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ENGROSSED SUBSTITUTE SENATE BILL 6656

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State of Washington

64th Legislature

2016 Regular Session

By Senate Ways & Means (originally sponsored by Senators Hill, Hargrove, Ranker, Darneille, Parlette, Becker, Braun, Fain, and Bailey)

READ FIRST TIME 03/04/16.

1 AN ACT Relating to the reform of practices at state hospitals;  
2 amending RCW 71.05.365; adding new sections to chapter 71.24 RCW;  
3 adding a new chapter to Title 72 RCW; providing effective dates;  
4 providing an expiration date; and declaring an emergency.

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

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

8 The legislature finds that the growing demand for state hospital  
9 beds has strained the state's capacity to meet the demand while  
10 providing for a sufficient workforce to operate the state hospitals  
11 safely. It is the intent of the legislature that the executive and  
12 legislative branches work collaboratively to maximize access to,  
13 safety of, and the therapeutic role of the state hospitals to best  
14 serve patients while ensuring the safety of patients and employees.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 71.24  
16 RCW to read as follows:

17 (1) The legislature intends to explore the option of changing the  
18 current financing structure and financial incentives for state  
19 hospital civil bed utilization by providing behavioral health  
20 organizations and full integration entities under RCW 71.24.380 with

1 the state funds necessary to purchase a number of days of care at a  
2 state hospital equivalent to the current allocation model, instead of  
3 providing state hospital bed allocations under RCW 71.24.310. Such  
4 funds would be available to purchase state hospital beds or for  
5 alternative uses such as to purchase beds in other locations, to  
6 invest in community services, and to invest in diversion from  
7 inpatient care. Behavioral health organizations and equivalent  
8 entities in full integration regions would be placed at risk for  
9 state hospital civil utilization for patients within their catchment  
10 areas, while receiving the means and opportunity to apply any savings  
11 resulting from reduced state hospital utilization directly to the  
12 service of clients in the community. This policy option is intended  
13 to incentivize behavioral health organizations and entities in full  
14 integration regions to increase their utilization management efforts,  
15 develop additional capacity for hospital diversion, and increase  
16 their capacity to safely serve complex clients in the community.

17 (2) To further these ends, the department must develop a detailed  
18 transition plan in collaboration with its actuarial consultant and  
19 the external consultant to examine the current configuration and  
20 financing of state hospitals under section 5 of this act and with the  
21 regular input of behavioral health organizations, full integration  
22 regions, and other stakeholders. The transition plan shall include  
23 but not be limited to consideration of the following:

24 (a) A methodology for division of the current state hospital beds  
25 between each of the behavioral health organizations and full  
26 integration regions. The methodology must consider two options: (i) A  
27 method which allocates the resources supporting state hospital bed  
28 utilization solely among behavioral health organizations and full  
29 integration regions; and (ii) a method which allocates a portion of  
30 the resources supporting state hospital bed utilization among  
31 behavioral health organizations and full integration regions, and the  
32 remainder to the state long-term care and developmental disabilities  
33 systems. The portion allocated to the state long-term care and  
34 developmental disability systems must correspond to state hospital  
35 bed utilization by patients whose primary community care needs after  
36 discharge will be funded by the state long-term care or developmental  
37 disability system, based on client history or a functional needs  
38 assessment, and include payment responsibility for the state hospital  
39 utilization by these patients;

1 (b) Development of payment rates for state hospital utilization  
2 that reflect financing, safety, and accreditation needs under the new  
3 system and ensure that necessary access to state hospital beds is  
4 maintained for behavioral health organizations and full integration  
5 regions;

6 (c) Maximizing federal participation for treatment and preserving  
7 access to funds through the disproportionate share hospital program  
8 under either methodology described under (a) of this subsection;

9 (d) Billing and reimbursement mechanisms;

10 (e) Discharge planning procedures that must be adapted to account  
11 for functional needs assessments upon admission;

12 (f) Identification of regional differences and challenges for  
13 implementation in different regional service areas;

14 (g) A means of tracking expenditures related to successful  
15 reductions of state hospital utilization by regional service areas  
16 and means to assure that the funds necessary to safely maintain gains  
17 in utilization reduction are protected;

18 (h) Recommendations for the timing of implementation including  
19 exploration of options for transition to full implementation through  
20 the use of smaller-scale pilots allowing for the creation of  
21 alternative placements outside the state hospitals such as step-down  
22 or transitional placements;

23 (i) The potential for adverse impacts on safety and a description  
24 of available methods to mitigate any risks for patients, behavioral  
25 health organizations, full integration regions, and the community;  
26 and

27 (j) An explanation of the benefits and disadvantages associated  
28 with the alternative methodologies described in (a) of this  
29 subsection.

30 (3) A preliminary draft of the transition plan must be submitted  
31 to the relevant committees of the legislature by November 15, 2016,  
32 for review by the select committee on quality improvement in state  
33 hospitals. The department shall consider the input of the committee  
34 and external stakeholders before submitting a final transition plan  
35 by December 30, 2016.

36 NEW SECTION. **Sec. 3.** (1) A select committee on quality  
37 improvement in state hospitals is established, composed of the  
38 following members:

1 (a) Four members of the senate, appointed by the president of the  
2 senate, consisting of the chairs and ranking members of the committee  
3 on health care and the committee on human services, mental health and  
4 housing, or their successor committees;

5 (b) Four members of the house of representatives, appointed by  
6 the speaker of the house of representatives, consisting of the chair  
7 and ranking members of the committee on health care and wellness and  
8 the committee on judiciary, or their successor committees;

9 (c) One member, appointed by the governor, representing the  
10 office of financial management; and

11 (d) Two nonvoting members, appointed by the governor, consisting  
12 of the secretary of the department of social and health services or a  
13 designee and the director of the department of labor and industries  
14 or a designee.

15 (2) The committee shall have two cochairs elected by the  
16 membership of the committee.

17 (3) The governor or a designee shall convene the initial meeting  
18 of the committee.

19 (4) Meetings of the committee shall be open to the public and  
20 shall provide an opportunity for public comment.

21 (5) Primary staff support for the committee must be provided by  
22 the office of financial management. Additional staff support may be  
23 provided by the office of program research and senate committee  
24 services.

25 (6) The committee shall meet, at a minimum, on a quarterly basis  
26 beginning April 2016, or as determined necessary by the committee  
27 cochairs.

28 (7) State agency representatives shall respond in a timely manner  
29 to data requests from the cochairs relating to the work of the  
30 committee.

31 (8) Legislative members of the committee must be reimbursed for  
32 travel expenses in accordance with RCW 44.04.120. Nonlegislative  
33 members are not entitled to be reimbursed for travel expenses if they  
34 are elected officials or are participating on behalf of an employer,  
35 governmental entity, or other organization. Any reimbursement for  
36 other nonlegislative members is subject to chapter 43.03 RCW.

37 (9) The expenses of the committee must be paid jointly by the  
38 senate and the house of representatives. Committee expenditures are  
39 subject to approval by the senate facilities and operations committee

1 and the house of representatives executive rules committee, or their  
2 successor committees.

3 NEW SECTION. **Sec. 4.** The committee shall receive updates,  
4 monitor, and make recommendations to the governor, the office of  
5 financial management, and the legislature in the following areas,  
6 with respect to the state hospitals:

7 (1) Planning related to the appropriate role of the state  
8 hospitals in the state's mental health system, as well as state  
9 hospital structure, financing, staff composition, and workforce  
10 development needs to improve the quality of care, patient outcomes,  
11 safety, and operations of the state hospitals;

12 (2) Recommendations for the use of funds from the governor's  
13 behavioral health innovation fund created in section 6 of this act,  
14 taking into consideration the information and recommendations  
15 provided by the consultants identified in section 5 of this act and  
16 the quarterly implementation progress reports provided in section 8  
17 of this act;

18 (3) Monitoring of process and outcome measures regarding the  
19 implementation of policies and appropriations passed by the  
20 legislature; and

21 (4) Reviewing findings by the department of health regarding the  
22 results of its survey of the state hospitals and the department of  
23 labor and industries concerning the safety of the state hospitals and  
24 compliance with follow-up recommendations for corrective action.  
25 These agencies shall report to the committee quarterly or as  
26 requested by the committee.

27 NEW SECTION. **Sec. 5.** (1) Long-term planning for the state  
28 hospitals and recommendations for the use of funds from the  
29 governor's behavioral health innovation fund created in section 6 of  
30 this act must be informed by the use of consultants who shall make  
31 recommendations to the governor, the legislature, and the committee  
32 by October 1, 2016. The committee shall review the selection of  
33 consultants and provide input into the prioritization of tasks.

34 (2) The office of financial management must contract for the  
35 services of an external consultant who will examine the current  
36 configuration and financing of the state hospital system. This  
37 consultant shall:

1 (a) Work with the department of social and health services to  
2 produce the detailed transition plan described in section 2 of this  
3 act;

4 (b) Work with the state hospitals, local governments, community  
5 hospitals, mental health providers, substance use disorder treatment  
6 providers, other providers, and behavioral health organizations to  
7 identify options and make recommendations related to:

8 (i) Identification of which populations are appropriately served  
9 at the state hospitals;

10 (ii) Identification of barriers to timely admission to the state  
11 hospitals of individuals who have been court ordered to ninety or one  
12 hundred eighty days of treatment under RCW 71.05.320;

13 (iii) Utilization of interventions to prevent or reduce  
14 psychiatric hospitalization;

15 (iv) Benefits and costs of developing and implementing step-down  
16 and transitional placements for state hospital patients;

17 (v) Whether discharges of patients take into consideration  
18 whether it is appropriate for the patient to return to the patient's  
19 original community considering the location of family and other  
20 natural supports, the availability of appropriate services, and the  
21 desires of the patients. The consultant must report whether the lack  
22 of resources in a patient's home community is a significant factor  
23 that causes barriers to discharge or frequently results in relocation  
24 of patients outside their home communities for posthospital care;

25 (vi) Optimization of continuity of care with community providers,  
26 including but not limited to coordination with any community  
27 behavioral health provider or evaluation and treatment facility that  
28 has treated the patient immediately prior to state hospital  
29 admission, and any provider that will serve the patient upon  
30 discharge from the state hospital;

31 (vii) Reduction of barriers to discharge, including options to:

32 (A) Ensure discharge planning begins at admission;

33 (B) Offer co-occurring substance use disorder treatment services  
34 at the state hospitals;

35 (C) Clarify and hold accountable state hospitals and behavioral  
36 health organizations for their respective roles in the discharge  
37 planning process, including development of community diversion and  
38 transition options;

39 (D) Include contract performance measures related to timely  
40 discharge planning in behavioral health organization contracts;

1 (E) Improve state monitoring and oversight of behavioral health  
2 organizations in their contracted responsibilities for developing an  
3 adequate network to meet the needs of their communities;

4 (F) Incentivize the use of community resources when clinically  
5 appropriate; and

6 (G) Expedite discharge for individuals who are the responsibility  
7 of the long-term care or developmental disability systems, or who are  
8 not covered by medicaid, and assure financial responsibility to  
9 appropriate systems, including the potential necessity of other  
10 state-run facilities;

11 (viii) Planning for the long-term integration of physical and  
12 behavioral health services, including strategies for assessing risk  
13 for the utilization of state hospital beds to health plans contracted  
14 to provide the full range of physical and behavioral health services;  
15 and

16 (ix) Identification of the potential costs, benefits, and impacts  
17 associated with dividing one or both of the state hospitals into  
18 discrete hospitals to serve civil and forensic patients in separate  
19 facilities.

20 (3) The department of social and health services shall contract  
21 for the services of an academic or independent state hospitals  
22 psychiatric clinical care model consultant to examine the clinical  
23 role of staffing at the state hospitals.

24 (a) The consultant's analysis must include an examination of:

25 (i) The clinical models of care;

26 (ii) Current staffing models and recommended updates to the  
27 staffing model created under section 9(1) of this act;

28 (iii) Barriers to recruitment and retention of staff;

29 (iv) Creating a sustainable culture of wellness and recovery;

30 (v) Increasing responsiveness to patient needs;

31 (vi) Reducing wards to an appropriate size;

32 (vii) The use of interdisciplinary health care teams;

33 (viii) The appropriate staffing model and staffing mix to achieve  
34 optimal treatment outcomes considering patient acuity; and

35 (ix) Recommended practices to increase safety for staff and  
36 patients.

37 (b) To the extent that funding is appropriated for this purpose  
38 and necessary modification to labor practices are completed, the  
39 consultant shall assist the department of social and health services  
40 with implementation of recommended changes.

1 (4) The consultant services in this section shall be acquired  
2 with funds appropriated for this purpose and the contracts are exempt  
3 from the competitive solicitation requirements in RCW 39.26.125.

4 NEW SECTION. **Sec. 6.** The governor's behavioral health  
5 innovation fund is hereby created in the state treasury. Moneys in  
6 the fund may be spent only after appropriation. Only the director of  
7 financial management or the director's designee may authorize  
8 expenditures from the fund. Moneys in the fund are provided solely to  
9 improve quality of care, patient outcomes, patient and staff safety,  
10 and the efficiency of operations at the state hospitals.

11 NEW SECTION. **Sec. 7.** (1) The department of social and health  
12 services may apply to the office of financial management to receive  
13 funds from the governor's behavioral health innovation fund.

14 (2) The application must include proposals to increase the  
15 overall function of the state hospital system in one or more of the  
16 following categories:

17 (a) Instituting fund-shift pilot initiatives through contracts  
18 with behavioral health organizations or long-term care providers  
19 providing enhanced behavioral supports to move certain state hospital  
20 patients to alternative placements outside of the state hospital,  
21 contingent on federal funding. Proposals must include quality outcome  
22 measures and acuity-based staffing models of interdisciplinary teams  
23 designed for optimal treatment outcomes;

24 (b) Developing and utilizing step-down and transitional  
25 placements for state hospital patients;

26 (c) Improving staff retention and recruiting;

27 (d) Increasing capacity and instituting other measures to reduce  
28 backlogs and wait lists in both the civil and forensic systems;

29 (e) Increasing stability and predictability in the state  
30 hospitals' operating costs and budgets;

31 (f) Making necessary practice and staffing changes, subject to  
32 collective bargaining;

33 (g) Improving safety for patients and staff;

34 (h) Increasing staff training;

35 (i) Improving the therapeutic environment; and

36 (j) Improving the provision of forensic mental health services.



1 (3) Application proposals must be based on the use of evidence-  
2 based practices, promising practices, or approaches that otherwise  
3 demonstrate quantifiable, positive results.

4 (4) Moneys from the governor's behavioral health innovation fund  
5 may not be used for compensation increases within the state  
6 hospitals.

7 (5) The office of financial management must consider input from  
8 the committee when awarding funding.

9 NEW SECTION. **Sec. 8.** The department of social and health  
10 services must provide quarterly implementation progress reports to  
11 the committee and the office of financial management that include at  
12 a minimum:

13 (1) The status of completing key activities, critical milestones,  
14 and deliverables over the prior period;

15 (2) Identification of specific barriers to completion of key  
16 activities, critical milestones, and deliverables and strategies that  
17 will be used for addressing these challenges;

18 (3) The most recent quarterly data on all performance measures  
19 and outcomes for which data is currently being collected, as well as  
20 any additional data requested by the committee; and

21 (4) The status of the adoption and implementation of the policies  
22 identified in section 9 of this act.

23 NEW SECTION. **Sec. 9.** The department of social and health  
24 services must assure that the state hospitals adopt and implement the  
25 following policies, subject to the availability of appropriated  
26 funding, and shall include information regarding the status of the  
27 adoption and implementation of these policies in its quarterly  
28 reports required under section 8 of this act:

29 (1) A standardized acuity-based staffing model employed at both  
30 facilities that recognizes the staffing level required based upon the  
31 type of patients served, the differences and constraints of the  
32 physical plant across hospitals and wards, and the full scope of  
33 practice of all credentialed health care providers, and that  
34 identifies the incorporation of these health care providers  
35 practicing to the maximum extent of their credential in  
36 interdisciplinary teams. The model shall recognize a role for  
37 advanced registered nurse practitioners and physician assistants to

1 utilize the full scope of their practice as provided under section 12  
2 of this act;

3 (2) A strategy with measurable, articulated steps for reducing  
4 the unnecessary utilization of state hospital beds and minimizing  
5 readmissions to evaluation and treatment facilities for state  
6 hospital patients;

7 (3) A program of appropriate safety training for state hospital  
8 staff;

9 (4) A plan to fully use appropriated funding for enhanced service  
10 facilities and other specialized community resources for placement of  
11 state hospital patients with conditions such as dementia, traumatic  
12 brain injury, or complex medical and physical needs requiring  
13 placement in a facility which offers significant assistance with  
14 activities of daily living; and

15 (5) A process for appeal to the secretary of the department of  
16 social and health services or the secretary's designee within  
17 fourteen days in cases where a behavioral health organization, other  
18 entities under RCW 71.24.380, or the state agency division  
19 responsible for the community care needs of the patient and the state  
20 hospital treatment team are unable to reach a mutually agreed upon  
21 discharge plan for patients who are considered by either party to be  
22 ready for discharge. This process shall ensure consideration of risk  
23 factors for readmission.

24 NEW SECTION. **Sec. 10.** For purposes of this chapter:

25 (1) "Behavioral health organization" has the same meaning as in  
26 RCW 71.24.025 and includes any managed care organization that has  
27 contracted with the state to provide fully integrated behavioral  
28 health and physical health services for medicaid clients.

29 (2) "Committee" means the select committee on quality improvement  
30 in state hospitals created in section 3 of this act.

31 (3) "State hospitals" include western state hospital and eastern  
32 state hospital as designated in RCW 72.23.020.

33 NEW SECTION. **Sec. 11.** (1) The legislature finds that there are  
34 currently patients with long-term care needs at western state  
35 hospital who are ready for discharge and could safely be served in  
36 community settings if alternative placements are made available.

37 (2) The department of social and health services must identify  
38 discharge and diversion opportunities for patients needing long-term

1 care to reduce the demand for thirty beds currently being used for  
2 this population. A twenty bed reduction must be realized by July 1,  
3 2016, with a utilization reduction of ten additional beds by January  
4 1, 2017. The resources being used to serve these beds must be  
5 reinvested within the state hospital budget in order to achieve  
6 patient and staff safety improvement goals.

7 (3) The department of social and health services must provide a  
8 progress report to the governor and relevant committees of the  
9 legislature by December 1, 2016, and a final report by August 1,  
10 2017, describing outcomes for these patients through June 30, 2017.

11 NEW SECTION. **Sec. 12.** (1) The legislature finds that the  
12 potential uses of psychiatric advanced registered nurse practitioners  
13 and physician assistants in institutional settings at the top of  
14 their scope of practice are currently being underutilized by the  
15 state hospitals.

16 (2) The office of financial management must create a job class  
17 series for psychiatric advanced registered nurse practitioners and a  
18 job class series for physician assistants that allows these  
19 professionals to practice at the top of their scope of practice at  
20 state hospitals. In conjunction and conformance with the staffing  
21 analysis described in section 9(1) of this act, the state hospitals  
22 shall increase the employment of professionals operating under these  
23 new classifications in a manner that allows the state hospitals to  
24 reduce their reliance on psychiatrist positions, which the state  
25 hospitals are currently unable to fill. The state hospitals must  
26 consider the role of these professionals in supervising or directing  
27 the work of other treatment team members.

28 (3) Nothing in this section should be construed to require the  
29 state to violate any collective bargaining agreements in place prior  
30 to the effective date of this section. Agreements negotiated or  
31 renegotiated after the effective date of this section must be  
32 consistent with the expanded use of advanced registered nurse  
33 practitioners and physician assistants required by this section.

34 NEW SECTION. **Sec. 13.** To the extent that any of the timelines  
35 in this act are not achievable due to conflicts with other hospital  
36 improvement timelines set by federal or state regulatory bodies, the  
37 department of social and health services may seek a reasonable  
38 extension from the select committee.

1        NEW SECTION.    **Sec. 14.**    This chapter expires July 1, 2019.

2        **Sec. 15.**    RCW 71.05.365 and 2014 c 225 s 85 are each amended to  
3 read as follows:

4        When a person has been involuntarily committed for treatment to a  
5 hospital for a period of ninety or one hundred eighty days, and the  
6 superintendent or professional person in charge of the hospital  
7 determines that the person no longer requires active psychiatric  
8 treatment at an inpatient level of care, the behavioral health  
9 organization, full integration entity under RCW 71.24.380, or agency  
10 providing oversight of long-term care or developmental disability  
11 services that is responsible for resource management services for the  
12 person must work with the hospital to develop an individualized  
13 discharge plan and arrange for a transition to the community in  
14 accordance with the person's individualized discharge plan within  
15 ((~~twenty-one~~)) fourteen days of the determination.

16        NEW SECTION.    **Sec. 16.**    Section 15 of this act takes effect July  
17 1, 2018.

18        NEW SECTION.    **Sec. 17.**    Sections 3 through 14 of this act  
19 constitute a new chapter in Title 72 RCW.

20        NEW SECTION.    **Sec. 18.**    (1) Sections 3 through 8 and 10 of this  
21 act are necessary for the immediate preservation of the public peace,  
22 health, or safety, or support of the state government and its  
23 existing public institutions, and take effect immediately.

24        (2) Section 9 of this act takes effect July 1, 2016.

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