' culture of safety survey;

(q) Use of unscheduled leave and overtime;

(r) Increased attendance at communication forums;

(s) Other items as the task force requests; and

(4) The status of the adoption and implementation of the best practice policies identified in section 8 of this act.

NEW SECTION. **Sec. 8.** The department of social and health services must assure that the state hospitals have adopted and implemented the following best practice policies, subject to the availability of appropriated funding, and shall include information regarding the status of the adoption and implementation of these policies in its quarterly reports required under section 7 of this act:

(1) A standardized acuity-based staffing model employed at both facilities that recognizes the staffing level required based upon the type of patients served, the differences and constraints of the physical plant across hospitals and wards, and the full scope of practice of all credentialed health care providers, and that identifies the incorporation of these health care providers practicing to the maximum extent of their credential in interdisciplinary teams. The model shall recognize that advanced registered nurse practitioners should have a role utilizing the full scope of their practice;

(2) A strategy with measurable, articulated steps for reducing the unnecessary utilization of state hospital beds and minimizing readmissions to evaluation and treatment facilities for state hospital patients;

(3) A program of appropriate safety training for state hospital staff;

(4) A plan to fully use appropriated funding for enhanced service facilities and other specialized community resources for placement of state hospital patients with conditions such as dementia, traumatic brain injury, or complex medical and physical needs requiring placement in a facility which offers significant assistance with activities of daily living. By July 1, 2016, the department of social and health services must transition and divert enough patients from

western state hospital to reduce the demand for thirty beds currently being used for this population. The resources being used to serve these beds must be reinvested within the state hospital budget in order to achieve other state hospital patient and staff safety improvement goals identified in this chapter; and

(5) A process for appeal to the secretary of the department of social and health services or the secretary's designee within fourteen days in cases where a behavioral health organization, other entity under RCW 71.24.380, or state agency division responsible for the community care needs of the patient and the state hospital treatment team are unable to reach a mutually agreed upon discharge plan for patients who are considered by either party to be ready for discharge. This process shall ensure consideration of risk factors for readmission.

NEW SECTION. **Sec. 9.** For purposes of this chapter:

(1) "Behavioral health organization" has the same meaning as in RCW 71.24.025 and includes any managed care organization that has contracted with the state to provide fully integrated behavioral health and physical health services for medicaid clients.

(2) "State hospitals" include western state hospital and eastern state hospital as designated in RCW 72.23.020.

(3) "Task force" means the joint legislative executive psychiatric state hospital collaborative task force created in section 2 of this act.

NEW SECTION. **Sec. 10.** This chapter expires July 1, 2019.

NEW SECTION. **Sec. 11.** Sections 1 through 10 of this act constitute a new chapter in Title 72 RCW.

NEW SECTION. **Sec. 12.** (1) Sections 1 through 7 and 9 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

(2) Section 8 of this act takes effect July 1, 2016.

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