

SENATE BILL REPORT

2SHB 1394

As Reported by Senate Committee On:
Behavioral Health Subcommittee to Health & Long Term Care, March 22, 2019

Title: An act relating to community facilities needed to ensure a continuum of care for behavioral health patients.

Brief Description: Concerning community facilities needed to ensure a continuum of care for behavioral health patients.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Schmick, Cody, Jinkins, Kilduff, Davis, Griffey, Riccelli, Macri, Harris, Robinson, Goodman, Sullivan, Appleton, Bergquist, Thai, Tharinger, Slatter, Doglio, Pollet, Callan, Leavitt and Ormsby; by request of Office of the Governor).

Brief History: Passed House: 3/05/19, 98-0.

Committee Activity: Behavioral Health Subcommittee to Health & Long Term Care: 3/15/19, 3/22/19 [DPA-WM].

Brief Summary of Amended Bill

- Requires the Health Care Authority (HCA) to assess community capacity to provide long-term inpatient care to involuntary patients and contract for such services to the extent that certified providers are available.
- Suspends the certificate of need requirement relating to construction of psychiatric beds or expansion of psychiatric bed capacity for an additional two years until June 30, 2021.
- Requires the Department of Health (DOH) to license and certify intensive behavioral health treatment facilities, mental health peer respite centers, and to allow an enhanced rate to be paid to nursing homes that convert to assisted living or residential treatment facilities.
- Requires HCA to establish a daytime mental health drop-in center pilot in Yakima until July 1, 2022, and issue a report by December 1, 2021.
- Requires HCA and DOH to consult with hospitals and review laws and regulations relating to long-term inpatient care provided to involuntary patients and recommend any changes needed to address care delivery and cost effectiveness by December 15, 2019.

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.

SENATE COMMITTEE ON BEHAVIORAL HEALTH SUBCOMMITTEE TO HEALTH & LONG TERM CARE

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.
Signed by Senators Dhingra, Chair; Wagoner, Ranking Member; Darneille and Frockt.

Staff: Kevin Black (786-7747)

Background: Long-Term Inpatient Care. Long-term inpatient care is voluntary or involuntary inpatient treatment for a mental disorder or substance use disorder which extends for periods of 90 days or more. Involuntary treatment is provided to persons who are initially detained by designated crisis responders and subsequently court-ordered to receive treatment based on a behavioral health disorder that causes them to present a likelihood of serious harm or to be gravely disabled. Patients committed for involuntary inpatient treatment start by receiving short-term care for 72-hours and then 14 days at community evaluation and treatment facilities (E&Ts) or secure detoxification facilities (secure detoxes) before, if the patient continues to have needs that cannot be met in a less restrictive alternative, becoming eligible for a further period of commitment for up to 90 days and transfer to long-term inpatient care.

Licensure and Certification of Facilities. DOH licenses and certifies residential treatment facilities and other facilities that treat persons with mental health and substance use disorder treatment needs, including E&Ts, secure detoxes, crisis triage facilities, and crisis stabilization units. Residential treatment facilities provide intensive services to adults with behavioral health needs and may include 24-hour supervision, acuity-based staffing, and the ability to use limited egress. The Department of Social and Health Services (DSHS) licenses and certifies enhanced services facilities, skilled nursing facilities, assisted living facilities, and adult family homes for adults with needs for functional assistance related to activities of daily living.

Certificate of Need. A certificate of need is a requirement for approval from DOH before the provision of health services may be expanded for the purpose of reviewing the potential impact of the expansion on a community's need for the service. The certificate of need requirement to construct a new psychiatric hospital, or to increase the number of psychiatric beds at an existing hospital, was suspended in 2014 to alleviate the need to board psychiatric patients in emergency departments, and remains suspended until June 30, 2019. Different variations of this requirement and suspension until June 30, 2019, exist for acute care hospitals, psychiatric hospitals, psychiatric facilities, and grant-funded psychiatric expansion programs.

Summary of Amended Bill: HCA, managed care organizations, behavioral health services organizations, and, until January 1, 2020, behavioral health organizations must work with willing community hospitals and E&Ts to assess their capacity to become licensed or certified to provide long-term inpatient care to involuntary patients, and enter into contracts and payment arrangements for these services to the extent that licensed or certified facilities are available. Community hospitals and E&Ts are not required to provide long-term inpatient care to involuntary patients.

The suspension of the certificate of need requirement for constructing a new psychiatric hospital or to increase the number of psychiatric beds in a hospital, acute care hospital, psychiatric hospital, or grant-funded psychiatric program is extended for two years until June 30, 2021. An added purpose cited for the suspension is to increase the capacity of hospitals to provide long-term inpatient care to involuntary patients. Until June 30, 2021, the certificate of need exemption is expanded to allow a one-time addition of up to 60 psychiatric beds in King County for the purpose of serving individuals on 90-day or 180-day involuntary commitment orders.

DOH must license or certify intensive behavioral health treatment facilities (IBHTFs) that are specialized residential treatment facilities serve adult clients with behavioral health conditions, including individuals discharging from or diverted from state hospitals, whose care needs cannot be met in other community-based placement settings. IBHTFs must require:

- clearly defined clinical eligibility criteria;
- 24-hour supervision of residents;
- high acuity staffing requirements that include a clinical team and a high staff-to-patient ration;
- access to regular psychosocial rehabilitation services including, but not limited to, skills training in daily living activities, social interaction, behavioral management, impulse control, and self-management of medications;
- requirements for ability to use limited egress; and
- resident rights that are similar to those of residents in long-term care facilities.

DOH must consult with DSHS, the Department of Commerce, the Long-Term Care Ombuds, and relevant stakeholders to develop recommendations on providing resident rights and access to Ombuds services to residents of IBHTFs.

DOH must license or certify 24-hour, peer-run mental health peer respite centers that provide voluntary, short-term, noncrisis services for up to seven days in a month for adults in psychiatric distress who do not meet legal criteria for involuntary commitment. Mental health peer respite centers must partner with the local crisis system and focus on recovery and wellness.

HCA must establish a pilot program to provide mental health drop-in center services in Yakima from January 1, 2020 to July 1, 2022. The pilot must involve a peer-focused recovery model during daytime hours through a community-based, therapeutic less-restrictive alternative to psychiatric hospitalization. Clients may refer themselves, be referred by an emergency department, or be brought to the center by their families or by law enforcement. HCA must provide a preliminary report by January 1, 2020, which includes a survey of peer mental health programs operating in the state and a final report by December 1, 2021, describing how clients were served and providing recommendations on how to expand the program statewide.

DOH must provide recommendations to the Governor and Legislature by December 1, 2019, in consultation with DSHS, the Department of Children, Youth, and Families, and representatives from providers serving children's inpatient psychiatric needs in Seattle, Spokane, and Tacoma, on youth short-term residential intensive behavioral health and

developmental disabilities services that include licensed mental health professionals and developmental disabilities professionals. The recommendations must consider developmental disability-related services needed to support the youth and family in preparation for and after discharge.

DSHS is authorized to provide an enhanced care rate for a nursing home that provides assisted living and authorized to provide a supplemental add-on residential care rate for a nursing home that provides adult residential care, including but not limited to the purpose of serving individuals with behavioral health treatment needs.

HCA must confer with DOH and hospitals to identify changes that may be necessary in laws and regulations to address care delivery and cost-effective treatment for adults in long-term involuntary inpatient care. HCA must report its findings to the Governor and the Legislature by December 15, 2019.

EFFECT OF BEHAVIORAL HEALTH SUBCOMMITTEE TO HEALTH & LONG TERM CARE COMMITTEE AMENDMENT(S):

- Increases licensure and certification requirements for IBHTFs.
- Establishes requirements for mental health peer respite centers.
- Expands the exemption of certificate of need requirements to allow the addition of 60 psychiatric beds at a mental health agency in King County.
- Requires DOH to consult with children's inpatient psychiatric providers in developing recommendations for youth short-term residential intensive behavioral health and developmental disability services.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Second Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: As we figure out how to handle mental health, we need to put rules in place. The peer drop-in program in New York has had good results. This is a work in progress. Peer respite drop-in centers are voluntary, short-term overnight programs, in a home-like setting. This will help people not have to go to emergency rooms when that is not the appropriate place. The Hospital Association has been in discussions about providing community beds for long-term involuntary hospitalization and is prepared to provide up to 200 beds. The certificate of need exemptions are needed to do this in a timely manner. Please amend the bill to allow an up-to-60 bed expansion of psychiatric beds in King County. Siting state-run, small facilities is an important part of the Governor's plan. State employees are needed to provide mental health services. My son has a severe mental illness. He is currently hospitalized three hours from our home. I support increasing system capacity and improving the continuum of care. Negative outcomes are avoidable when patients can get care in their own community. The

burden and stress is lessened for families when treatment is close to home. We look forward to developing resident rights for clients in these facilities, who should be served by the long-term care ombuds program.

CON: I have experienced over 50 psychiatric hospitalizations, shock treatment, and involuntary treatment. Please make amendments to this bill which I am providing in writing. Please add persons with direct, lived experience to the work group. Drop-in centers are distinct from peer respite. Both models are entirely voluntary and must not include a law enforcement drop off. Professionals and experts have not been doing a good job for people like me. Quality of treatment has not been sufficient to maintain facility certifications at Western State Hospital or Rainier School. We need a quality assurance program for the operation of all state facilities. More effort must be made to talk to peers about what their actual needs are. Please listen to us and incorporate our input into your policy-making.

OTHER: In general we support this effort. Please make the same amendment to the definition of intensive behavioral health treatment facility which you made on the Senate bill. Please include the previous language relating to mental health peer respite centers. We are concerned about losing short-term involuntary treatment capacity in the shift towards providing community long-term beds. Please ensure that residents in intensive behavioral health facilities have statutorily protected rights, and that these facilities are only used for voluntary services which allow residents to come and go. More space for community input is needed.

Persons Testifying: PRO: Representative Joe Schmick, Prime Sponsor; Rashi Gupta, Governor's Policy Office; Matt Zuvich, Washington Federation of State Employees; Len McComb, Washington State Hospital Association; Melanie Smith, NAMI Washington; Patricia Egbert, citizen.

CON: Tim Field, citizen; Laura Van Tosh, citizen.

OTHER: David Foster, King County; Rebecca Faust, citizen.

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