

SENATE BILL REPORT

SB 5660

As of February 10, 2023

Title: An act relating to establishing a mental health advance directive effective implementation work group.

Brief Description: Establishing a mental health advance directive effective implementation work group; creating a new section; and providing an expiration date.

Sponsors: Senators Boehnke, Dhingra, Saldaña, Wellman and Wilson, C..

Brief History:

Committee Activity: Health & Long Term Care: 2/14/23.

Brief Summary of Bill

- Directs the Health Care Authority to convene a work group to make recommendations concerning a mental health advance directive (MHAD) statewide repository, and to develop trainings related to MHADs.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Staff: Kevin Black (786-7747)

Background: A mental health advanced directive (MHAD) is a document that declares a person's preferences regarding the person's mental health treatment in the event of a temporary period of incapacity due to a behavioral health disorder. Washington State's MHAD law passed in 2003, and was updated in 2021. An MHAD may include:

- the person's preferences and instructions for mental health treatment;
- consent to specific types of mental health treatment;
- refusal to consent to specific types of mental health treatment;
- consent to admission to and retention in a facility for mental health treatment for up to 14 days; or

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- appointment of an agent to make mental health treatment decisions on behalf of a person, including empowering that person to consent to voluntary mental health treatment on behalf of the person.

An MHAD must provide a person with a full range of choices, and be acknowledged before a notary public or signed by two witnesses who know the person and attest that the person does not appear to be acting under incapacity, fraud, undue influence, or duress. A mental health advanced directive may be revoked at any time except during a period of incapacity, unless the terms of the directive allow revocation during periods of incapacity.

A health care provider must act in accordance with the terms of an MHAD to the fullest extent possible, unless compliance would violate an accepted standard of care, the requested treatment is not available, or another exception applies. Liability protections apply to providers who provide treatment according to an MHAD. A standard form for a mental health advance directive is provided in state law.

Summary of Bill: The Health Care Authority (HCA) must convene a Mental Health Advance Directive Effective Implementation Work Group to develop recommendations concerning:

- a reliable, standardized, and accessible method for MHAD creation, storage, and sharing so individuals, families, agencies, and providers can discover and use MHADs; and
- MHAD document creation and utilization trainings for individuals, families, agencies, and providers.

Deliverables for the work group include the development of training toolkits, program testing and data collection in two pilot locations, and a report to the Governor and relevant committees of the Legislature by December 1, 2023.

The membership of the work group must be representative of the diversity of individuals who use MHADs and behavioral health services and include representatives of 17 named constituencies.

Appropriation: None.

Fiscal Note: Requested on February 7, 2023.

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

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