

HOUSE BILL REPORT

HB 2448

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to enhanced services facilities.

Brief Description: Concerning enhanced services facilities.

Sponsors: Representatives Schmick, Chambers and Cody.

Brief History:

Committee Activity:

Health Care & Wellness: 1/28/20, 2/5/20 [DPS].

Brief Summary of Substitute Bill

- Modifies admissions standards for enhanced services facilities to require that the person be medically and physically stable and updates the behavior- and history-related factors that must be considered when determining eligibility for admission.
- Changes the scope of care provided by enhanced services facilities from a focus on treatment to support and services.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers, Chopp, Davis, DeBolt, Harris, Riccelli, Robinson, Stonier, Thai and Tharinger.

Staff: Chris Blake (786-7392).

Background:

Enhanced Services Facility.

Enhanced services facilities provide treatment and services to persons who do not have a medical need for acute inpatient treatment and have been determined by the Department of

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Social and Health Services (Department) to be inappropriate for placement in other licensed facilities because of complex needs that result in behavioral and security issues. Enhanced services facilities are licensed by the Department. There are currently four licensed enhanced services facilities with 52 beds.

Enhanced services facilities may only provide services to residents who are at least 18 years old. If an enhanced services facility serves any resident under 65 years old, the facility may not have more than 16 residents. A person may be admitted to an enhanced services facility if the person:

- requires either: (1) daily care by or under the supervision of a mental health professional, substance use disorder professional, or nurse; or (2) assistance with three or more activities of daily living;
- has: (1) a mental disorder or substance use disorder; (2) an organic or traumatic brain injury; or (3) a cognitive impairment that results in symptoms or behaviors requiring supervision and facility services; and
- has at least two of the following: (1) self-endangering behaviors that are frequent or difficult to manage; (2) aggressive, threatening, or assaultive behaviors that are frequent or difficult to manage and create a risk to the health or safety of residents or staff or a significant risk to property; (3) intrusive behaviors that put residents or staff at risk; (4) complex medication needs that include psychotropic medications; (5) a history or likelihood of unsuccessful placements in other facilities or a history of rejected applications to other facilities based on the person's behaviors, history, or security needs; (6) a history of frequent or protracted mental health hospitalizations; or (7) a history of offenses against a person or felony offenses creating substantial property damage.

An enhanced services facility may only admit residents whose needs can be safely and appropriately met through its staff, services, equipment, security, and building design.

Enhanced services facilities must assure that residents have several specified rights available to them. These rights include:

- adequate care and individualized treatment;
- the allowance of treatment by spiritual means through prayer;
- a reasonable choice of qualified health care providers for evaluation and treatment;
- the waiving of physician-patient privilege and psychologist-client privilege in proceedings regarding the administration of antipsychotic medications;
- personal rights related to clothing, personal purchases, storage space, visitors, telephone access, letter writing materials, decision making authority over the administration of antipsychotic medications, participation in treatment plans, authority to not have psychosurgery, contracts, and complaints to advocacy organizations;
- refusal of placement in an enhanced services facility; and
- appeals of decisions regarding eligibility for placement in an enhanced services facility.

Long-Term Care Resident Rights.

Residents of long-term care settings have specific rights that are common across settings. The rights apply to residents of assisted living facilities, adult family homes, veterans' homes, and nursing homes. The rights cover a broad range of topics, including self-determination, communication, access to clinical records, availability of services, management of financial affairs, privacy and confidentiality of personal and clinical records, expression of grievances, visitation, and personal possessions.

Summary of Substitute Bill:

The eligibility standards for admission to an enhanced services facility are modified. The eligibility requirements related to level of care needs and type of care needs remain substantially the same, but are modified to reference "behavioral health disorders," rather than "mental health" or "substance use disorders" separately. A new eligibility requirement is established to require that the person has been assessed by the Department of Social and Health Services as needing the services of an enhanced services facility. The eligibility requirements related to the person having two or more behavior- and history-related factors are updated in several ways. First, the person must have been assessed as being medically and physically stable. In addition, the seven factors for admission are modified as follows:

- The three behavior-related factors that include self-endangering behaviors, aggressive or assaultive behaviors, and intrusive behaviors are eliminated and replaced with two more general behavior-related factors related to: (1) exhibiting serious challenging behaviors within the last year; and (2) requiring caregivers with training in providing behavioral supports to adults with challenging behaviors.
- The factor related to the person having complex medication needs removes the inclusion of psychotropic medications, and instead references the person's inability to manage their complex medications affecting their ability to live in the community.
- The two factors related to histories of unsuccessful placements or protracted mental health hospitalizations are generally unchanged, except that the unsuccessful placements may be based on the person's general needs, not just security needs.
- The factor related to a person's criminal history is eliminated.
- Two new factors are added related to: (1) the person residing at a state mental hospital or psychiatric unit of a hospital and being found ready to discharge; and (2) the person having a history of an inability to remain medically or psychiatrically stable for more than six months.

Several terms related primarily to the repealed admissions standards for enhanced services facilities are removed.

The provision of treatment is removed from the scope of care provided by enhanced services facilities and is replaced with support or services. Accordingly, references and definitions related to treatment and medical providers are removed. Each resident must receive an individualized behavior support plan, rather than treatment plan. Enhanced services facilities must have sufficient staff who are trained to provide the residents with appropriate care and support, rather than treatment. The care and support includes behavioral health support, rather than mental health treatment, and supervision, rather than security. The requirement that an enhanced services facility provide chemical dependency treatment is removed. In

addition, an enhanced services facility must have skilled nursing and support to acquire medical and behavioral health disorder services from local community providers, rather than have staff to provide medical or habilitative treatment at the facility.

The rights that are specific to residents of enhanced services facilities are removed and replaced with the same rights that are applicable to other long-term care settings. The Long-Term Care Ombuds is authorized to monitor enhanced services facilities to determine the extent to which their residents are able to exercise their rights.

Substitute Bill Compared to Original Bill:

The substitute bill repeals the resident rights specific to enhanced services facilities and replaces them with the rights applicable to residents of other long-term care settings. Enhanced services facilities are added to the list of facilities that must be monitored by the Long-Term Care Ombuds.

The substitute bill restores the definitions of "detention," "mental disorder," "mental health professional," "substance use disorder," and "substance use disorder professional." Definitions are added for "behavioral health disorder," "psychiatrist," and "psychologist."

The substitute bill adds an element to the admission criteria for potential enhanced services facility residents that they be assessed by the Department of Social and Health Services as needing enhanced services facility services.

The substitute bill requires that enhanced services facilities be able to provide their residents with medical and behavioral health disorder services from local community providers and eliminates the requirement that enhanced services facilities have staff to provide chemical dependency treatment.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Enhanced services facilities are licensed as community-based residential providers with the difference that enhanced services facilities provide additional staffing such as nursing, a mental health professional, and a staffing ratio that does not exceed four to one. Enhanced services facilities play a role in meeting the needs of persons who both need assistance with activities of daily living as well as complex behavioral health needs. It is very rewarding to be able to take individuals out of an institutional setting and provide them with support so they can maintain stability in the community setting. The number of people with serious mental illness is growing within the population of people receiving long-term

services and supports. The current enhanced services facilities statute does not accurately reflect what they are, which is a long-term care facility, not a mental health treatment facility. The bill changes the definition of an enhanced services facility and eligibility to align with how they are operating today and the eligibility of residents currently living in them.

Providers have not been able to get additional facilities running because there is fear and confusion about these facilities and who they serve. The current enhanced services facility statute contributes to the confusion and fear. One entity was awarded a grant to open an enhanced services facility in King County, but while trying to find a suitable location there were many issues with local jurisdictions and their understanding of what an enhanced services facility is. Much of it comes from confusion in the statute and these updates should help planning commissions and groups involved with zoning decisions understand what an enhanced services facility is, who is served there, and how it fits into the continuum of long-term care.

There should be an amendment to the bill to make clear that the eligibility criteria include an assessment by the Department of Social and Health Services that the resident needs the level of services provided at an enhanced services facility. The resident rights should be the same rights as in any long-term care facility. It is critical that all of the resident rights are available to residents regardless of the setting.

(Opposed) None.

(Other) The definition changes might be confusing in the long run. In 2019 intensive behavioral health treatment facilities were created and the Department of Health is developing rules to define what they are and which patients they may accept. The Department of Health rules require intensive behavioral health treatment facilities to only admit individuals whose primary care need is treatment for a mental health disorder and who are capable of performing activities of daily living without direct assistance from agency staff. Intensive behavioral health treatment facilities do not manage activities of daily living while enhanced services facilities do manage activities of daily living, but do not provide mental health treatment under this bill. This leaves a question of where a person goes if they need both mental health treatment and assistance with activities of daily living. There may be a possibility for confusion that could result in not having places for people to be discharged to following a hospital stay.

Persons Testifying: (In support) Representative Schmick, prime sponsor; Bea Rector, Aging and Long-Term Support Administration – Department of Social and Health Services; Melanie Smith, Washington State Long-Term Care Ombuds Program; and Zachary Wester, Tekoa Care Center.

(Other) Abby Moore, Washington Council for Behavioral Health; and Lisa Thatcher, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying: None.