Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Health Care & Wellness Committee

HB 1388

Brief Description: Changing the designation of the state behavioral health authority from the department of social and health services to the health care authority and transferring the related powers, functions, and duties to the health care authority and the department of health.

Sponsors: Representatives Cody, Rodne, Harris, Macri and Frame; by request of Governor Inslee.

Brief Summary of Bill

- Transfers responsibilities for the oversight and purchasing of behavioral health services from the Department of Social and Health Services (DSHS) to the Health Care Authority, except for the operation of the state hospitals.
- Transfers responsibilities for the certification of behavioral health providers from the DSHS to the Department of Health.

Hearing Date: 1/31/17

Staff: Chris Blake (786-7392).

Background:

Administration of Medical Assistance.

The Health Care Authority (Authority) administers the Medicaid program which is a state-federal program that pays for health care for low-income state residents who meet certain eligibility criteria. Federal law requires each state that participates in Medicaid to designate a single state agency responsible for administration and supervision of the state's Medicaid program. Since 2011, in Washington, that agency has been the Authority.

The Authority primarily administers the Medicaid program through contracts with managed care organizations under the name "Washington Apple Health." The managed care organizations

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provide a prepaid, comprehensive system of medical and health care delivery, including preventive, primary, specialty, and ancillary health services. There are currently six managed care organization participating in Washington Apple Health.

Administration of Community Behavioral Health Services.

Since April 1, 2016, the Department of Social and Health Services (DSHS) has contracted with behavioral health organizations to oversee the delivery of mental health and substance use disorder services for adults and children. A behavioral health organization may be a county, group of counties, or a non-profit entity. Behavioral health organizations are paid by the state on a capitation basis and funding is adjusted based on caseload. Behavioral health organizations contract with local providers to provide an array of mental health services, monitor the activities of local providers, and oversee the distribution of funds under the state managed care plan.

In 2014 legislation was passed to direct all behavioral health services to be integrated into Medicaid managed organizations by April 2020. In one regional service area in Southwest Washington, behavioral health services have already been integrated into the contracts of Medicaid managed care organizations.

Behavioral health organizations are also responsible for the administration of community-based commitments and services under the Involuntary Treatment Act, which is the statutory scheme that governs the civil commitment of persons who, due to a mental disorder, pose a likelihood of serious harm or are gravely disabled. Inpatient commitments for 90 or 180 days of treatment take place at one of two state hospitals operated by the DSHS. Under the involuntary substance use disorder treatment system, an adult or minor may be committed upon a finding by clear, cogent, and convincing evidence that the person, due to substance use disorder, poses a likelihood of serious harm or is gravely disabled. In 2016 the Legislature enacted E3SHB 1713 which integrates the involuntary treatment systems for substance use disorders and mental health, effective April 1, 2018.

Behavioral Health Licensing Activities.

The DSHS certifies behavioral health programs that meet established standards, including evaluation and treatment facilities, substance use disorder treatment providers, crisis stabilization units, and triage facilities. The Department of Health (DOH) licenses and certifies several behavioral health professionals, including social workers, mental health counselors, marriage and family therapists, psychologists, and chemical dependency professionals who meet educational, experience, and examination requirements established by the DOH.

Summary of Bill:

Responsibilities of the Health Care Authority.

The Health Care Authority (Authority) is designated as the state behavioral health authority, rather than the Department of Social and Health Services (DSHS), and is recognized as the single state authority for substance use disorders and mental health. Responsibilities for the community mental health system are transferred from the DSHS to the Authority, including developing the state behavioral health program, developing contracts with behavioral health organizations, and

any Medicaid waiver requests to the federal government. The Authority assumes the responsibility for establishing behavioral health organization and regional service area boundaries. In the event that a behavioral health organization fails to meet state minimum standards, the Authority may be designated as the new behavioral health organization.

The responsibility for substance use disorder programs is shifted from the DSHS to the Authority. These responsibilities include developing statewide and local programs for the prevention of drug addiction, assuring that contracts for substance use disorder services provide medically necessary services, coordinating substance use disorder activities with other agencies, and developing and implementing educational programs for persons with substance use disorders.

The responsibility for administering the Involuntary Treatment Act is changed from the DSHS and the behavioral health organizations, to the Authority and the behavioral health organizations. If the behavioral health organizations are not able to agree upon an allocation of state hospital beds for each behavioral health organization, the Authority must make the determination. The Authority assumes the responsibility for making single bed certification decisions, adopting standard reporting forms and receiving reports from designated mental health professionals and designated crisis responders, and sharing reports with behavioral health organizations. The Authority must combine the functions of designated mental health providers and designated chemical dependency specialists into the single role of a designated crisis responder.

Responsibilities are shifted from the DSHS to the Authority to evaluate the quality, effectiveness, efficiency, and use of services and standards for commitment, and establish criteria and procedures for the placement and transfer of committed minors. The Authority assumes oversight duties for psychiatric or substance use disorder evaluations of minors. The Authority assumes responsibilities for minors placed on 180-day inpatient commitments. The Authority and the DSHS share authority over minors who fail to comply with less restrictive alternative treatment conditions.

Responsibilities of the Department of Health.

The responsibility for certifying and licensing behavioral health service providers is transferred from the DSHS to the DOH. The DOH assumes the responsibility for establishing minimum standards for service providers and community support services and for disciplining those entities that do not meet the standards. The licensing and certification functions apply to evaluation and treatment facilities, crisis stabilization units, clubhouses, triage facilities, substance use disorder programs, and secured detoxification facilities. The DOH must develop notifications for evaluation and treatment facilities, emergency departments, and inpatient facilities to give to parents regarding all treatment options available for a minor.

Persons who are licensed as mental health counselors, mental health counselor associates, marriage family therapists, or marriage family therapist associates are added to the list of professions who may become designated crisis responders.

Responsibilities of the Department of Social and Health Services.

The DSHS retains authority over the operation and maintenance of the state hospitals and the Child Study and Treatment Center.

Appropriation: None.

Fiscal Note: Requested on January 18, 2017.

Effective Date: The bill contains an emergency clause and takes effect immediately, except for sections 2002, 3002, 3004, 3009, 3011, 3013, 3014, 3018, 3021, 3025, 3030, 3036, 3038, 3041, 3046, 3048, 3050, 4003, 4008, 4020, 5003, 5007, 5010, 5014, 5017, 5019, 5022, 5025, 5028, 5030, 8002, 8004, and 9013, regarding the integration of the mental health commitment and substance use disorder commitment systems, which are effective April 1, 2018, and sections 3015, 3019, 3039, 5026, and 5031, regarding the integration of the mental health commitment and substance use disorder commitment systems, which are effective July 1, 2026.