
SENATE BILL 5041

State of Washington

66th Legislature

2019 Regular Session

By Senator O'Ban

Prefiled 12/24/18.

1 AN ACT Relating to development of community long-term involuntary
2 treatment capacity; amending RCW 71.24.310; adding a new section to
3 chapter 71.24 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 71.24
6 RCW to read as follows:

7 (1) The legislature intends to develop new capacity for delivery
8 of long-term treatment in the community in diverse regions of the
9 state prior to the effective date of the integration of risk for
10 long-term involuntary treatment into managed care, and to study the
11 cost and outcomes associated with treatment in community facilities.
12 In furtherance of this goal, the authority shall purchase, as much as
13 practicable, a portion of the state's long-term treatment capacity
14 allocated to behavioral health organizations under RCW 71.24.310 in
15 willing community facilities capable of providing alternatives to
16 treatment in a state hospital. Behavioral health organizations shall
17 work with each regional or local governing body, county, or county
18 within a region, to determine the preferred method of allocating beds
19 to provide ninety-day and one hundred eighty-day involuntary
20 treatment services. These methods may include fully contracting with
21 community facilities, contracting with a mix of state and community

1 facilities, or continuing with state-run services. Beginning on
2 December 1, 2021, the authority shall increase its purchasing of
3 long-term involuntary treatment capacity in the community over time
4 by contracting, based on the preferred method of allocating beds,
5 with willing community hospitals licensed under chapter 70.41 or
6 71.12 RCW and evaluation and treatment facilities certified under
7 chapter 71.05 RCW.

8 (2) The authority and department shall, as applicable:

9 (a) Work with willing community hospitals licensed under chapter
10 70.41 or 71.12 RCW and evaluation and treatment facilities certified
11 under chapter 71.05 RCW to assess their capacity to become certified
12 to provide long-term mental health placements and to meet the
13 requirements of this chapter; and

14 (b) Enter into contracts and payment arrangements with hospitals
15 and evaluation and treatment facilities choosing to provide long-term
16 mental health placements, to the extent that willing certified
17 facilities are available.

18 (3) The department must establish rules for the certification of
19 facilities interested in providing care under this section.

20 (4) Contracts developed by the authority to implement this
21 section must be constructed to allow the department to obtain
22 complete identification information and admission and discharge dates
23 for patients served under this section. Prior to requesting
24 identification information and admission and discharge dates or
25 reports from certified facilities, the department must determine that
26 this information cannot be identified or obtained from existing data
27 sources available to state agencies. In addition, until January 1,
28 2024, facilities certified by the department to provide community
29 long-term involuntary treatment to adults on ninety-day or one
30 hundred eighty-day orders shall report to the department:

31 (a) All instances where a patient on a ninety-day or one hundred
32 eighty-day involuntary commitment order experiences an adverse event
33 required to be reported to the department pursuant to chapter 70.56
34 RCW; and

35 (b) All hospital-based inpatient psychiatric service core
36 measures reported to the joint commission on the accreditation of
37 health care organizations or other accrediting body occurring from
38 psychiatric departments, in the format in which the report was made
39 to the joint commission or other accrediting body.

1 (5) The information collected in subsection (4) of this section
2 shall be used by the department for treatment comparisons between
3 facilities certified by the department to provide treatment to adults
4 on ninety-day or one hundred eighty-day inpatient involuntary
5 commitment orders and state hospitals. In addition, the department
6 shall use the data to compare clinical outcomes for patients in
7 certified facilities and state hospitals, including outcomes after
8 discharge, length of stay, and demographic information.

9 (6) Nothing in this section requires any community hospital or
10 evaluation and treatment facility to be certified to provide long-
11 term mental health placements.

12 **Sec. 2.** RCW 71.24.310 and 2018 c 201 s 4015 are each amended to
13 read as follows:

14 The legislature finds that administration of chapter 71.05 RCW
15 and this chapter can be most efficiently and effectively implemented
16 as part of the behavioral health organization defined in RCW
17 71.24.025. For this reason, the legislature intends that the
18 authority and the behavioral health organizations shall work together
19 to implement chapter 71.05 RCW as follows:

20 (1) Behavioral health organizations shall recommend to the
21 authority the number of state hospital beds that should be allocated
22 for use by each behavioral health organization. The statewide total
23 allocation shall not exceed the number of state hospital beds
24 offering long-term inpatient care, as defined in this chapter, for
25 which funding is provided in the biennial appropriations act.

26 (2) If there is consensus among the behavioral health
27 organizations regarding the number of state hospital beds that should
28 be allocated for use by each behavioral health organization, the
29 authority shall contract with each behavioral health organization
30 accordingly.

31 (3) If there is not consensus among the behavioral health
32 organizations regarding the number of beds that should be allocated
33 for use by each behavioral health organization, the authority shall
34 establish by emergency rule the number of state hospital beds that
35 are available for use by each behavioral health organization. The
36 primary factor used in the allocation shall be the estimated number
37 of adults with acute and chronic mental illness in each behavioral
38 health organization area, based upon population-adjusted incidence
39 and utilization.

1 (4) The allocation formula shall be updated at least every three
2 years to reflect demographic changes, and new evidence regarding the
3 incidence of acute and chronic mental illness and the need for long-
4 term inpatient care. In the updates, the statewide total allocation
5 shall include (a) all state hospital beds offering long-term
6 inpatient care for which funding is provided in the biennial
7 appropriations act; plus (b) the estimated equivalent number of beds
8 or comparable diversion services contracted in accordance with
9 subsection (5) of this section.

10 (5) (a) The authority ((is encouraged to)) shall enter into
11 performance-based contracts with ((behavioral health organizations))
12 facilities certified by the department to provide treatment to adults
13 on a ninety-day or one hundred eighty-day inpatient involuntary
14 commitment order to provide some or all of the behavioral health
15 organization's allocated long-term inpatient treatment capacity in
16 the community, rather than in the state hospital, to the extent that
17 willing certified facilities and funding are available. The
18 performance contracts shall specify the number of patient days of
19 care available for use by the behavioral health organization in the
20 state hospital and the number of patient days of care available for
21 use by the behavioral health organization in a facility certified by
22 the department to provide treatment to adults on a ninety-day or one
23 hundred eighty-day inpatient involuntary commitment order, including
24 hospitals licensed under chapter 70.41 or 71.12 RCW and evaluation
25 and treatment facilities certified under chapter 71.05 RCW.

26 (b) A hospital licensed under chapter 70.41 or 71.12 RCW is not
27 required to undergo certification to treat patients on ninety-day or
28 one hundred eighty-day involuntary commitment orders in order to
29 treat adults who are waiting for placement at either the state
30 hospital or in certified facilities that voluntarily contract to
31 provide treatment to patients on ninety-day or one hundred eighty-day
32 involuntary commitment orders.

33 (6) If a behavioral health organization uses more state hospital
34 patient days of care than it has been allocated under subsection (3)
35 or (4) of this section, or than it has contracted to use under
36 subsection (5) of this section, whichever is less, it shall reimburse
37 the authority for that care. Reimbursements must be calculated using
38 quarterly average census data to determine an average number of days
39 used in excess of the bed allocation for the quarter. The
40 reimbursement rate per day shall be the hospital's total annual

1 budget for long-term inpatient care, divided by the total patient
2 days of care assumed in development of that budget.

3 (7) One-half of any reimbursements received pursuant to
4 subsection (6) of this section shall be used to support the cost of
5 operating the state hospital. The authority shall distribute the
6 remaining half of such reimbursements among behavioral health
7 organizations that have used less than their allocated or contracted
8 patient days of care at that hospital, proportional to the number of
9 patient days of care not used.

10 NEW SECTION. **Sec. 3.** The department of social and health
11 services and the health care authority shall confer with the
12 department of health and hospitals licensed under chapter 70.41 or
13 71.12 RCW to review laws and regulations and identify changes that
14 may be necessary to address care delivery and cost-effective
15 treatment for adults on ninety-day or one hundred eighty-day
16 commitment orders, which may be different than the requirements for
17 short-term psychiatric hospitalization. The department of social and
18 health services and the health care authority shall report their
19 findings to the select committee on quality improvement in state
20 hospitals by November 1, 2019.

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