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## Health Care & Wellness Committee

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### 2SSB 6228

**Brief Description:** Concerning treatment of substance use disorders.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Dhingra, Hasegawa, Kuderer, Lovelett, Nobles, Randall, Shewmake, Valdez and Wilson, C.).

#### Brief Summary of Second Substitute Bill

- Requires the length of an initial authorization for inpatient or residential substance use disorder treatment approved by the Public Employees Benefits Board (PEBB), private health insurers, and Medicaid managed care organizations to be no less than 14 days from the date of admission.
- Prohibits the PEBB, private health insurers, and Medicaid managed care organizations from considering a patient's length of abstinence when determining whether services are medically necessary if the abstinence is due to incarceration or hospitalization.
- Directs the Health Care Authority to develop standardized clinical documentation requirements for initial authorization and concurrent utilization management review for residential treatment of substance use disorders.
- Adopts the American Society of Addiction Medicine criteria as the single standard set of criteria to define medical necessity for substance use disorder treatment and substance use disorder levels of care.
- Directs the Health Care Authority to conduct a gap analysis of nonemergency transportation benefits for Medicaid enrollees.
- Removes the limitation on the number of times that a credential may be renewed for certain behavioral health professionals practicing in a trainee or associate capacity.

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

**Hearing Date:** 2/20/24

**Staff:** Chris Blake (786-7392).

**Background:**

Utilization Management Review for Withdrawal Management Services and Inpatient or Residential Substance Use Disorder Treatment Services.

The Public Employees Benefits Board, private health insurers, and Medicaid managed care organizations (insuring entities) are prohibited from requiring enrollees to obtain prior authorization before seeking withdrawal management services or inpatient or residential services in a behavioral health agency. Before conducting a utilization management review, an insuring entity must provide coverage for an enrollee for:

- at least two days, excluding weekends and holidays, of inpatient or residential substance use disorder treatment; and
- at least three days of withdrawal management services.

After the initial waiting period, insuring entities may initiate a medical necessity review. If the insuring entity determines within one business day from the start of the medical necessity review period that the admission to the facility was not medically necessary, the health plan is not required to pay the facility for any services that are delivered after the start of the medical necessity review period. If the insuring entity's medical necessity review is completed more than one business day after the start of the medical necessity review period, then the insuring entity must pay for the services delivered from the time of admission until the time the medical necessity review is complete, and the behavioral health agency has been notified.

The American Society of Addiction Medicine Criteria.

The American Society for Addiction Medicine (ASAM) is a medical society that publishes criteria related to the placement, continued service, and transfer of patients with substance use disorders and cooccurring disorders. In 2020 the Health Care Authority (Authority) and the Office of the Insurance Commissioner were directed in legislation to adopt a single standard set of criteria to define medical necessity for SUD treatment and to define SUD levels of care in Washington by January 1, 2021, following an independent review of rules and practices. The ASAM's criteria was selected as this single standard in rules.

Substance Use Disorder Professionals.

A substance use disorder professional is authorized to employ the core competencies of substance use disorder counseling to assist or attempt to assist individuals with substance use disorder in their recovery. To be a certified substance use disorder professional, a person must complete an educational program, an apprenticeship program, or alternative training. The person must also pass an examination and complete an experience requirement that establishes fewer hours of experience for applicants with higher levels of education.

A person working toward the education and experience requirements may be issued a substance

use disorder professional trainee certification. A trainee may only work with a state-regulated agency. A trainee certification may only be renewed four times unless the Secretary of Health grants a waiver.

Clinical Social Workers, Mental Health Counselors, and Marriage and Family Therapists.

Licensed clinical social workers, mental health counselors, and marriage and family therapists (collectively referred to as master's level behavioral health professionals), have various scopes of practice dealing with the provision of behavioral health services. Licensing requirements for master's level behavioral health professionals vary by profession, but each requires:

- a master's degree or above;
- completion of at least 36 hours of continuing education, with at least six hours in professional ethics; and
- completion of minimum supervised experience requirements.

A master's level behavioral health professional may obtain an associate license while completing the requisite hours of supervised experience. An associate is not allowed to perform services for a fee and must work under supervision. An associate license may not be renewed more than six times. An applicant for renewal must have completed at least 18 hours of continuing education in the preceding year.

Nonemergency Transportation.

Under the Medicaid program, the Health Care Authority (Authority) reimburses ground ambulance services for medically necessary ambulance transportation to the closest provider that can meet the client's needs. The Authority covers ground ambulance services for both emergency medical transportation and nonemergency medical transportation for basic life support, advanced life support, and specialty care transport. For nonemergency medical transportation, the Authority pays for ground ambulance transportation in several circumstances, including medically necessary ambulance transportation for both voluntary and involuntary behavioral health services. For voluntary behavioral health services, this includes taking the client to the hospital for a voluntary inpatient behavioral health stay. For involuntary behavioral health services, this includes transporting the client to and from certain locations including emergency room departments, court competency hearings, evaluation and treatment facilities, state hospitals, secured detoxification facilities, or crisis response centers.

**Summary of Bill:**

Health Coverage for Inpatient or Residential Substance Use Disorder Treatment Services.

Beginning January 1, 2025, if the Public Employees Benefits Board, private health insurers, and Medicaid managed care organizations (insuring entities) authorize an enrollee's admission to a behavioral health agency for inpatient or residential substance use disorder treatment services, the initial authorization must last at least 14 days from the date of the patient's admission. Subsequent reauthorizations must last for no less than seven days. The limitation does not apply to requests by the insuring entity for information to assist with a transfer to a more appropriate level of care.

When conducting an initial medical necessity review for inpatient or residential substance use disorder treatment services, insuring entities may not determine that a patient does not meet medical necessity standards based primarily on the patient's length of abstinence. If a patient's abstinence is due to incarceration or hospitalization, an insuring entity may not consider the length of abstinence in its medical necessity determination.

Insuring entities may not consider the patient's length of stay at a behavioral health agency when making decisions regarding the authorization to continue care at the agency.

The Health Care Authority (Authority) must develop standardized clinical documentation requirements for initial authorization and concurrent utilization management review for residential treatment of substance use disorders. The Authority must conduct the work in collaboration with the Office of the Insurance Commissioner and in consultation with Medicaid managed care organizations, health carriers, and substance use disorder inpatient and residential treatment providers. Medicaid managed care organizations and health carriers must begin using the standardized requirements by July 1, 2025. The requirements must align with federal rules related to interoperability and prior authorization.

#### Use of American Society of Addiction Medicine Criteria.

The American Society of Addiction Medicine (ASAM) criteria is established as the single standard set of criteria to define medical necessity for substance use disorder treatment and substance use disorder levels of care. When updated versions of the ASAM criteria are published, the Office of the Insurance Commissioner and the Health Care Authority must jointly determine the date upon which the updated version must begin being used by Medicaid managed care organizations, health carriers, and other relevant entities. The fourth edition of the ASAM criteria must be used beginning January 1, 2026.

#### Behavioral Health Professionals.

The limitation on the number of times that a credential may be renewed is removed for substance use disorder professional trainees, social worker associates-advanced, social worker associates-independent clinical, mental health counselor associates, and marriage and family therapist associates.

Certified substance use disorder professional trainees may not provide independent substance use disorder counseling or clinical services for a fee. The limitation on substance use disorder professional trainees only practicing within state regulated agencies is removed. The clarification that a certified substance use disorder professional trainee is considered to hold that title until the certification expires or is renewed is removed.

Between July 1, 2024, and July 1, 2029, the certification and certification renewal fee for applicants for certification as either a substance use disorder professional or substance use disorder professional trainee may not exceed \$100.

Nonemergency Transportation.

The Authority must conduct a gap analysis of nonemergency transportation benefits for Medicaid enrollees in Washington, Oregon, and other comparison states. The Authority must provide an analysis of the costs and benefits of available alternatives to the Governor and appropriate committees of the Legislature by December 1, 2024. The analysis must include the option of providing an enhanced nonemergency transportation benefit for persons being discharged from a behavioral health emergency services provider to the next level of care when such transportation is necessary to protect the enrollee from relapse or other discontinuity in care.

**Appropriation:** None.

**Fiscal Note:** Available.

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