

# SENATE BILL REPORT

## SHB 1388

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As Reported by Senate Committee On:  
Health Care, March 28, 2017

**Title:** An act relating to 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.

**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:** House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Rodne, Harris, Macri and Frame; by request of Governor Inslee).

**Brief History:** Passed House: 3/02/17, 73-25.

**Committee Activity:** Health Care: 3/14/17, 3/28/17 [DPA-WM, w/oRec].

### Brief Summary of Amended 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 DSHS to the Department of Health.

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### SENATE COMMITTEE ON HEALTH CARE

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Rivers, Chair; Cleveland, Ranking Minority Member; Kuderer, Assistant Ranking Minority Member; Bailey, Conway, Keiser, Miloscia and Mullet.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Becker, Vice Chair; Fain, O'Ban and Walsh.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Mich'l Needham (786-7442)

**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 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 organizations participating in Washington Apple Health.

Administration of Community Behavioral Health Services. Since April 1, 2016, 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 nonprofit 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 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, legislation was enacted 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 Amended Bill:** Responsibilities of the Health Care Authority. The Authority is designated as the state behavioral health authority, rather than 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 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.

The responsibility for substance use disorder programs is shifted from 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 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 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 DSHS share authority over minors who fail to comply with less restrictive alternative treatment conditions.

Psychiatric nurse practitioners are added to the definition of mental health professionals in the children's mental health laws and integrated crisis response laws. The requirement that psychiatric nurses have either two or three years of experience treating persons with mental health conditions is removed.

The Authority must create a workgroup to explore options for behavioral health services in regional service areas, including contracting separately with a county administrative service organization for crisis services and non-Medicaid services, and exploring the option for a county organization to function as a coordinating entity. The workgroup includes the Authority, DSHS, behavioral health organizations, managed care organizations, counties, behavioral health providers, and legislators from each caucus from the House and Senate. A workgroup report is due December 1, 2017, including recommendations for reducing barriers to full integration, and a description of alternative delivery and financing options that must be

made available to regional service areas and allow counties to select the most appropriate structure for the regional service area.

Responsibilities of the Department of Health. The responsibility for certifying and licensing behavioral health service providers is transferred from DSHS to DOH. 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. 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. DSHS retains authority over the operation and maintenance of the state hospitals and the Child Study and Treatment Center.

**EFFECT OF HEALTH CARE COMMITTEE AMENDMENT(S):**

- Directs the Authority to create a workgroup to explore options for behavioral health services in regional service areas, including contracting separately with a county administrative service organization for crisis services and non-Medicaid services, and exploring the option for a county organization to function as a coordinating entity.

The workgroup includes the Authority, DSHS, behavioral health organizations, managed care organizations, counties, behavioral health providers, and legislators from each caucus from the House and Senate. A workgroup report is due December 1, 2017, including recommendations for reducing barriers to full integration, and a description of alternative delivery and financing options that must be made available to regional service areas and allow counties to select the most appropriate structure for the regional service area.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** Yes.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony on Substitute House Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: We believe this is a positive step toward integrating behavioral health and physical health. When the Legislature mandated behavioral health integration with physical health, the administration began to look at how we can align the programs and administrative efforts to support the integration. This is the Governor's request bill to ensure we align the programs and prepare for full integration.

**Persons Testifying:** PRO: Seth Dawson, National Alliance on Mental Illness, NAMI Washington; Jason McGill, Gov. Office.

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