

CHAPTER 48

HUMAN SERVICES - BEHAVIORAL HEALTH

HOUSE BILL 21-1097

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AN ACT

CONCERNING RECOMMENDATIONS FROM THE COLORADO BEHAVIORAL HEALTH TASK FORCE, AND, IN CONNECTION THEREWITH, ESTABLISHING A BEHAVIORAL HEALTH ADMINISTRATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 2 to article 60 of title 27 as follows:

**PART 2
BEHAVIORAL HEALTH ADMINISTRATION**

27-60-201. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) ON APRIL 8, 2019, THE COLORADO BEHAVIORAL HEALTH TASK FORCE WAS CREATED, BRINGING TOGETHER INDIVIDUALS REPRESENTING DIVERSE AND BALANCED PERSPECTIVES WITH RESPECT TO ISSUES SUCH AS ADULTS, CHILDREN, AND FAMILIES WHO ARE DEALING WITH MENTAL HEALTH OR SUBSTANCE USE ISSUES, KEY EXECUTIVE AGENCIES REPRESENTING STATE, LOCAL, AND TRIBAL GOVERNMENTS, CRIMINAL JUSTICE EXPERTS, ADVOCACY GROUPS, BEHAVIORAL HEALTH EXPERTS, AND CONSUMERS;

(b) THE MISSION OF THE BEHAVIORAL HEALTH TASK FORCE WAS TO EVALUATE AND CREATE A PLAN TO IMPROVE THE CURRENT BEHAVIORAL HEALTH SYSTEM IN COLORADO;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(c) THE BEHAVIORAL HEALTH TASK FORCE FOCUSED ON CREATING A BEHAVIORAL HEALTH SYSTEM THAT INCLUDES EQUITABLE ACCESS TO WHOLE-PERSON CARE;

(d) IN SEPTEMBER 2020, THE BEHAVIORAL HEALTH TASK FORCE RELEASED ITS BLUEPRINT, SUBCOMMITTEE, AND COVID-19 SPECIAL COMMITTEE REPORTS THAT OUTLINE ITS VISION FOR BEHAVIORAL HEALTH REFORM; AND

(e) THE FINDINGS AND RECOMMENDATIONS OF THE TASK FORCE INDICATE THAT IT IS IMPERATIVE THAT AN IMPROVED BEHAVIORAL HEALTH SYSTEM IN COLORADO:

(I) PROVIDE EQUITABLE AND MEANINGFUL ACCESS TO SERVICES AND CARE FOR COLORADANS, REGARDLESS OF ABILITY TO PAY, CO-OCCURRING CONDITIONS, DISABILITY, LINGUISTICS, GEOGRAPHIC LOCATION, RACIAL OR ETHNIC IDENTITY, RELIGION, SOCIOECONOMIC STATUS, SEXUAL ORIENTATION, AGE, GENDER IDENTITY, HOUSING STATUS, HISTORY OF CRIMINAL JUSTICE INVOLVEMENT, PAYER SOURCE, CULTURE, OR ANY OTHER FACTOR;

(II) PROVIDE ACCESS TO CARE THAT:

(A) INTEGRATES PHYSICAL AND BEHAVIORAL HEALTH;

(B) IS CULTURALLY AND LINGUISTICALLY RESPONSIVE, TRAUMA-INFORMED, AND TAILORED TO THE INDIVIDUAL AND SPECIFIC FAMILY NEEDS; AND

(C) PRIORITIZES ALL ASPECTS OF HEALTH, INCLUDING WELLNESS, AND EARLY INTERVENTIONS AND SUPPORTS THAT HELP PEOPLE STAY SUCCESSFULLY AND MEANINGFULLY CONNECTED TO THE COMMUNITY WHERE THEY LIVE, WORK, AND PLAY;

(III) PROVIDES A CONTINUUM OF SERVICES FOR CHILDREN, YOUTH, AND ADULTS, INCLUDING MEETING THE UNIQUE NEEDS OF CHILDREN AND YOUTH. YOUNG PEOPLE HAVE DIFFERENT NEEDS THAN ADULTS AND SHOULD BE OFFERED DEVELOPMENTALLY APPROPRIATE AND CULTURALLY COMPETENT SERVICES.

(IV) PROVIDES ACCESS TO QUALITY AND AFFORDABLE SERVICES IN A VARIETY OF METHODS, INCLUDING IN-PERSON AND VIRTUAL SERVICES;

(V) PROVIDES ACCESS TO BEHAVIORAL HEALTH SERVICES IN REGIONS AND COMMUNITIES WITHOUT NECESSITATING ENGAGEMENT WITH THE CRIMINAL OR JUVENILE JUSTICE SYSTEMS;

(VI) PROVIDES COLORADANS WITH ACCESS TO AFFORDABLE CARE THAT KEEPS THEM HEALTHY, AND ADMINISTRATIVE EFFICIENCIES ACROSS THE BEHAVIORAL HEALTH CARE INDUSTRY ALIGN WITH PAYMENT MODELS AND INCENTIVES THAT DRIVE QUALITY AND IMPROVED OUTCOMES;

(VII) INCLUDES A HIGH-QUALITY, TRAINED, CULTURALLY RESPONSIVE, TRAUMA-INFORMED, AND DIVERSE PROFESSIONAL BEHAVIORAL HEALTH WORKFORCE THAT DELIVERS OUTCOMES AND EQUITABLE ACCESS TO CARE; AND

(VIII) PROVIDES COLORADANS WITH AN OPPORTUNITY TO ACHIEVE AND

MAINTAIN MENTAL WELLNESS BY ADDRESSING SOCIAL DETERMINANTS OF HEALTH, SUCH AS HOUSING, TRANSPORTATION, AND EMPLOYMENT, IN ADDITION TO THE INTEGRATION OF PHYSICAL AND BEHAVIORAL HEALTH CARE.

(2) THE GENERAL ASSEMBLY FURTHER FINDS THAT IN IMPLEMENTING THE FINDINGS AND RECOMMENDATIONS OF THE COLORADO BEHAVIORAL HEALTH TASK FORCE IT IS IMPERATIVE TO RELY ON ALL STAKEHOLDERS WORKING TOGETHER TO HOLD THE BEHAVIORAL HEALTH SYSTEM ACCOUNTABLE TO ENSURE ALL COLORADANS ARE RECEIVING THE CARE NEEDED TO FULFILL THE TASK FORCE'S AIM OF ENSURING A QUALITY BEHAVIORAL HEALTH SYSTEM.

(3) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT, TO ENSURE A STANDARD OF HIGH-QUALITY, INTEGRATED, AND CONSUMER-CENTRIC ACCESS TO BEHAVIORAL HEALTH CARE SERVICES, IT IS IMPERATIVE THAT THE RECOMMENDATIONS AND FINDINGS INCLUDED IN THE BLUEPRINT CREATED BY THE COLORADO BEHAVIORAL HEALTH TASK FORCE BE FOLLOWED AND THAT A SINGLE STATE AGENCY, KNOWN AS THE BEHAVIORAL HEALTH ADMINISTRATION, BE ESTABLISHED TO LEAD AND PROMOTE THE STATE'S BEHAVIORAL HEALTH PRIORITIES. IT IS IMPERATIVE THAT THE BEHAVIORAL HEALTH ADMINISTRATION TRANSFORM THE STATE'S CURRENT BEHAVIORAL HEALTH SYSTEM BY:

(a) COORDINATING AND INTEGRATING THE DELIVERY OF BEHAVIORAL HEALTH SERVICES IN COLORADO;

(b) SETTING STANDARDS FOR THE BEHAVIORAL HEALTH SYSTEM TO IMPROVE THE QUALITY AND EQUITY OF CARE;

(c) ENSURING THAT BEHAVIORAL HEALTH SERVICES RESPOND TO THE CHANGING NEEDS OF COMMUNITIES, MONITOR STATE AND LOCAL OUTCOMES, SUPPORT TRIBAL NEEDS, AND EVALUATE STATE EFFORTS;

(d) IMPROVING EQUITABLE ACCESS TO, QUALITY OF, AND AFFORDABILITY OF BEHAVIORAL HEALTH SERVICES FOR COLORADANS;

(e) PRESERVING AND BUILDING UPON THE INTEGRATION OF BEHAVIORAL AND PHYSICAL HEALTH CARE THAT TREATS THE WHOLE PERSON;

(f) LEADING AND PROMOTING COLORADO'S PRIORITY OF ADDRESSING THE INCREASING NEED FOR BEHAVIORAL HEALTH SERVICES;

(g) ELIMINATING UNNECESSARY FRAGMENTATION OF SERVICES AND STREAMLINING ACCESS;

(h) ADDRESSING SOCIAL DETERMINANTS OF HEALTH AS A CORE COMPONENT OF BEHAVIORAL HEALTH OUTCOMES;

(i) PROMOTING TRANSPARENCY AND ACCOUNTABILITY OF BEHAVIORAL HEALTH REFORM OUTCOMES AND SPENDING OF TAXPAYER DOLLARS; AND

(j) REDUCING ADMINISTRATIVE BURDEN ON BEHAVIORAL HEALTH CARE PROVIDERS SO THEY ARE ABLE TO FOCUS ON CLIENT CARE.

27-60-202. Definitions. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BEHAVIORAL HEALTH" HAS THE SAME MEANING AS SET FORTH IN SECTION 27-60-100.3.

(2) "BEHAVIORAL HEALTH ADMINISTRATION" OR "BHA" MEANS THE BEHAVIORAL HEALTH ADMINISTRATION ESTABLISHED IN SECTION 27-60-203.

(3) "PLAN" MEANS THE PROPOSED PLAN, AS DESCRIBED IN SECTION 27-60-203, FOR THE CREATION OF THE BEHAVIORAL HEALTH ADMINISTRATION.

(4) "STATE DEPARTMENT" MEANS THE STATE DEPARTMENT OF HUMAN SERVICES CREATED PURSUANT TO SECTION 26-1-105.

27-60-203. Behavioral health administration - plan for creation - proposed duties - timeline. (1) (a) ON OR BEFORE NOVEMBER 1, 2021, BASED ON THE SEPTEMBER 2020 RECOMMENDATIONS FROM THE COLORADO BEHAVIORAL HEALTH TASK FORCE, THE STATE DEPARTMENT SHALL DEVELOP A PLAN FOR THE CREATION OF THE BEHAVIORAL HEALTH ADMINISTRATION. THE PLAN MUST INCLUDE STRATEGIES TO STREAMLINE AND IMPROVE EFFORTS THAT ADDRESS BEHAVIORAL HEALTH NEEDS IN THE STATE AND REDUCE BEHAVIORAL HEALTH DISPARITIES.

(b) THE STATE DEPARTMENT SHALL SOLICIT FEEDBACK FROM AND ENGAGE WITH DEMOGRAPHICALLY DIVERSE COMMUNITY STAKEHOLDERS IN THE DEVELOPMENT OF THE PLAN DESCRIBED IN THIS SECTION. THIS INCLUDES, BUT IS NOT LIMITED TO, DIRECT ENGAGEMENT OF CONSUMERS AND CONSUMERS' ADVOCATES, COUNTY GOVERNMENTS, MUNICIPAL GOVERNMENTS, TRIBAL GOVERNMENTS, MANAGED SERVICE ORGANIZATIONS, HEALTH CARE PROVIDERS, MANAGED CARE ENTITIES, INSURANCE CARRIERS, COMMUNITY MENTAL HEALTH CENTERS, AND SUBSTANCE USE DISORDER SERVICES PROVIDERS.

(c) ON OR BEFORE NOVEMBER 1, 2021, THE STATE DEPARTMENT SHALL PROVIDE THE PLAN AS A WRITTEN REPORT TO THE JOINT BUDGET COMMITTEE, THE PUBLIC AND BEHAVIORAL AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES.

(2) THE PLAN MUST INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING:

(a) RECOMMENDATIONS FOR FUNDING AND LEGISLATION NECESSARY TO APPROPRIATELY IMPLEMENT THE PLAN AND ADDRESS INITIAL START-UP AS WELL AS ONGOING OPERATIONAL COSTS FOR THE BHA;

(b) A LIST AND DESCRIPTION OF WHICH STATE PROGRAMS, BOTH STATUTORY AND NONSTATUTORY, ALONG WITH THE ASSOCIATED FUNDING STREAMS AND PERSONNEL, THAT SHOULD BE INCLUDED OR MANAGED BY THE BHA. THE LIST MUST SPECIFICALLY ADDRESS ALL THE FUNCTIONS CURRENTLY OVERSEEN BY THE OFFICE OF BEHAVIORAL HEALTH IN THE STATE DEPARTMENT OF HUMAN SERVICES.

(c) THE GOVERNANCE STRUCTURE OF THE BHA, INCLUDING A RECOMMENDATION

FOR INFRASTRUCTURE WITHIN ANY GOVERNANCE STRUCTURE TO OVERSEE AND BE ACCOUNTABLE FOR POLICY, STRATEGY, AND SERVICES FOR ALL CHILDREN AND YOUTH;

(d) POTENTIAL OPPORTUNITIES FOR COLLABORATION WITH LOCAL MUNICIPALITIES, COUNTIES, AND TRIBES;

(e) RECOMMENDATIONS FOR A PLAN OF ACTION REGARDING GRIEVANCES, APPEALS, AND OMBUDSMAN SERVICES WITHIN THE BHA;

(f) A DATA INTEGRATION PLAN TO CREATE A DATA AND INFORMATION SHARING AND LEGAL FRAMEWORK TO SUPPORT AN AGREED-UPON APPROACH AND SPECIFIC USE CASE FOR INFORMATION SHARING THAT LEVERAGES EXISTING INFRASTRUCTURE, SUCH AS HEALTH INFORMATION EXCHANGES, REUSABLE ARCHITECTURE, AND DATA STANDARDS TO ENABLE AND ADVANCE COORDINATED CARE AND SERVICES AND BEHAVIORAL HEALTH EQUITY WHILE MAINTAINING TRIBAL SOVEREIGNTY;

(g) A DESCRIPTION OF HOW THE BHA WILL ENSURE THE AVAILABILITY OF SERVICES AND ESTABLISH A STANDARD OF CARE ACROSS COLORADO; AND

(h) SPECIFIC RECOMMENDATIONS AS FOLLOWS:

(I) RECOMMENDATIONS FOR THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, DEVELOPED IN COLLABORATION WITH COMMUNITY STAKEHOLDERS, ON HOW MEDICAL ASSISTANCE PROGRAMS FOR BEHAVIORAL HEALTH SHOULD BE ALIGNED OR INTEGRATED WITH THE BHA IN SUCH A WAY THAT CONSUMERS OF BEHAVIORAL HEALTH SERVICES HAVE SEAMLESS ACCESS TO NEEDED SERVICES REGARDLESS OF PAYER. THE RECOMMENDATIONS MUST INCLUDE A DESCRIPTION OF HOW THE BHA WILL ENSURE THAT ACCESS TO SERVICES DEEMED MEDICALLY NECESSARY PURSUANT TO THE EARLY AND PERIOD SCREENING, DIAGNOSTIC, AND TREATMENT BENEFIT IS ARRANGED FOR ELIGIBLE CHILDREN AND YOUTH.

(II) RECOMMENDATIONS FOR THE DIVISION OF INSURANCE WITHIN THE DEPARTMENT OF REGULATORY AGENCIES, DEVELOPED IN COLLABORATION WITH THE COMMUNITY STAKEHOLDERS, CONCERNING HOW PRIVATE INSURANCE EFFORTS THAT ARE SPECIFIC TO BEHAVIORAL HEALTH SHOULD BE ALIGNED OR INTEGRATED WITH THE BHA; AND

(III) RECOMMENDATIONS FOR THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, DEVELOPED IN COLLABORATION WITH THE COMMUNITY STAKEHOLDERS, CONCERNING HOW PREVENTION AND PREVENTIVE SERVICES SHOULD BE ALIGNED OR INTEGRATED WITH THE BHA AND THE EXTENT TO WHICH THE BHA WILL ENGAGE IN POPULATION HEALTH.

(3) THE DUTIES OF THE BHA, ONCE ESTABLISHED AND FULLY OPERATIONAL, MUST INCLUDE, BUT ARE NOT LIMITED TO:

(a) SERVING AS THE SINGLE STATE AGENCY RESPONSIBLE FOR STATE BEHAVIORAL HEALTH PROGRAMS THAT WERE IDENTIFIED AS APPROPRIATE TO TRANSITION INTO THE BHA;

(b) RECEIVING, COORDINATING, AND DISTRIBUTING APPROPRIATE COMMUNITY BEHAVIORAL HEALTH FUNDING THROUGHOUT THE STATE;

(c) MONITORING, EVALUATING, AND REPORTING BEHAVIORAL HEALTH OUTCOMES ACROSS THE STATE AND WITHIN VARIOUS JURISDICTIONS, WHILE MAINTAINING TRIBAL SOVEREIGNTY; AND

(d) PROMOTING A BEHAVIORAL HEALTH SYSTEM THAT SUPPORTS A WHOLE-PERSON APPROACH TO ENSURE COLORADANS HAVE THE BEST CHANCE TO ACHIEVE AND MAINTAIN WELLNESS. THIS APPROACH INCLUDES:

(I) PROMOTING AN INTEGRATED APPROACH TO MENTAL HEALTH AND SUBSTANCE USE TREATMENT;

(II) STRENGTHENING THE INTEGRATION OF BEHAVIORAL AND PHYSICAL CARE;

(III) ENHANCING PROGRAMMATIC AND FUNDING OPPORTUNITIES IN SUPPORT OF THE OVERALL WELL-BEING OF THE INDIVIDUAL OR FAMILY;

(IV) PROMOTING CULTURALLY RESPONSIVE, TRAUMA-INFORMED, AND EQUITABLE BEHAVIORAL HEALTH CARE; AND

(V) PROMOTING COORDINATION OF SUPPORTIVE SERVICES OUTSIDE OF THE BEHAVIORAL HEALTH SYSTEM TO ADDRESS SOCIAL DETERMINANTS OF HEALTH, AND TO CONNECT PEOPLE TO SERVICES SUCH AS HOUSING, TRANSPORTATION, AND EMPLOYMENT.

(4) THE STATE DEPARTMENT SHALL WORK COLLABORATIVELY WITH THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, COMMUNITY STAKEHOLDERS, AND OTHER STATE DEPARTMENTS, AS APPROPRIATE, TO PROMULGATE RULES FOR THE BHA TO PROVIDE ADEQUATE OVERSIGHT OF THE QUALITY OF SERVICES AND SET STANDARDS OF CARE FOR SERVICES FOR ADULTS AS WELL AS CHILDREN AND YOUTH.

(5) (a) ON OR BEFORE JULY 1, 2022, THE BEHAVIORAL HEALTH ADMINISTRATION IS ESTABLISHED IN THE STATE DEPARTMENT. DURING THE TIME IT TAKES FOR THE BHA TO BECOME FULLY OPERATIONAL, IT REMAINS A PART OF THE STATE DEPARTMENT UNTIL A DETERMINATION IS MADE BY THE GENERAL ASSEMBLY CONCERNING THE DEPARTMENT IT WILL BE PERMANENTLY LOCATED IN.

(b) ON OR BEFORE NOVEMBER 1, 2024, THE STATE DEPARTMENT SHALL PROVIDE A REPORT TO THE JOINT BUDGET COMMITTEE, THE PUBLIC AND BEHAVIORAL HEALTH AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, CONCERNING RECOMMENDATIONS ON WHETHER THE BHA SHOULD REMAIN IN THE STATE DEPARTMENT OR BE TRANSFERRED TO A DIFFERENT DEPARTMENT WITHIN THE STATE.

(c) IF THE GENERAL ASSEMBLY TAKES NO ADDITIONAL LEGISLATIVE ACTION ON OR BEFORE JUNE 30, 2025, THE BHA WILL REMAIN IN THE STATE DEPARTMENT.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: April 22, 2021