2SSB 6228 - H COMM AMD
By Committee on Health Care & Wellness

NOT ADOPTED 02/29/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that ensuring
4 that individuals with substance use disorders can enter into and
5 complete residential addiction treatment is an important public
6 policy objective. Substance use disorder providers forcing patients
7 to leave treatment prematurely and insurance authorization barriers
8 both present impediments to realizing this goal.
9 (2) The legislature further finds that patients with substance
10 use disorders should be provided information regarding and access to
11 the full panoply of treatment options for their condition, as would
12 be the case with any other life-threatening disease.
13 Pharmacotherapies are incredibly effective and severely underutilized
14 tools in the treatment of opioid use disorder and alcohol use
15 disorder. The federal food and drug administration has approved three
16 medications for the treatment of opioid use disorder and three
17 medications for the treatment of alcohol use disorder. Only 37
18 percent of individuals with opioid use disorder and nine percent of
19 individuals with alcohol use disorder receive medication to treat
20 their condition.
21 (3) Therefore, it is the intent of the legislature to reduce
22 forced patient discharges from residential addiction treatment, to
23 remove arbitrary insurance authorization barriers to residential
24 addiction treatment, and to ensure that patients with opioid use
25 disorder and alcohol use disorder receive access to care that is
26 consistent with clinical best practices.

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 71.24
28 RCW to read as follows:
29 (1)(a) By October 1, 2024, each licensed or certified behavioral
30 health agency providing voluntary inpatient or residential substance

use disorder treatment services or withdrawal management services shall submit to the department any policies that the agency maintains regarding the transfer or discharge of a person without the person's consent from a facility providing those services. The policies that agencies must submit include any policies related to situations in which the agency transfers or discharges a person without the person's consent, therapeutic progressive disciplinary processes that the agency maintains, and procedures to assure safe transfers and discharges when a patient is discharged without the patient's consent. Behavioral health agencies that do not maintain such policies must provide an attestation to this effect.

(b) By April 1, 2025, the department shall adopt a model policy for licensed or certified behavioral health agencies providing voluntary inpatient or residential substance use disorder treatment services or withdrawal management services to consider when adopting policies related to the transfer or discharge of a person without the person's consent from a facility providing those services. In developing the model policy, the department shall consider the policies submitted by agencies under (a) of this subsection and establish factors to be used in making a decision to transfer or discharge a person without the person's consent. Factors may include, but are not limited to, the person's medical condition, the clinical determination that the person no longer requires treatment or withdrawal management services at the facility, the risk of physical injury presented by the person to the person's self or to other persons at the facility, the extent to which the person's behavior risks the recovery goals of other persons at the facility, and the extent to which the agency has applied a therapeutic progressive disciplinary process. The model policy must include provisions addressing the use of an appropriate therapeutic progressive disciplinary process and procedures to assure safe transfers and discharges of a patient who is discharged without the patient's consent.

(2)(a) Beginning July 1, 2025, every licensed or certified behavioral health agency providing voluntary inpatient or residential substance use disorder treatment services or withdrawal management services shall submit a report to the department for each instance in which a person receiving services either: (i) Was transferred or discharged from the facility by the agency without the person's

1 consent; or (ii) released the person's self from the facility prior
2 to a clinical determination that the person had completed treatment.

3 (b) The department shall adopt rules to implement the reporting
4 requirement under (a) of this subsection, using a standard form. The
5 rules must require that the agency provide a description of the
6 circumstances related to the person's departure from the facility,
7 including whether the departure was voluntary or involuntary, the
8 extent to which a therapeutic progressive disciplinary process was
9 applied, the patient's self-reported understanding of the reasons for
10 discharge, efforts that were made to avert the discharge, and efforts
11 that were made to establish a safe discharge plan prior to the
12 patient leaving the facility.

13 (3) Patient health care information contained in reports
14 submitted under subsection (2) of this section is exempt from
15 disclosure under RCW 42.56.360.

16 (4) This section does not apply to hospitals licensed under
17 chapter 70.41 RCW and psychiatric hospitals licensed under chapter
18 71.12 RCW.

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.20
20 RCW to read as follows:

21 The addictions, drug, and alcohol institute at the University of
22 Washington shall create a patient shared decision-making tool to
23 assist behavioral health and medical providers when discussing
24 medication treatment options for patients with alcohol use disorder.
25 The institute shall distribute the tool to behavioral health and
26 medical providers and instruct them on ways to incorporate the use of
27 the tool into their practices. The institute shall conduct regular
28 evaluations of the tool and update the tool as necessary.

29 **Sec. 4.** RCW 71.24.037 and 2023 c 454 s 2 are each amended to
30 read as follows:

31 (1) The secretary shall license or certify any agency or facility
32 that: (a) Submits payment of the fee established under RCW 43.70.110
33 and 43.70.250; (b) submits a complete application that demonstrates
34 the ability to comply with requirements for operating and maintaining
35 an agency or facility in statute or rule; and (c) successfully
36 completes the prelicensure inspection requirement.

37 (2) The secretary shall establish by rule minimum standards for
38 licensed or certified behavioral health agencies that must, at a

minimum, establish: (a) Qualifications for staff providing services directly to persons with mental disorders, substance use disorders, or both; (b) the intended result of each service; and (c) the rights and responsibilities of persons receiving behavioral health services pursuant to this chapter and chapter 71.05 RCW. The secretary shall provide for deeming of licensed or certified behavioral health agencies as meeting state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department.

(3) The department shall review reports or other information alleging a failure to comply with this chapter or the standards and rules adopted under this chapter and may initiate investigations and enforcement actions based on those reports.

(4) The department shall conduct inspections of agencies and facilities, including reviews of records and documents required to be maintained under this chapter or rules adopted under this chapter.

(5) The department may suspend, revoke, limit, restrict, or modify an approval, or refuse to grant approval, for failure to meet the provisions of this chapter, or the standards adopted under this chapter. RCW 43.70.115 governs notice of a license or certification denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(6) No licensed or certified behavioral health agency may advertise or represent itself as a licensed or certified behavioral health agency if approval has not been granted or has been denied, suspended, revoked, or canceled.

(7) Licensure or certification as a behavioral health agency is effective for one calendar year from the date of issuance of the license or certification. The license or certification must specify the types of services provided by the behavioral health agency that meet the standards adopted under this chapter. Renewal of a license or certification must be made in accordance with this section for initial approval and in accordance with the standards set forth in rules adopted by the secretary.

(8) Licensure or certification as a licensed or certified behavioral health agency must specify the types of services provided that meet the standards adopted under this chapter. Renewal of a license or certification must be made in accordance with this section for initial approval and in accordance with the standards set forth in rules adopted by the secretary.

1 (9) The department shall develop a process by which a provider
2 may obtain dual licensure as an evaluation and treatment facility and
3 secure withdrawal management and stabilization facility.
4 (10) Licensed or certified behavioral health agencies may not
5 provide types of services for which the licensed or certified
6 behavioral health agency has not been certified. Licensed or
7 certified behavioral health agencies may provide services for which
8 approval has been sought and is pending, if approval for the services
9 has not been previously revoked or denied.
10 (11) The department periodically shall inspect licensed or
11 certified behavioral health agencies at reasonable times and in a
12 reasonable manner.
13 (12) Upon petition of the department and after a hearing held
14 upon reasonable notice to the facility, the superior court may issue
15 a warrant to an officer or employee of the department authorizing him
16 or her to enter and inspect at reasonable times, and examine the
17 books and accounts of, any licensed or certified behavioral health
18 agency refusing to consent to inspection or examination by the
19 department or which the department has reasonable cause to believe is
20 operating in violation of this chapter.
21 (13) The department shall maintain and periodically publish a
22 current list of licensed or certified behavioral health agencies.
23 (14) Each licensed or certified behavioral health agency shall
24 file with the department or the authority upon request, data,
25 statistics, schedules, and information the department or the
26 authority reasonably requires. A licensed or certified behavioral
27 health agency that without good cause fails to furnish any data,
28 statistics, schedules, or information as requested, or files
29 fraudulent returns thereof, may have its license or certification
30 revoked or suspended.
31 (15) The authority shall use the data provided in subsection (14)
32 of this section to evaluate each program that admits children to
33 inpatient substance use disorder treatment upon application of their
34 parents. The evaluation must be done at least once every twelve
35 months. In addition, the authority shall randomly select and review
36 the information on individual children who are admitted on
37 application of the child's parent for the purpose of determining
38 whether the child was appropriately placed into substance use
39 disorder treatment based on an objective evaluation of the child's
40 condition and the outcome of the child's treatment.

(16) Any settlement agreement entered into between the department and licensed or certified behavioral health agencies to resolve administrative complaints, license or certification violations, license or certification suspensions, or license or certification revocations may not reduce the number of violations reported by the department unless the department concludes, based on evidence gathered by inspectors, that the licensed or certified behavioral health agency did not commit one or more of the violations.

(17) In cases in which a behavioral health agency that is in violation of licensing or certification standards attempts to transfer or sell the behavioral health agency to a family member, the transfer or sale may only be made for the purpose of remedying license or certification violations and achieving full compliance with the terms of the license or certification. Transfers or sales to family members are prohibited in cases in which the purpose of the transfer or sale is to avoid liability or reset the number of license or certification violations found before the transfer or sale. If the department finds that the owner intends to transfer or sell, or has completed the transfer or sale of, ownership of the behavioral health agency to a family member solely for the purpose of resetting the number of violations found before the transfer or sale, the department may not renew the behavioral health agency's license or certification or issue a new license or certification to the behavioral health service provider.

(18) Every licensed or certified outpatient behavioral health agency shall display the 988 crisis hotline number in common areas of the premises and include the number as a calling option on any phone message for persons calling the agency after business hours.

(19) Every licensed or certified inpatient or residential behavioral health agency must include the 988 crisis hotline number in the discharge summary provided to individuals being discharged from inpatient or residential services.

<u>(20)(a) Licensed or certified behavioral health agencies providing voluntary inpatient or residential substance use disorder treatment services or withdrawal management services:</u>

<u>(i) Must comply with the policy submission and mandatory reporting requirements established in section 2 of this act; and</u>

<u>(ii) May not prohibit a person from receiving services at or being admitted to the agency based solely on prior instances of the</u>

person releasing the person's self from the facility prior to a clinical determination that the person had completed treatment.

(b) This subsection (20) does not apply to hospitals licensed under chapter 70.41 RCW and psychiatric hospitals licensed under chapter 71.12 RCW.

(21)(a) A licensed or certified behavioral health agency shall provide each patient seeking treatment for opioid use disorder or alcohol use disorder, whether receiving inpatient or outpatient treatment, with education related to pharmacological treatment options specific to the patient's diagnosed condition. The education must include an unbiased explanation of all recognized forms of treatment approved by the federal food and drug administration, as required under RCW 7.70.050 and 7.70.060, that are clinically appropriate for the patient. Providers may use the patient shared decision-making tools for opioid use disorder and alcohol use disorder developed by the addictions, drug, and alcohol institute at the University of Washington. If the patient elects a clinically appropriate pharmacological treatment option, the behavioral health agency shall support the patient with the implementation of the pharmacological treatment either by direct provision of the medication or by a warm handoff referral, if the treating provider is unable to directly provide the medication.

(b) Unless it meets the requirements of (a) of this subsection, a behavioral health agency may not:

(i) Advertise that it treats opioid use disorder or alcohol use disorder; or

(ii) Treat patients for opioid use disorder or alcohol use disorder, regardless of the form of treatment that the patient chooses.

(c)(i) Failure to meet the education requirements of (a) of this subsection may be an element of proof in demonstrating a breach of the duty to secure an informed consent under RCW 7.70.050.

(ii) Failure to meet the education and facilitation requirements of (a) of this subsection may be the basis of a disciplinary action under this section.

NEW SECTION. **Sec. 5.** A new section is added to chapter 18.57 RCW to read as follows:

An osteopathic physician and surgeon licensed under this chapter shall provide each patient seeking treatment for opioid use disorder

1 or alcohol use disorder with education related to pharmacological
2 treatment options specific to the patient's diagnosed condition. The
3 education must include an unbiased explanation of all recognized
4 forms of treatment approved by the federal food and drug
5 administration, as required under RCW 7.70.050 and 7.70.060, that are
6 clinically appropriate for the patient. An osteopathic physician and
7 surgeon may use the patient shared decision-making tools for opioid
8 use disorder and alcohol use disorder developed by the University of
9 Washington addictions, drug, and alcohol institute. If the patient
10 elects a clinically appropriate pharmacological treatment option, the
11 osteopathic physician and surgeon shall support the patient with the
12 implementation of the pharmacological treatment, either by direct
13 provision of the medication or by a warm handoff referral, if the
14 osteopathic physician and surgeon is unable to directly provide the
15 medication.

16 NEW SECTION. **Sec. 6.** A new section is added to chapter 18.71
17 RCW to read as follows:
18 A physician licensed under this chapter shall provide each
19 patient seeking treatment for opioid use disorder or alcohol use
20 disorder with education related to pharmacological treatment options
21 specific to the patient's diagnosed condition. The education must
22 include an unbiased explanation of all recognized forms of treatment
23 approved by the federal food and drug administration, as required
24 under RCW 7.70.050 and 7.70.060, that are clinically appropriate for
25 the patient. A physician may use the patient shared decision-making
26 tools for opioid use disorder and alcohol use disorder developed by
27 the University of Washington addictions, drug, and alcohol institute.
28 If the patient elects a clinically appropriate pharmacological
29 treatment option, the physician shall support the patient with the
30 implementation of the pharmacological treatment, either by direct
31 provision of the medication or by a warm handoff referral, if the
32 physician is unable to directly provide the medication.

33 NEW SECTION. **Sec. 7.** A new section is added to chapter 18.71A
34 RCW to read as follows:
35 A physician assistant licensed under this chapter shall provide
36 each patient seeking treatment for opioid use disorder or alcohol use
37 disorder with education related to pharmacological treatment options
38 specific to the patient's diagnosed condition. The education must

include an unbiased explanation of all recognized forms of treatment approved by the federal food and drug administration, as required under RCW 7.70.050 and 7.70.060, that are clinically appropriate for the patient. A physician assistant may use the patient shared decision-making tools for opioid use disorder and alcohol use disorder developed by the University of Washington addictions, drug, and alcohol institute. If the patient elects a clinically appropriate pharmacological treatment option, the physician assistant shall support the patient with the implementation of the pharmacological treatment, either by direct provision of the medication or by a warm handoff referral, if the physician assistant is unable to directly provide the medication.

NEW SECTION. **Sec. 8.** A new section is added to chapter 18.79 RCW to read as follows:

An advanced registered nurse practitioner licensed under this chapter shall provide each patient seeking treatment for opioid use disorder or alcohol use disorder with education related to pharmacological treatment options specific to the patient's diagnosed condition. The education must include an unbiased explanation of all recognized forms of treatment approved by the federal food and drug administration, as required under RCW 7.70.050 and 7.70.060, that are clinically appropriate for the patient. An advanced registered nurse practitioner may use the patient shared decision-making tools for opioid use disorder and alcohol use disorder developed by the University of Washington addictions, drug, and alcohol institute. If the patient elects a clinically appropriate pharmacological treatment option, the advanced registered nurse practitioner shall support the patient with the implementation of the pharmacological treatment, either by direct provision of the medication or by a warm handoff referral, if the advanced registered nurse practitioner is unable to directly provide the medication.

NEW SECTION. **Sec. 9.** A new section is added to chapter 70.41 RCW to read as follows:

A hospital licensed under this chapter shall provide each patient seeking treatment for opioid use disorder or alcohol use disorder with education related to pharmacological treatment options specific to the patient's diagnosed condition. The education must include an unbiased explanation of all recognized forms of treatment approved by

the federal food and drug administration, as required under RCW 7.70.050 and 7.70.060, that are clinically appropriate for the patient. A hospital may use the patient shared decision-making tools for opioid use disorder and alcohol use disorder developed by the University of Washington addictions, drug, and alcohol institute. If the patient elects a clinically appropriate pharmacological treatment option, the hospital shall support the patient with the implementation of the pharmacological treatment, either by direct provision of the medication or by a warm handoff referral, if the hospital is unable to directly provide the medication.

NEW SECTION. **Sec. 10.** A new section is added to chapter 71.24 RCW to read as follows:

(1) If a behavioral health provider or licensed or certified behavioral health agency that provides withdrawal management services to a patient seeks to discontinue usage or reduce dosage amounts of a medication, including a psychotropic medication, that the patient has been using in accordance with the directions of a prescribing health care provider, the withdrawal management provider shall engage in individualized, patient-centered, shared decision making, using nonjudgmental and compassionate communication and, with the consent of the patient, make a good faith effort to consult the prescribing health care provider. A withdrawal management provider may not, by philosophy or practice, categorically require all patients to discontinue all psychotropic medications, including benzodiazepines and medications for attention deficit hyperactivity disorder.

(2) This section does not apply to hospitals licensed under chapter 70.41 RCW and psychiatric hospitals licensed under chapter 71.12 RCW.

Sec. 11. RCW 41.05.526 and 2020 c 345 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a health plan offered to employees and their covered dependents under this chapter issued or renewed on or after January 1, 2021, may not require an enrollee to obtain prior authorization for withdrawal management services or inpatient or residential substance use disorder treatment services in a behavioral health agency licensed or certified under RCW 71.24.037.

(2)(a) A health plan offered to employees and their covered dependents under this chapter issued or renewed on or after January 1, 2021, must:

(i) Provide coverage for no less than two business days, excluding weekends and holidays, in a behavioral health agency that provides inpatient or residential substance use disorder treatment prior to conducting a utilization review; and

(ii) Provide coverage for no less than three days in a behavioral health agency that provides withdrawal management services prior to conducting a utilization review.

(b)(i) The health plan may not require an enrollee to obtain prior authorization for the services specified in (a) of this subsection as a condition for payment of services prior to the times specified in (a) of this subsection.

(ii) Once the times specified in (a) of this subsection have passed, the health plan may initiate utilization management review procedures if the behavioral health agency continues to provide services or is in the process of arranging for a seamless transfer to an appropriate facility or lower level of care under subsection (6) of this section. For a health plan issued or renewed on or after January 1, 2025, if a health plan authorizes inpatient or residential substance use disorder treatment services pursuant to the initial medical necessity review process under (c)(iii) of this subsection, the length of the initial authorization may not be less than 14 days from the date that the patient was admitted to the behavioral health agency. Any subsequent reauthorization that the health plan approves after the first 14 days must continue for no less than seven days prior to requiring further reauthorization. Nothing prohibits a health plan from requesting information to assist with a seamless transfer under this subsection.

(c)(i) The behavioral health agency under (a) of this subsection must notify an enrollee's health plan as soon as practicable after admitting the enrollee, but not later than twenty-four hours after admitting the enrollee. The time of notification does not reduce the requirements established in (a) of this subsection.

(ii) The behavioral health agency under (a) of this subsection must provide the health plan with its initial assessment and initial treatment plan for the enrollee within two business days of admission, excluding weekends and holidays, or within three days in

the case of a behavioral health agency that provides withdrawal management services.

(iii) After the time period in (a) of this subsection and receipt of the material provided under (c)(ii) of this subsection, the plan may initiate a medical necessity review process. Medical necessity review must be based on the standard set of criteria established under RCW 41.05.528. In a review for inpatient or residential substance use disorder treatment services, a health plan may not make a determination that a patient does not meet medical necessity criteria based primarily on the patient's length of abstinence. If the patient's abstinence from substance use was due to incarceration, hospitalization, or inpatient treatment, a health plan may not consider the patient's length of abstinence in determining medical necessity. If the health plan determines within one business day from the start of the medical necessity review period and receipt of the material provided under (c)(ii) of this subsection that the admission to the facility was not medically necessary and advises the agency of the decision in writing, the health plan is not required to pay the facility for services delivered after the start of the medical necessity review period, subject to the conclusion of a filed appeal of the adverse benefit determination. If the health plan's medical necessity review is completed more than one business day after ((~~[the]~~)) the start of the medical necessity review period and receipt of the material provided under (c)(ii) of this subsection, the health plan must pay for the services delivered from the time of admission until the time at which the medical necessity review is completed and the agency is advised of the decision in writing.

(3)(a) The behavioral health agency shall document to the health plan the patient's need for continuing care and justification for level of care placement following the current treatment period, based on the standard set of criteria established under RCW 41.05.528, with documentation recorded in the patient's medical record.

(b) For a health plan issued or renewed on or after January 1, 2025, for inpatient or residential substance use disorder treatment services, the health plan may not consider the patient's length of stay at the behavioral health agency when making decisions regarding the authorization to continue care at the behavioral health agency.

(4) Nothing in this section prevents a health carrier from denying coverage based on insurance fraud.

(5) If the behavioral health agency under subsection (2)(a) of this section is not in the enrollee's network:

(a) The health plan is not responsible for reimbursing the behavioral health agency at a greater rate than would be paid had the agency been in the enrollee's network; and

(b) The behavioral health agency may not balance bill, as defined in RCW 48.43.005.

(6) When the treatment plan approved by the health plan involves transfer of the enrollee to a different facility or to a lower level of care, the care coordination unit of the health plan shall work with the current agency to make arrangements for a seamless transfer as soon as possible to an appropriate and available facility or level of care. The health plan shall pay the agency for the cost of care at the current facility until the seamless transfer to the different facility or lower level of care is complete. A seamless transfer to a lower level of care may include same day or next day appointments for outpatient care, and does not include payment for nontreatment services, such as housing services. If placement with an agency in the health plan's network is not available, the health plan shall pay the current agency until a seamless transfer arrangement is made.

(7) The requirements of this section do not apply to treatment provided in out-of-state facilities.

(8) For the purposes of this section "withdrawal management services" means twenty-four hour medically managed or medically monitored detoxification and assessment and treatment referral for adults or adolescents withdrawing from alcohol or drugs, which may include induction on medications for addiction recovery.

Sec. 12. RCW 48.43.761 and 2020 c 345 s 3 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a health plan issued or renewed on or after January 1, 2021, may not require an enrollee to obtain prior authorization for withdrawal management services or inpatient or residential substance use disorder treatment services in a behavioral health agency licensed or certified under RCW 71.24.037.

(2)(a) A health plan issued or renewed on or after January 1, 2021, must:

(i) Provide coverage for no less than two business days, excluding weekends and holidays, in a behavioral health agency that

provides inpatient or residential substance use disorder treatment prior to conducting a utilization review; and

(ii) Provide coverage for no less than three days in a behavioral health agency that provides withdrawal management services prior to conducting a utilization review.

(b)(i) The health plan may not require an enrollee to obtain prior authorization for the services specified in (a) of this subsection as a condition for payment of services prior to the times specified in (a) of this subsection.

(ii) Once the times specified in (a) of this subsection have passed, the health plan may initiate utilization management review procedures if the behavioral health agency continues to provide services or is in the process of arranging for a seamless transfer to an appropriate facility or lower level of care under subsection (6) of this section. For a health plan issued or renewed on or after January 1, 2025, if a health plan authorizes inpatient or residential substance use disorder treatment services pursuant to the initial medical necessity review process under (c)(iii) of this subsection, the length of the initial authorization may not be less than 14 days from the date that the patient was admitted to the behavioral health agency. Any subsequent reauthorization that the health plan approves after the first 14 days must continue for no less than seven days prior to requiring further reauthorization. Nothing prohibits a health plan from requesting information to assist with a seamless transfer under this subsection.

(c)(i) The behavioral health agency under (a) of this subsection must notify an enrollee's health plan as soon as practicable after admitting the enrollee, but not later than twenty-four hours after admitting the enrollee. The time of notification does not reduce the requirements established in (a) of this subsection.

(ii) The behavioral health agency under (a) of this subsection must provide the health plan with its initial assessment and initial treatment plan for the enrollee within two business days of admission, excluding weekends and holidays, or within three days in the case of a behavioral health agency that provides withdrawal management services.

(iii) After the time period in (a) of this subsection and receipt of the material provided under (c)(ii) of this subsection, the plan may initiate a medical necessity review process. Medical necessity review must be based on the standard set of criteria established

under RCW 41.05.528. In a review for inpatient or residential substance use disorder treatment services, a health plan may not make a determination that a patient does not meet medical necessity criteria based primarily on the patient's length of abstinence. If the patient's abstinence from substance use was due to incarceration, hospitalization, or inpatient treatment, a health plan may not consider the patient's length of abstinence in determining medical necessity. If the health plan determines within one business day from the start of the medical necessity review period and receipt of the material provided under (c)(ii) of this subsection that the admission to the facility was not medically necessary and advises the agency of the decision in writing, the health plan is not required to pay the facility for services delivered after the start of the medical necessity review period, subject to the conclusion of a filed appeal of the adverse benefit determination. If the health plan's medical necessity review is completed more than one business day after ((~~[the]~~)) the start of the medical necessity review period and receipt of the material provided under (c)(ii) of this subsection, the health plan must pay for the services delivered from the time of admission until the time at which the medical necessity review is completed and the agency is advised of the decision in writing.

(3)(a) The behavioral health agency shall document to the health plan the patient's need for continuing care and justification for level of care placement following the current treatment period, based on the standard set of criteria established under RCW 41.05.528, with documentation recorded in the patient's medical record.

(b) For a health plan issued or renewed on or after January 1, 2025, for inpatient or residential substance use disorder treatment services, the health plan may not consider the patient's length of stay at the behavioral health agency when making decisions regarding the authorization to continue care at the behavioral health agency.

(4) Nothing in this section prevents a health carrier from denying coverage based on insurance fraud.

(5) If the behavioral health agency under subsection (2)(a) of this section is not in the enrollee's network:

(a) The health plan is not responsible for reimbursing the behavioral health agency at a greater rate than would be paid had the agency been in the enrollee's network; and

(b) The behavioral health agency may not balance bill, as defined in RCW 48.43.005.

1 (6) When the treatment plan approved by the health plan involves
2 transfer of the enrollee to a different facility or to a lower level
3 of care, the care coordination unit of the health plan shall work
4 with the current agency to make arrangements for a seamless transfer
5 as soon as possible to an appropriate and available facility or level
6 of care. The health plan shall pay the agency for the cost of care at
7 the current facility until the seamless transfer to the different
8 facility or lower level of care is complete. A seamless transfer to a
9 lower level of care may include same day or next day appointments for
10 outpatient care, and does not include payment for nontreatment
11 services, such as housing services. If placement with an agency in
12 the health plan's network is not available, the health plan shall pay
13 the current agency until a seamless transfer arrangement is made.
14 (7) The requirements of this section do not apply to treatment
15 provided in out-of-state facilities.
16 (8) For the purposes of this section "withdrawal management
17 services" means twenty-four hour medically managed or medically
18 monitored detoxification and assessment and treatment referral for
19 adults or adolescents withdrawing from alcohol or drugs, which may
20 include induction on medications for addiction recovery.

21 **Sec. 13.** RCW 71.24.618 and 2020 c 345 s 4 are each amended to
22 read as follows:
23 (1) Beginning January 1, 2021, a managed care organization may
24 not require an enrollee to obtain prior authorization for withdrawal
25 management services or inpatient or residential substance use
26 disorder treatment services in a behavioral health agency licensed or
27 certified under RCW 71.24.037.
28 (2)(a) Beginning January 1, 2021, a managed care organization
29 must:
30 (i) Provide coverage for no less than two business days,
31 excluding weekends and holidays, in a behavioral health agency that
32 provides inpatient or residential substance use disorder treatment
33 prior to conducting a utilization review; and
34 (ii) Provide coverage for no less than three days in a behavioral
35 health agency that provides withdrawal management services prior to
36 conducting a utilization review.
37 (b)(i) The managed care organization may not require an enrollee
38 to obtain prior authorization for the services specified in (a) of

this subsection as a condition for payment of services prior to the times specified in (a) of this subsection.

(ii) Once the times specified in (a) of this subsection have passed, the managed care organization may initiate utilization management review procedures if the behavioral health agency continues to provide services or is in the process of arranging for a seamless transfer to an appropriate facility or lower level of care under subsection (6) of this section. Beginning January 1, 2025, if a managed care organization authorizes inpatient or residential substance use disorder treatment services pursuant to the initial medical necessity review process under (c)(iii) of this subsection, the length of the initial authorization may not be less than 14 days from the date that the patient was admitted to the behavioral health agency. Any subsequent reauthorization that the managed care organization approves after the first 14 days must continue for no less than seven days prior to requiring further reauthorization. Nothing prohibits a managed care organization from requesting information to assist with a seamless transfer under this subsection.

(c)(i) The behavioral health agency under (a) of this subsection must notify an enrollee's managed care organization as soon as practicable after admitting the enrollee, but not later than twenty-four hours after admitting the enrollee. The time of notification does not reduce the requirements established in (a) of this subsection.

(ii) The behavioral health agency under (a) of this subsection must provide the managed care organization with its initial assessment and initial treatment plan for the enrollee within two business days of admission, excluding weekends and holidays, or within three days in the case of a behavioral health agency that provides withdrawal management services.

(iii) After the time period in (a) of this subsection and receipt of the material provided under (c)(ii) of this subsection, the managed care organization may initiate a medical necessity review process. Medical necessity review must be based on the standard set of criteria established under RCW 41.05.528. In a review for inpatient or residential substance use disorder treatment services, a managed care organization may not make a determination that a patient does not meet medical necessity criteria based primarily on the patient's length of abstinence. If the patient's abstinence from substance use was due to incarceration, hospitalization, or inpatient

1 treatment, a managed care organization may not consider the patient's
2 length of abstinence in determining medical necessity. If the health
3 plan determines within one business day from the start of the medical
4 necessity review period and receipt of the material provided under
5 (c)(ii) of this subsection that the admission to the facility was not
6 medically necessary and advises the agency of the decision in
7 writing, the health plan is not required to pay the facility for
8 services delivered after the start of the medical necessity review
9 period, subject to the conclusion of a filed appeal of the adverse
10 benefit determination. If the managed care organization's medical
11 necessity review is completed more than one business day after
12 (([the])) the start of the medical necessity review period and
13 receipt of the material provided under (c)(ii) of this subsection,
14 the managed care organization must pay for the services delivered
15 from the time of admission until the time at which the medical
16 necessity review is completed and the agency is advised of the
17 decision in writing.

18 (3)(a) The behavioral health agency shall document to the managed
19 care organization the patient's need for continuing care and
20 justification for level of care placement following the current
21 treatment period, based on the standard set of criteria established
22 under RCW 41.05.528, with documentation recorded in the patient's
23 medical record.

24 (b) Beginning January 1, 2025, for inpatient or residential
25 substance use disorder treatment services, the managed care
26 organization may not consider the patient's length of stay at the
27 behavioral health agency when making decisions regarding the
28 authorization to continue care at the behavioral health agency.

29 (4) Nothing in this section prevents a health carrier from
30 denying coverage based on insurance fraud.

31 (5) If the behavioral health agency under subsection (2)(a) of
32 this section is not in the enrollee's network:

33 (a) The managed care organization is not responsible for
34 reimbursing the behavioral health agency at a greater rate than would
35 be paid had the agency been in the enrollee's network; and

36 (b) The behavioral health agency may not balance bill, as defined
37 in RCW 48.43.005.

38 (6) When the treatment plan approved by the managed care
39 organization involves transfer of the enrollee to a different
40 facility or to a lower level of care, the care coordination unit of

the managed care organization shall work with the current agency to make arrangements for a seamless transfer as soon as possible to an appropriate and available facility or level of care. The managed care organization shall pay the agency for the cost of care at the current facility until the seamless transfer to the different facility or lower level of care is complete. A seamless transfer to a lower level of care may include same day or next day appointments for outpatient care, and does not include payment for nontreatment services, such as housing services. If placement with an agency in the managed care organization's network is not available, the managed care organization shall pay the current agency at the service level until a seamless transfer arrangement is made.

(7) The requirements of this section do not apply to treatment provided in out-of-state facilities.

(8) For the purposes of this section "withdrawal management services" means twenty-four hour medically managed or medically monitored detoxification and assessment and treatment referral for adults or adolescents withdrawing from alcohol or drugs, which may include induction on medications for addiction recovery.

NEW SECTION. **Sec. 14.** (1) The health care authority, in collaboration with the insurance commissioner, shall convene a work group consisting of commercial health carriers, medicaid managed care organizations, and behavioral health agencies that provide inpatient or residential substance use disorder treatment services. The work group shall develop recommendations for streamlining commercial health carrier and medicaid managed care organization requirements and processes related to the authorization and reauthorization of inpatient or residential substance use disorder treatment. The recommendations must include a universal format accepted by all health carriers and medicaid managed care organizations for behavioral health agencies to use for service authorization and reauthorization requests with common data requirements and a standardized form and simplified electronic process. The health care authority shall submit the recommendations of the work group to the appropriate policy committees of the legislature by December 1, 2024.

(2) This section expires June 1, 2025.

NEW SECTION. **Sec. 15.** A new section is added to chapter 41.05 RCW to read as follows:

When updated versions of the ASAM Criteria, treatment criteria for addictive, substance related, and co-occurring conditions, inclusive of adolescent and transition age youth versions, are published by the American society of addiction medicine, the health care authority and the office of the insurance commissioner shall jointly determine whether to use the updated version, and, if so, the date upon which the updated version must begin to be used by medicaid managed care organizations, carriers, and other relevant entities. Both agencies shall post notice of their decision on their websites. For purposes of the ASAM Criteria, 4th edition, medicaid managed care organizations and carriers shall begin to use the updated criteria no later than January 1, 2026, unless the health care authority and the office of the insurance commissioner jointly determine that it should not be used.

NEW SECTION. **Sec. 16.** A new section is added to chapter 48.43 RCW to read as follows:

When updated versions of the ASAM Criteria, treatment criteria for addictive, substance related, and co-occurring conditions, inclusive of adolescent and transition age youth versions, are published by the American society of addiction medicine, the health care authority and the office of the insurance commissioner shall jointly determine whether to use the updated version, and, if so, the date upon which the updated version must begin to be used by medicaid managed care organizations, carriers, and other relevant entities. Both agencies shall post notice of their decision on their websites. For purposes of the ASAM Criteria, 4th edition, medicaid managed care organizations and carriers shall begin to use the updated criteria no later than January 1, 2026, unless the health care authority and the office of the insurance commissioner jointly determine that it should not be used.

NEW SECTION. **Sec. 17.** A new section is added to chapter 71.24 RCW to read as follows:

When updated versions of the ASAM Criteria, treatment criteria for addictive, substance related, and co-occurring conditions, inclusive of adolescent and transition age youth versions, are published by the American society of addiction medicine, the health care authority and the office of the insurance commissioner shall jointly determine whether to use the updated version, and, if so, the

1 date upon which the updated version must begin to be used by medicaid
2 managed care organizations, carriers, and other relevant entities.
3 Both agencies shall post notice of their decision on their websites.
4 For purposes of the ASAM Criteria, 4th edition, medicaid managed care
5 organizations and carriers shall begin to use the updated criteria no
6 later than January 1, 2026, unless the health care authority and the
7 office of the insurance commissioner jointly determine that it should
8 not be used.

9 NEW SECTION. **Sec. 18.** The health care authority shall provide a
10 gap analysis of nonemergency transportation benefits provided to
11 medicaid enrollees in Washington, Oregon, and other comparison states
12 selected by the health care authority and provide an analysis of the
13 costs and benefits of available alternatives to the governor and
14 appropriate committees of the legislature by December 1, 2024,
15 including the option of an enhanced nonemergency transportation
16 benefit for persons being discharged from a behavioral health
17 emergency services provider to the next level of care in
18 circumstances when a prudent layperson acting reasonably would
19 believe such transportation is necessary to protect the enrollee from
20 relapse or other discontinuity in care that would jeopardize the
21 health or safety of the enrollee. In recognizing that some behavioral
22 health patients are not well-served by the current nonemergency
23 transportation system for medical assistance patients due to
24 inflexible rules, the authority shall also evaluate the possibility
25 of creating a network of peer-led, trauma-informed transportation
26 providers that could provide nonemergency transportation to youth and
27 adult medical assistance patients traveling to receive behavioral
28 health services.

29 **Sec. 19.** RCW 43.70.250 and 2023 c 469 s 21 are each amended to
30 read as follows:
31 (1) It shall be the policy of the state of Washington that the
32 cost of each professional, occupational, or business licensing
33 program be fully borne by the members of that profession, occupation,
34 or business.
35 (2) The secretary shall from time to time establish the amount of
36 all application fees, license fees, registration fees, examination
37 fees, permit fees, renewal fees, and any other fee associated with
38 licensing or regulation of professions, occupations, or businesses

administered by the department. Any and all fees or assessments, or both, levied on the state to cover the costs of the operations and activities of the interstate health professions licensure compacts with participating authorities listed under chapter 18.130 RCW shall be borne by the persons who hold licenses issued pursuant to the authority and procedures established under the compacts. In fixing said fees, the secretary shall set the fees for each program at a sufficient level to defray the costs of administering that program and the cost of regulating licensed volunteer medical workers in accordance with RCW 18.130.360, except as provided in RCW 18.79.202. In no case may the secretary impose any certification, examination, or renewal fee upon a person seeking certification as a certified peer specialist trainee under chapter 18.420 RCW or, between July 1, 2025, and July 1, 2030, impose a certification, examination, or renewal fee of more than $100 upon any person seeking certification as a certified peer specialist under chapter 18.420 RCW. Subject to amounts appropriated for this specific purpose, between July 1, 2024, and July 1, 2029, the secretary may not impose any certification or certification renewal fee on a person seeking certification as a substance use disorder professional or substance use disorder professional trainee under chapter 18.205 RCW of more than $100.

(3) All such fees shall be fixed by rule adopted by the secretary in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. **Sec. 20.** The Washington state health care authority must contract with a peer-led organization to convene focus groups of people with lived experience of being civilly committed to make recommendations about how to make the process less traumatic and improve experiences and outcomes for patients. The focus groups should include individuals who have been civilly committed under chapter 71.05 RCW on the basis of a mental disorder and on the basis of a substance use disorder. The Washington state health care authority shall issue a report to the governor and the relevant committees of the legislature on the recommendations by September 1, 2025.

NEW SECTION. **Sec. 21.** The Washington state health care authority shall contract with an organization to develop a proposal for a statewide network of secure, trauma-informed transport for

patients civilly committed under chapter 71.05 RCW that is provided by a nonambulance service and available in each behavioral health administrative services organization. The contracted organization must consult with people with lived experiences of receiving transport in connection with a civil commitment under chapter 71.05 RCW. The Washington state health care authority shall issue a report to the governor and the relevant committees of the legislature on the recommendations by September 1, 2025.

NEW SECTION. **Sec. 22.** A new section is added to chapter 71.05 RCW to read as follows:

The authority must contract with an association that represents designated crisis responders in Washington to develop and begin delivering by July 1, 2025, a training program for social workers licensed under chapter 18.225 RCW or other personnel who practice in an emergency department with responsibilities related to civil commitments under this chapter. The training must include instruction emphasizing standards and procedures relating to the civil commitment of persons with substance use disorders and mental illness, including which clinical presentations warrant summoning a designated crisis responder. The training must emphasize the manner in which a patient with a primary substance use disorder may present as a risk of harm to self or others, or gravely disabled. Consistent with existing training for designated crisis responders, the training must instruct hospital personnel that when considering civil commitment for a patient with a primary substance use disorder, the hospital shall summon the designated crisis responder while the patient is acutely intoxicated, such that the designated crisis responder may witness the patient's true clinical presentation. The training must also instruct hospital personnel to carefully document patient behaviors and statements that are made outside the presence of the designated crisis responder and may be relevant when considering the potential civil commitment of the patient. Each hospital shall ensure that, by July 1, 2026, or within three months of hire, all social workers or other personnel employed in the emergency department with responsibilities relating to civil commitments under this chapter complete the training every three years.

Sec. 23. RCW 41.05.527 and 2021 c 273 s 10 are each amended to read as follows:

(1) A health plan offered to public employees and their covered dependents under this chapter that is issued or renewed on or after January 1, 2023, must participate in the bulk purchasing and distribution program for opioid overdose reversal medication established in RCW 70.14.170 once the program is operational.

(2) For health plans issued or renewed on or after January 1, 2025, a health carrier must reimburse a hospital or psychiatric hospital that bills:

(a) For opioid overdose reversal medication dispensed or distributed to a patient under RCW 70.41.485 as a separate reimbursable expense; and

(b) For the administration of long-acting injectable buprenorphine as a separate reimbursable expense.

(3) Reimbursements provided under subsection (2) of this section must be separate from any bundled payment for hospital or emergency department services.

Sec. 24. RCW 48.43.762 and 2021 c 273 s 11 are each amended to read as follows:

(1) For health plans issued or renewed on or after January 1, 2023, health carriers must participate in the opioid overdose reversal medication bulk purchasing and distribution program established in RCW 70.14.170 once the program is operational. A health plan may not impose enrollee cost sharing related to opioid overdose reversal medication provided through the bulk purchasing and distribution program established in RCW 70.14.170.

(2) For health plans issued or renewed on or after January 1, 2025, a health carrier must reimburse a hospital or psychiatric hospital that bills:

(a) For opioid overdose reversal medication dispensed or distributed to a patient under RCW 70.41.485 as a separate reimbursable expense; and

(b) For the administration of long-acting injectable buprenorphine as a separate reimbursable expense.

(3) Reimbursements provided under subsection (2) of this section must be separate from any bundled payment for hospital or emergency department services.

NEW SECTION. **Sec. 25.** A new section is added to chapter 74.09 RCW to read as follows:

1 (1) The authority shall establish appropriate billing codes for
2 hospitals and psychiatric hospitals that administer long-acting
3 injectable buprenorphine to use for billing patients enrolled in a
4 medical assistance program.
5 (2) Upon initiation or renewal of a contract with the authority
6 to administer a medicaid managed care plan, a managed care
7 organization must reimburse a hospital or psychiatric hospital that
8 bills for the administration of long-acting injectable buprenorphine
9 as a separate reimbursable expense.
10 (3) Beginning January 1, 2025, for individuals enrolled in a
11 medical assistance program that is not a medicaid managed care plan,
12 the authority must reimburse a hospital or psychiatric hospital that
13 bills for the administration of long-acting injectable buprenorphine
14 administered as a separate reimbursable expense.
15 (4) Reimbursements provided under this section must be separate
16 from any bundled payment for hospital or emergency department
17 services.

18 **Sec. 26.** RCW 42.56.360 and 2023 sp.s. c 1 s 23 are each amended
19 to read as follows:
20 (1) The following health care information is exempt from
21 disclosure under this chapter:
22 (a) Information obtained by the pharmacy quality assurance
23 commission as provided in RCW 69.45.090;
24 (b) Information obtained by the pharmacy quality assurance
25 commission or the department of health and its representatives as
26 provided in RCW 69.41.044, 69.41.280, and 18.64.420;
27 (c) Information and documents created specifically for, and
28 collected and maintained by a quality improvement committee under RCW
29 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee
30 under RCW 4.24.250, or by a quality assurance committee pursuant to
31 RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW
32 43.70.056, for reporting of health care-associated infections under
33 RCW 43.70.056, a notification of an incident under RCW 70.56.040(5),
34 and reports regarding adverse events under RCW 70.56.020(2)(b),
35 regardless of which agency is in possession of the information and
36 documents;
37 (d)(i) Proprietary financial and commercial information that the
38 submitting entity, with review by the department of health,
39 specifically identifies at the time it is submitted and that is

provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1);

(g) Information obtained by the department of health under chapter 70.225 RCW;

(h) Information collected by the department of health under chapter 70.245 RCW except as provided in RCW 70.245.150;

(i) Cardiac and stroke system performance data submitted to national, state, or local data collection systems under RCW 70.168.150(2)(b);

(j) All documents, including completed forms, received pursuant to a wellness program under RCW 41.04.362, but not statistical reports that do not identify an individual;

(k) Data and information exempt from disclosure under RCW 43.371.040;

(l) Medical information contained in files and records of members of retirement plans administered by the department of retirement systems or the law enforcement officers' and firefighters' plan 2 retirement board, as provided to the department of retirement systems under RCW 41.04.830; and

(m) Data submitted to the data integration platform under RCW 71.24.908.

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

1 (3)(a) Documents related to infant mortality reviews conducted
2 pursuant to RCW 70.05.170 are exempt from disclosure as provided for
3 in RCW 70.05.170(3).
4 (b)(i) If an agency provides copies of public records to another
5 agency that are exempt from public disclosure under this subsection
6 (3), those records remain exempt to the same extent the records were
7 exempt in the possession of the originating entity.
8 (ii) For notice purposes only, agencies providing exempt records
9 under this subsection (3) to other agencies may mark any exempt
10 records as "exempt" so that the receiving agency is aware of the
11 exemption, however whether or not a record is marked exempt does not
12 affect whether the record is actually exempt from disclosure.
13 (4) Information and documents related to maternal mortality
14 reviews conducted pursuant to RCW 70.54.450 are confidential and
15 exempt from public inspection and copying.
16 (5) Patient health care information contained in reports
17 submitted under section 2(2) of this act are confidential and exempt
18 from public inspection.

19 NEW SECTION. **Sec. 27.** If specific funding for the purposes of
20 this act, referencing this act by bill or chapter number, is not
21 provided by June 30, 2024, in the omnibus appropriations act, this
22 act is null and void."

23 Correct the title.

EFFECT: Directs behavioral health agencies to submit policies to the Department of Health (DOH) related to the transfer or discharge of a person without their consent and requires the DOH to adopt a model policy based on the submitted policies. Requires behavioral health agencies to report to the DOH each time a person is discharged or transferred without their consent, or they leave treatment prematurely.

Requires that certain medical and behavioral health providers provide patients seeking treatment for opioid use disorder or alcohol use disorder with education regarding pharmacological treatment options. Applies the requirement to physicians, osteopathic physicians, advanced registered nurse practitioners, physician assistants, hospitals, and behavioral health agencies providing voluntary inpatient or residential substance use disorder treatment services or withdrawal management services. Directs the Addictions, Drug, and Alcohol Institute at the University of Washington to create a patient-shared decision-making tool for use in discussions of medication treatment options for alcohol use disorder.

Requires that if a behavioral health provider providing withdrawal management services seeks to discontinue usage or reduce dosage of a medication for a patient, then the withdrawal management

provider must engage in individualized, shared decision making with the patient and, with the patient's consent, make a good faith effort to consult the prescribing health care provider.

Removes the provision eliminating the limit on the number of times that a credential may be renewed for certain behavioral health professionals practicing in a trainee or associate capacity (restores the limitation on renewals).

Directs the Health Care Authority (HCA) to contract with a peer-led organization to conduct focus groups with people with lived experience of being civilly committed for behavioral health conditions. Requires the focus group to discuss ways to make the process less traumatic and ways to improve experiences and outcomes. Requires the submission of a report by September 1, 2025.

Directs the HCA to contract with an organization for the development of a proposal for a statewide network of secure, trauma-informed transport for patients who have been civilly committed for behavioral health conditions. Requires submission of a report with recommendations by September 1, 2025.

Directs the HCA to contract with an association that represents designated crisis responders to develop and deliver a training program for social workers and other hospital staff who practice in an emergency department with responsibilities related to civil commitments. Requires the training to include instruction on standards and procedures related to the civil commitment of persons with behavioral health conditions and when to summon designated crisis responders. By July 1, 2026, hospitals must ensure that the staff receive the training within three months of hire and every three years.

Requires the Public Employees' Benefits Board, private health insurers, and Medicaid managed care organizations to reimburse hospitals that bill for opioid overdose reversal medications and long-acting injectable buprenorphine.

Replaces the direction to the HCA to develop standardized clinical documentation requirements for initial and concurrent utilization management review for residential substance use disorder treatment with a work group convened by the HCA to develop recommendations to streamline the requirements and processes with a report due December 1, 2024.

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