

FINAL BILL REPORT

2SSB 5660

C 374 L 24

Synopsis as Enacted

Brief Description: Establishing a mental health advance directive effective implementation work group.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Boehnke, Dhingra, Saldaña, Wellman and Wilson, C.).

Senate Committee on Health & Long Term Care

Senate Committee on Ways & Means

House Committee on Civil Rights & Judiciary

House Committee on Appropriations

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
- 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

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.

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 an MHAD is provided in state law.

Summary: 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 of training toolkits, engagement strategies in two pilot locations, and a report to the Governor and relevant committees of the Legislature by December 1, 2025.

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 19 named constituencies:

- the peer advocacy community;
- individuals and families with lived experience of behavioral health crises;
- Chad's Legacy Project;
- licensed or certified behavioral health agencies;
- the Washington State Department of Veterans Affairs;
- Black, Indigenous, and persons of color;
- LGBTQI+ community members;
- the Behavioral Health and Recovery Division of HCA;
- the Washington State Medical Association;
- the Washington State Hospital Association;
- the Washington State Psychiatric Association;
- NAMI Washington;
- the Washington Council for Behavioral Health;
- emergency services responders;
- designated crisis responders;
- law enforcement or a member of a co-responder program;
- emergency departments;
- inpatient hospitals;
- electronic health record vendors;
- an expert in technical repositories;
- 988 behavioral health crisis response and suicide prevention call centers; and
- individuals with expertise in health care ethics and law.

Votes on Final Passage:

Senate 48 1

House 96 0

Effective: June 6, 2024