

LEGISLATIVE BILL 276

Approved by the Governor May 25, 2023

Introduced by Wishart, 27; Hunt, 8; Day, 49; Vargas, 7; Blood, 3; Fredrickson, 20; Conrad, 46.

A BILL FOR AN ACT relating to the Nebraska Behavioral Health Services Act; to amend section 71-801, Revised Statutes Cumulative Supplement, 2022; to adopt the Certified Community Behavioral Health Clinic Act; to harmonize provisions; to repeal the original section; and to declare an emergency.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-801, Revised Statutes Cumulative Supplement, 2022, is amended to read:

71-801 Sections 71-801 to 71-830 and the Certified Community Behavioral Health Clinic Act shall be known and may be cited as the Nebraska Behavioral Health Services Act.

Sec. 2. Sections 2 to 7 of this act shall be known and may be cited as the Certified Community Behavioral Health Clinic Act.

Sec. 3. The intent of the Legislature is to increase access to mental health and substance use treatment and expand capacity for comprehensive, holistic services, respond to local needs, incorporate evidence-based practices, and establish care coordination as a linchpin for service delivery including effective community partnerships with law enforcement, schools, hospitals, primary care providers, and public and private service organizations to improve care, reduce recidivism, and address health disparities.

Sec. 4. For purposes of the Certified Community Behavioral Health Clinic Act:

(1) Certified community behavioral health clinic means a nonprofit organization, a unit of the local behavioral health authority, an entity operated under authority of the Indian Health Service, an Indian tribe, or tribal organization pursuant to a contract, grant, cooperative agreement, or compact with the Indian Health Service pursuant to the Indian Self-Determination and Education Assistance Act of 1975, or an entity that is an urban Indian organization pursuant to a grant or contract with the Indian Health Service under Title V of the Indian Health Care Improvement Act, Public Law 94-437, providing community-based mental health and substance use health services that are nationally accredited that:

(a) Meet the federal certification criteria of the federal Protecting Access to Medicare Act of 2014 or a state certification system for certified community behavioral health clinics to be established by the department and which shall be substantially equivalent to the federal Protecting Access to Medicare Act of 2014; and

(b) Provide, at a minimum, the following community-based services either directly or indirectly through formal referral relationships with other providers:

- (i) Outpatient mental health and substance use services;
- (ii) Crisis mental health services;
- (iii) Screening, assessment, and diagnosis, including risk assessments;
- (iv) Person-centered treatment planning;
- (v) Outpatient clinic primary care screening and monitoring of key health indicators and health risks;
- (vi) Targeted case management;
- (vii) Psychiatric rehabilitation services;
- (viii) Peer support and counselor services and family supports; and
- (ix) Community-based mental health care for members of the armed forces and veterans consistent with minimum clinical mental health guidelines promulgated by the Veterans Health Administration; and

(2) Prospective payment system means a daily or monthly medicaid payment methodology that allows providers to be reimbursed based on anticipated costs of providing required services to persons enrolled in medicaid.

Sec. 5. (1) The department shall develop a prospective payment system under the medical assistance program for funding certified community behavioral health clinics. Such system shall permit either daily or monthly payment rates.

(2) The department shall submit to the federal Centers for Medicare and Medicaid Services any approval request necessary for a medicaid state plan amendment to implement this section.

(3) Subject to such approval, such prospective payment system shall be implemented before January 1, 2026.

(4) The department shall solicit input from current certified community behavioral health clinics during the development of the medicaid state plan amendment.

Sec. 6. The department shall adopt and promulgate rules and regulations to implement sections 3 to 6 of this act.

Sec. 7. It is the intent of the Legislature to appropriate no more than four million five hundred thousand dollars annually beginning in fiscal year 2025-26 from the General Fund for the purpose of the Certified Community Behavioral Health Clinic Act.

Sec. 8. Original section 71-801, Revised Statutes Cumulative Supplement, 2022, is repealed.

Sec. 9. Since an emergency exists, this act takes effect when passed and approved according to law.