
Health Care & Wellness Committee

2SSB 6591

Brief Description: Establishing a work group to address mental health advance directives.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Dhingra, Das, Darneille, Keiser, Rivers and Wilson, C.).

<p>Brief Summary of Second Substitute Bill</p> <ul style="list-style-type: none">• Establishes a work group to review the use of mental health advance directives and ways to promote awareness of mental health advance directives.

Hearing Date: 2/27/20

Staff: Chris Blake (786-7392).

Background:

A mental health advance directive is a document that either provides instructions or declares a person's preferences regarding the person's mental health treatment in the event of incapacitation. A mental health advance directive may also appoint another person to make decisions regarding mental health treatment on the person's behalf in the event of incapacitation. A mental health advance directive may include preferences and instructions for mental health treatment, consent to specific types of mental health treatment, consent to admission to a facility for 14-day treatment, descriptions of situations that may cause the person to experience a mental health crisis, and the appointment of an agent to make decisions on the person's behalf.

A person may be determined to be incapacitated if the person is an adult who is unable to:

- understand the nature, character, and anticipated results of proposed treatments or alternatives;
- understand the serious possible risks, complications, and anticipated benefits in treatments and alternatives; or
- communicate the person's understanding or treatment decisions.

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The person, the person's agent, a mental health professional, or a health care provider may seek a determination of a person's capacity. Incapacity is determined by either: (1) a court; (2) one mental health professional and one health care provider; or (3) two health care providers. The term "health care provider" means a physician, osteopathic physician, advanced registered nurse practitioner, physician assistant, or osteopathic physician assistant. At least one mental health professional or health care provider must personally examine the person before making a capacity determination. Determinations whether a person is incapacitated or has regained capacity must be made within 48 hours of a request.

Summary of Bill:

The Health Care Authority (Authority) must facilitate a work group regarding mental health advance directives. The Authority shall invite participation from behavioral health advocates, peers and peer advocates, hospitals, physicians, community behavioral health agencies, dementia advocates, the Elder Law Section of the Washington State Bar Association, Seattle University School of Law, the Washington State Long-Term Care Ombuds, managed care organizations, designated crisis responders, and jails. The work group must:

- examine the use of mental health advance directives in Washington;
- identify ways to improve and promote awareness and utilization of mental health advance directives;
- examine barriers and outcomes; and
- advise the Legislature in updating laws regarding mental health advance directives.

The work group must submit a final report to the Governor and appropriate committees of the Legislature by October 1, 2021.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 24, 2020.

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