

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

March 28, 2023
Date

Committee on Public & Behavioral Health & Human Services.

After consideration on the merits, the Committee recommends the following:

HB23-1236 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, page 6, after line 20, insert:

2 "SECTION 9. In Colorado Revised Statutes, 25-1.5-302, amend
3 (1) introductory portion as follows:

4 **25-1.5-302. Administration of medications - powers and duties**
5 **of department - record checks - rules.** (1) The department has, in
6 addition to all other powers and duties imposed upon it by law, the power
7 to establish and maintain by rule a program for the administration of
8 medications in facilities. The department of human services, THE
9 BEHAVIORAL HEALTH ADMINISTRATION, the department of health care
10 policy and financing, and the department of corrections shall develop and
11 conduct a medication administration program as provided in this part 3.
12 A medication administration program developed pursuant to this
13 subsection (1) must be conducted within the following guidelines:"

14 Renumber succeeding sections accordingly.

15 Page 12, line 1, strike "(7) and (13)" and substitute "(7), (11) introductory
16 portion, and (13); and **repeal** (11)(g)".

17 Page 12, line 4, strike "any and all" and substitute "~~any and all~~".

18 Page 12, strike line 5 and substitute "~~behavioral health safety net~~
19 **providers**".

20 Page 12, line 6, strike "27-50-301 (5), including" and substitute
21 "~~27-50-301 (5), including~~".

1 Page 12, after line 11 insert:

2 "(11) "Comprehensive community behavioral health provider"
3 means a licensed behavioral health entity OR BEHAVIORAL HEALTH
4 PROVIDER approved by the behavioral health administration to provide
5 CARE COORDINATION AND the following behavioral health safety net
6 services, either directly or through formal agreements with behavioral
7 health providers in the community or region:

8 (g) ~~Care coordination~~."

9 Page 12, line 14, after "provide" insert "CARE COORDINATION AND".

10 Page 12, strike lines 24 and 25.

11 Reletter succeeding paragraphs accordingly.

12 Page 14, lines 4 and 5, strike "NECESSARY LANGUAGE AND CULTURAL
13 BARRIERS" and substitute "LANGUAGE, ABILITY, AND CULTURAL BARRIERS,
14 AS NECESSARY,".

15 Page 14, after line 6 insert:

16 "SECTION 19. In Colorado Revised Statutes, 27-50-402, amend
17 (2) introductory portion as follows:

18 **27-50-402. Behavioral health administrative services**
19 **organizations - application - designation - denial - revocation.** (2) The
20 commissioner shall select a behavioral health administrative services
21 organization based on factors established by BHA rules and the
22 "Procurement Code", articles 101 to 112 of title 24. THE BHA SHALL
23 REQUIRE AN APPLICANT TO FURNISH LETTERS OF SUPPORT FROM
24 STAKEHOLDERS IN THE REGION THE APPLICANT IS APPLYING TO CONTRACT
25 FOR, INCLUDING, BUT NOT LIMITED TO, COUNTY COMMISSIONERS AND
26 ADVOCACY OR COMMUNITY-BASED ORGANIZATIONS. THE LETTERS OF
27 SUPPORT MUST DEMONSTRATE THE APPLICANT'S ABILITY TO SERVE THE
28 COMMUNITY. The factors for selection must include, but are not limited
29 to, the following:

30 **SECTION 20.** In Colorado Revised Statutes, 27-50-501, amend
31 (1)(a), (1)(b) introductory portion, and (1)(c) as follows:

32 **27-50-501. Behavioral health entities - license required -**
33 **criminal and civil penalties.** (1) (a) On and after ~~July 1, 2024~~ OCTOBER
34 1, 2024, it is unlawful for any person, partnership, association, or
35 corporation to conduct or maintain a behavioral health entity, including
36 a substance use disorder program or alcohol use disorder program,

1 without having obtained a license from the BHA.

2 (b) On and after ~~July 1, 2023~~ OCTOBER 1, 2023, an entity seeking
3 initial licensure as a behavioral health entity shall apply for a behavioral
4 health entity license from the BHA if the entity would previously have
5 been licensed or subject to any of the following:

6 (c) A facility with a license or approval on or before ~~June 30,~~
7 ~~2023~~ SEPTEMBER 30, 2023, as a behavioral health entity or a substance
8 use disorder program, shall apply for a behavioral health entity license
9 prior to the expiration of the facility's current license or approval. Such
10 a facility is subject to the standards under which it is licensed or approved
11 as of ~~July 1, 2023~~ OCTOBER 1, 2023, until such time as the BHA's
12 behavioral health entity license is issued or denied.

13 **SECTION 21.** In Colorado Revised Statutes, 27-50-502, **amend**
14 (1) introductory portion as follows:

15 **27-50-502. Behavioral health entities - minimum standard -**
16 **rules.** (1) No later than ~~April 30, 2023~~ JULY 31, 2023, the BHA shall
17 promulgate rules pursuant to section 24-4-103 providing minimum
18 standards for the operation of behavioral health entities within the state,
19 including the following:

20 **SECTION 22.** In Colorado Revised Statutes, 27-50-504, **amend**
21 (1)(a) as follows:

22 **27-50-504. License fees - rules.** (1) (a) By ~~April 30, 2023~~ JULY
23 31, 2023, the commissioner shall promulgate rules establishing a schedule
24 of fees sufficient to meet the direct and indirect costs of administration
25 and enforcement of this part 5.

26 **SECTION 23.** In Colorado Revised Statutes, 27-50-505, **amend**
27 (2) as follows:

28 **27-50-505. License - denial - suspension - revocation.**
29 (2) (a) The BHA may suspend, revoke, or refuse to renew the license of
30 any behavioral health entity that is out of compliance with the
31 requirements of this part 5 or the rules promulgated pursuant to this part
32 5. Suspension, revocation, or refusal must not occur until after a hearing
33 and in compliance with the provisions and procedures specified in article
34 4 of title 24; EXCEPT THAT THE BHA MAY SUMMARILY SUSPEND A
35 BEHAVIORAL HEALTH ENTITY'S LICENSE BEFORE A HEARING IN
36 ACCORDANCE WITH SECTION 24-4-104 (4)(a).

37 (b) AFTER CONDUCTING A HEARING IN ACCORDANCE WITH ARTICLE
38 4 OF TITLE 24, THE BHA MAY REVOKE OR REFUSE TO RENEW A
39 BEHAVIORAL HEALTH ENTITY'S LICENSE IF THE OWNER, MANAGER, OR
40 ADMINISTRATOR OF THE BEHAVIORAL HEALTH ENTITY HAS BEEN
41 CONVICTED OF A FELONY OR MISDEMEANOR INVOLVING CONDUCT THAT
42 THE BHA DETERMINES COULD POSE A RISK TO THE HEALTH, SAFETY, OR
43 WELFARE OF THE BEHAVIORAL HEALTH ENTITY'S CONSUMERS."

1 Renumber succeeding sections accordingly.

2 Page 14, line 8, strike "introductory portion and (3)" and substitute "and
3 (3); and **add** (1.3) and (1.5)".

4 Page 14, line 11, strike "STRUCTURE of the advisory council" and
5 substitute "~~of the advisory council~~ STRUCTURE AS PART OF THE
6 BEHAVIORAL HEALTH ADMINISTRATIVE SERVICE ORGANIZATIONS TO
7 PROMOTE LOCAL COMMUNITY INPUT PERTAINING TO BEHAVIORAL HEALTH
8 SERVICE NEEDS. IN ESTABLISHING A REGIONAL SUBCOMMITTEE
9 STRUCTURE, THE BHA SHALL, TO THE BEST OF THE BHA'S ABILITY, ALIGN
10 GEOGRAPHICALLY WITH JUDICIAL DISTRICTS WHENEVER FEASIBLE, TAKING
11 INTO CONSIDERATION COMMUNITY FEEDBACK ON WHERE AND HOW
12 INDIVIDUALS RECEIVE SERVICES IN THEIR COMMUNITIES."

13 Page 14, line 14, strike "by the commissioner" and substitute "~~by the
14 commissioner~~".

15 Page 14, line 15, strike "~~Each~~ THE regional" and substitute "~~Each regional
16 THE~~".

17 Page 14, strike line 16 and substitute "NINE members. Membership".

18 Page 14, after line 17 insert:

19 (a) ~~At least~~ One individual with expertise in the behavioral health
20 needs of children and youth APPOINTED BY A LOCAL OR REGIONAL PUBLIC
21 HEALTH OR HUMAN SERVICE AGENCY WITHIN THE SUBCOMMITTEE'S
22 REGION;

23 (b) ~~At least~~ One individual who represents a behavioral health
24 safety net provider that operates within the region APPOINTED BY A LOCAL
25 OR REGIONAL PUBLIC HEALTH OR HUMAN SERVICE AGENCY WITHIN THE
26 SUBCOMMITTEE'S REGION; **and**

27 (c) A county commissioner of a county situated within the region
28 APPOINTED BY THE BHA;

29 (d) ONE INDIVIDUAL WITH A CONNECTION TO A KINDERGARTEN
30 THROUGH TWELFTH GRADE SCHOOL DISTRICT WITHIN THE
31 SUBCOMMITTEE'S REGION APPOINTED BY A LOCAL OR REGIONAL PUBLIC
32 HEALTH OR HUMAN SERVICE AGENCY WITHIN THE SUBCOMMITTEE'S
33 REGION;

34 (e) ONE INDIVIDUAL WITH THE CRIMINAL JUSTICE SYSTEM WITHIN
35 THE SUBCOMMITTEE'S REGION APPOINTED BY A LOCAL OR REGIONAL
36 PUBLIC HEALTH OR HUMAN SERVICE AGENCY WITHIN THE SUBCOMMITTEE'S

1 REGION;
2 (f) ONE INDIVIDUAL WITH LIVED EXPERIENCE OR A COMMUNITY
3 MEMBER WHO IS NOT ALSO A BEHAVIORAL HEALTH PROVIDER APPOINTED
4 BY A LOCAL OR REGIONAL PUBLIC HEALTH OR HUMAN SERVICE AGENCY
5 WITHIN THE SUBCOMMITTEE'S REGION;
6 (g) ONE INDIVIDUAL WITH LIVED EXPERIENCE APPOINTED BY THE
7 BHA; AND
8 (h) TWO INDIVIDUALS WITH LIVED EXPERIENCE NOT ASSOCIATED
9 WITH A BEHAVIORAL HEALTH TREATMENT PROVIDER APPOINTED BY THE
10 BEHAVIORAL HEALTH ADMINISTRATIVE SERVICE ORGANIZATION CREATED
11 PURSUANT TO PART 4 OF THIS ARTICLE 50 THAT REPRESENT THE
12 SUBCOMMITTEE'S REGION.
13 (1.3) THE REGIONAL SUBCOMMITTEE IS CREATED TO DIRECTLY
14 INFORM THE BEHAVIORAL HEALTH ADMINISTRATIVE SERVICE
15 ORGANIZATION IN THE REGION IN ORDER TO IMPROVE SERVICES,
16 ACCOUNTABILITY, AND TRANSPARENCY IN THE REGION. THE BEHAVIORAL
17 HEALTH ADMINISTRATIVE SERVICE ORGANIZATION SHALL STAFF ALL
18 SUBCOMMITTEE MEETINGS, WHICH SHALL MEET A MINIMUM OF SIX TIMES
19 A YEAR AND ALLOW FOR PUBLIC COMMENT DURING EACH MEETING. THE
20 BEHAVIORAL HEALTH ADMINISTRATIVE SERVICE ORGANIZATION SHALL
21 ENGAGE WITH THE REGIONAL SUBCOMMITTEE, AT A MINIMUM, ON THE
22 FOLLOWING AREAS:
23 (a) WHEN DETERMINING WHAT SERVICES ARE NEEDED TO
24 ESTABLISH A FULL CONTINUUM OF CARE IN THE REGION;
25 (b) WHEN ADDRESSING BARRIERS TO INDIVIDUALS ACCESSING
26 QUALITY AND TIMELY CARE IN THE REGION; AND
27 (c) NEEDED SPECIALTY SERVICES FOR PRIORITY POPULATIONS.
28 (1.5) THE BEHAVIORAL HEALTH ADMINISTRATION ADVISORY
29 COUNCIL, CREATED PURSUANT TO SECTION 27-50-701, SHALL ESTABLISH
30 A PROCESS TO RECEIVE DIRECT FEEDBACK FROM THE REGIONAL
31 SUBCOMMITTEE THROUGHOUT THE YEAR TO CONSIDER INCLUDING IN THE
32 BEHAVIORAL HEALTH ADMINISTRATION ADVISORY COUNCIL'S ANNUAL
33 REPORT REQUIRED PURSUANT TO SECTION 27-50-701 (2)(d)."

34 Page 14, after line 22 add:

35 "SECTION 25. In Colorado Revised Statutes, 27-60-105, amend
36 (2), (4)(d), (4)(e), (5), (5)(d), and (5)(e); repeal (4)(f) and (5)(f); and add
37 (4.5) and (5.5) as follows:

38 **27-60-105. Outpatient restoration to competency services -**
39 **jail-based behavioral health services - responsible entity - duties -**
40 **report - legislative declaration.** (2) The state department serves as a
41 central organizing structure and responsible entity for the provision of

1 competency restoration education services AND coordination of
2 competency restoration services ordered by the court pursuant to section
3 16-8.5-111 (2)(b) or 19-2.5-704 (2), and THE BEHAVIORAL HEALTH
4 ADMINISTRATION SERVES AS THE CENTRAL ORGANIZING STRUCTURE AND
5 RESPONSIBLE ENTITY FOR jail-based behavioral health services pursuant
6 to section 27-60-106.

7 (4) Beginning July 1, 2019, the state department has the following
8 duties and responsibilities, subject to available appropriations:

9 (d) To engage with key stakeholders in the juvenile and adult
10 justice systems to develop best practices in the delivery of competency
11 restoration services; AND

12 (e) To make recommendations for legislation. ~~and~~

13 (f) ~~To oversee the functions of the jail-based behavioral health~~
14 ~~services program created in section 27-60-106.~~

15 (4.5) BEGINNING JULY 1, 2023, SUBJECT TO AVAILABLE
16 APPROPRIATIONS, THE BEHAVIORAL HEALTH ADMINISTRATION SHALL
17 OVERSEE FUNCTIONS OF THE JAIL-BASED BEHAVIORAL HEALTH SERVICES
18 PROGRAM CREATED IN SECTION 2 27-60-106.

19 (5) Notwithstanding section 24-1-136 (11)(a)(I), on or before
20 January 1, 2019, and every January 1 thereafter, the state department shall
21 submit an annual written report to the general assembly summarizing the
22 state department's provision of competency restoration education AND its
23 efforts toward the coordination of competency restoration education with
24 other existing services ~~and the results of the jail-based behavioral health~~
25 ~~services program created in section 27-60-106.~~ The report must include:

26 (d) A description of opportunities to maximize and increase
27 available resources and funding; AND

28 (e) A description of gaps in and conflicts with existing funding,
29 services, and programming essential to the effective restoration of
30 competency for juveniles and adults; ~~and~~

31 (f) ~~A description of the services funded through the jail-based~~
32 ~~behavioral health services program created in section 27-60-106.~~

33 (5.5) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), ON OR
34 BEFORE JANUARY 1, 2024, AND EVERY JANUARY 1 THEREAFTER, THE
35 BEHAVIORAL HEALTH ADMINISTRATION SHALL SUBMIT AN ANNUAL
36 WRITTEN REPORT TO THE GENERAL ASSEMBLY SUMMARIZING THE RESULTS
37 OF THE JAIL-BASED BEHAVIORAL HEALTH SERVICES PROGRAM CREATED IN
38 SECTION 27-60-106. THE REPORT MUST INCLUDE A DESCRIPTION OF THE
39 SERVICES FUNDED THROUGH THE JAIL-BASED BEHAVIORAL HEALTH
40 SERVICES PROGRAM CREATED IN SECTION 27-60-106."

41 Renumber succeeding sections accordingly.

- 1 Page 19, line 8, strike "~~qualified professional~~" and substitute "qualified
2 ~~professional~~ PROFESSIONALS,".
- 3 Page 19, line 9, strike "personnel" and substitute "personnel,".
- 4 Page 19, after line 10 insert:
- 5 "SECTION 31. In Colorado Revised Statutes, 27-71-104, **amend**
6 (3) as follows:
- 7 **27-71-104. Mental health residential facilities - initial license**
8 **requirements - repeal.** (3) On and after ~~July 1, 2023~~ OCTOBER 1, 2023,
9 the behavioral health administration is responsible for licensing mental
10 health ~~home- and community-based waiver~~ residential facilities.".
- 11 Renumber succeeding sections accordingly.

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