

CHAPTER 295

HUMAN SERVICES - MENTAL HEALTH

SENATE BILL 10-153

BY SENATOR(S) Boyd, Hudak, Keller, Morse, Newell, Romer, Steadman, Williams;
also REPRESENTATIVE(S) Frangas, Casso, Fischer, Labuda, Middleton, Riesberg, Solano, Todd, Tyler.

AN ACT**CONCERNING BEHAVIORAL HEALTH TRANSFORMATION.**

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

SECTION 1. Title 27, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE 64
Behavioral Health**

27-64-101. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(a) THERE IS AN URGENT NEED TO ADDRESS THE ECONOMIC, SOCIAL, AND PERSONAL COSTS TO THE STATE OF COLORADO AND ITS CITIZENS OF UNTREATED MENTAL HEALTH AND SUBSTANCE USE DISORDERS;

(b) BEHAVIORAL HEALTH DISORDERS, INCLUDING MENTAL HEALTH AND SUBSTANCE USE DISORDERS, ARE TREATABLE CONDITIONS NOT UNLIKE OTHER CHRONIC HEALTH ISSUES THAT REQUIRE A COMBINATION OF BEHAVIORAL CHANGE AND MEDICATION OR OTHER TREATMENT. WHEN INDIVIDUALS RECEIVE APPROPRIATE PREVENTION, EARLY INTERVENTION, TREATMENT, AND RECOVERY SERVICES, THEY CAN LIVE FULL, PRODUCTIVE LIVES.

(c) UNTREATED BEHAVIORAL HEALTH DISORDERS PLACE INDIVIDUALS AT HIGH RISK FOR POOR HEALTH OUTCOMES AND SIGNIFICANTLY IMPACT VIRTUALLY ALL ASPECTS OF LOCAL AND STATE GOVERNMENT BY REDUCING FAMILY STABILITY, STUDENT ACHIEVEMENT, WORKFORCE PRODUCTIVITY, AND PUBLIC SAFETY;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(d) CURRENTLY, THERE IS NO SINGLE BEHAVIORAL HEALTH CARE SYSTEM IN COLORADO. INSTEAD, CONSUMERS OF ALL AGES WITH BEHAVIORAL HEALTH DISORDERS RECEIVE SERVICES FROM A NUMBER OF DIFFERENT SYSTEMS, INCLUDING THE HEALTH CARE, BEHAVIORAL HEALTH CARE, CHILD WELFARE, JUVENILE AND CRIMINAL JUSTICE, EDUCATION, AND HIGHER EDUCATION SYSTEMS.

(e) ADULT AND YOUTH CONSUMERS AND THEIR FAMILIES NEED QUALITY BEHAVIORAL HEALTH CARE THAT IS INDIVIDUALIZED AND COORDINATED TO MEET THEIR CHANGING NEEDS THROUGH A COMPREHENSIVE AND INTEGRATED SYSTEM;

(f) TIMELY ACCESS THROUGH MULTIPLE POINTS OF ENTRY TO A FULL CONTINUUM OF CULTURALLY RESPONSIVE SERVICES, INCLUDING PREVENTION, EARLY INTERVENTION, CRISIS RESPONSE, TREATMENT, AND RECOVERY, IS NECESSARY FOR AN EFFECTIVE INTEGRATED SYSTEM;

(g) EVIDENCE-BASED AND PROMISING PRACTICES RESULT IN FAVORABLE OUTCOMES FOR COLORADO'S ADULT AND YOUTH CONSUMERS, THEIR FAMILIES, AND THE COMMUNITIES IN WHICH THEY LIVE;

(h) LACK OF PUBLIC AWARENESS REGARDING BEHAVIORAL HEALTH ISSUES CREATES A NEED FOR PUBLIC EDUCATION THAT EMPHASIZES THE IMPORTANCE OF BEHAVIORAL HEALTH AS PART OF OVERALL HEALTH AND WELLNESS AND CREATES THE DESIRE TO INVEST IN AND SUPPORT AN INTEGRATED BEHAVIORAL HEALTH SYSTEM IN COLORADO;

(i) TO REDUCE THE ECONOMIC AND SOCIAL COSTS OF UNTREATED BEHAVIORAL HEALTH DISORDERS, COLORADO NEEDS A SYSTEMIC TRANSFORMATION OF THE BEHAVIORAL HEALTH SYSTEM THROUGH WHICH TRANSFORMATION THE STATE STRIVES TO ACHIEVE CRITICAL GOALS TO ADDRESS MENTAL HEALTH AND SUBSTANCE USE DISORDERS; AND

(j) THE OVERARCHING GOAL OF THIS BEHAVIORAL HEALTH SYSTEM TRANSFORMATION SHALL BE TO MAKE THE BEHAVIORAL HEALTH SYSTEM'S ADMINISTRATIVE PROCESSES, SERVICE DELIVERY, AND FUNDING MORE EFFECTIVE AND EFFICIENT TO IMPROVE OUTCOMES FOR COLORADO CITIZENS.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT, TO IMPROVE THE QUALITY OF LIFE FOR THE CITIZENS OF COLORADO, STRENGTHEN THE ECONOMY, AND CONTINUE THE RESPONSIBLE MANAGEMENT OF THE STATE'S RESOURCES, THE LEADERSHIP OF THE THREE BRANCHES OF COLORADO'S STATE GOVERNMENT AND THE STAKEHOLDERS MOST AFFECTED BY MENTAL HEALTH AND SUBSTANCE USE DISORDERS MUST COLLABORATE TO BUILD ON THE PROGRESS OF PAST EFFORTS AND TO SUSTAIN A FOCUS ON THE IMPROVEMENT OF BEHAVIORAL HEALTH SERVICES.

27-64-102. Behavioral health transformation council - creation - duties - sunset review - repeal. (1) THE GOVERNOR SHALL DESIGNATE A GROUP OF HIS OR HER CABINET MEMBERS INCLUDING, BUT NOT LIMITED TO, THE COMMISSIONER OF EDUCATION, THE EXECUTIVE DIRECTOR OR CHIEF MEDICAL OFFICER OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND THE EXECUTIVE DIRECTORS OF THE DEPARTMENTS OF CORRECTIONS, HEALTH CARE POLICY AND

FINANCING, HUMAN SERVICES, LABOR AND EMPLOYMENT, LOCAL AFFAIRS, AND PUBLIC SAFETY TO OVERSEE THE SYSTEMIC TRANSFORMATION OF THE BEHAVIORAL HEALTH SYSTEM.

(2) (a) ON OR BEFORE AUGUST 1, 2010, THE GOVERNOR SHALL CREATE A BEHAVIORAL HEALTH TRANSFORMATION COUNCIL, REFERRED TO IN THIS SECTION AS THE "COUNCIL", TO ADVISE HIS OR HER CABINET ON TRANSFORMING THE BEHAVIORAL HEALTH SYSTEM IN COLORADO. ON OR BEFORE AUGUST 1, 2010, THE GOVERNOR SHALL DESIGNATE AN EXECUTIVE BRANCH DEPARTMENT TO SERVE AS THE LEAD DEPARTMENT TO FACILITATE THE COUNCIL'S WORK. IN CONSULTATION WITH THE GOVERNOR, THE LEAD AGENCY SHALL DETERMINE THE APPROPRIATE MEMBERSHIP, TENURE, AND OPERATING PROTOCOLS OF THE COUNCIL.

(b) THE COUNCIL MEMBERSHIP SHALL INCLUDE THE FOLLOWING:

(I) REPRESENTATIVES FROM EXECUTIVE BRANCH AGENCIES THAT FUND OR SERVE CLIENTS WHO USE THE BEHAVIORAL HEALTH SYSTEM, INCLUDING BUT NOT LIMITED TO THE DEPARTMENTS OF CORRECTIONS, EDUCATION, HEALTH CARE POLICY AND FINANCING, HUMAN SERVICES, LABOR AND EMPLOYMENT, LOCAL AFFAIRS, PUBLIC HEALTH AND ENVIRONMENT, AND PUBLIC SAFETY;

(II) AT LEAST TWO REPRESENTATIVES FROM THE JUDICIAL BRANCH, APPOINTED BY THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT;

(III) TWO REPRESENTATIVES FROM THE HOUSE OF REPRESENTATIVES, ONE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ONE APPOINTED BY THE MINORITY LEADER, WITH PREFERENCE GIVEN TO MEMBERS FAMILIAR WITH RECENT AUDIT ISSUES REGARDING BEHAVIORAL HEALTH SERVICES;

(IV) TWO REPRESENTATIVES FROM THE SENATE, ONE APPOINTED BY THE PRESIDENT OF THE SENATE AND ONE APPOINTED BY THE MINORITY LEADER;

(V) ONE REPRESENTATIVE FROM THE GOVERNOR'S OFFICE OF INFORMATION TECHNOLOGY; AND

(VI) AT LEAST TEN REPRESENTATIVES, RECOMMENDED BY THE LEAD AGENCY IN CONSULTATION WITH THE COUNCIL, FROM ANY GROUP OR COMMITTEE THAT ACTIVELY PARTICIPATED IN THE BEHAVIORAL HEALTH TRANSFORMATION GRANT IN 2009-2010, AND WHICH SHALL INCLUDE CONSUMERS OR ENTITIES REPRESENTING CONSUMERS OF BEHAVIORAL HEALTH SERVICES.

(c) ON OR BEFORE JANUARY 30, 2011, AND ON OR BEFORE JANUARY 30 EACH YEAR THEREAFTER, THE LEAD AGENCY SHALL BRIEF THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, AND THE STATE COURT ADMINISTRATOR'S OFFICE ON THE ACTIVITIES AND PROGRESS OF THE COUNCIL TOWARD ACHIEVING THE GOALS OF A TRANSFORMATION OF COLORADO'S BEHAVIORAL HEALTH SYSTEM.

(3) THE COUNCIL SHALL HAVE THE FOLLOWING DUTIES AND FUNCTIONS:

(a) TO DEVELOP A STRATEGIC PRIORITIZATION, PLANNING, AND IMPLEMENTATION

PROCESS TO ADVISE THE GOVERNOR'S CABINET ON TRANSFORMING COLORADO'S BEHAVIORAL HEALTH SYSTEM. THE COUNCIL SHALL WORK TOWARD THE FOLLOWING GOALS ASSOCIATED WITH A COMPREHENSIVE, EFFICIENT, EFFECTIVE, AND INTEGRATED BEHAVIORAL HEALTH SYSTEM:

(I) DEVELOPING SHARED OUTCOMES ACROSS KEY SYSTEMS TO ENABLE JOINT ACCOUNTABILITY, IMPROVE SERVICES, AND INCREASE RECOVERY, SELF-SUFFICIENCY, AND ECONOMIC OPPORTUNITY;

(II) ALIGNING SERVICE AREAS ACROSS SYSTEMS TO PROMOTE EQUITABLE AND TIMELY ACCESS TO A FULL CONTINUUM OF SERVICES THROUGHOUT COLORADO, TO THE EXTENT FEASIBLE;

(III) ESTABLISHING JOINT MONITORING ACROSS SYSTEMS TO ENSURE ACCOUNTABILITY FOR COMMON OUTCOMES AND TO REDUCE THE ADMINISTRATIVE BURDEN ASSOCIATED WITH SERVICE PROVISION;

(IV) CREATING INTEGRATED BEHAVIORAL HEALTH POLICIES AND RULES TO ALIGN WITH INTEGRATED SERVICE DELIVERY;

(V) FINANCING REFORM TO MAXIMIZE AND EFFICIENTLY UTILIZE FUNDS;

(VI) UTILIZING ELECTRONIC HEALTH RECORDS OR OTHER TECHNOLOGY, SHARED SCREENING TOOLS, ASSESSMENTS, AND EVALUATIONS IN COMPLIANCE WITH FEDERAL AND STATE CONFIDENTIALITY AND PRIVACY LAWS;

(VII) ADOPTING CONSISTENT CROSS-SYSTEM STANDARDS FOR CULTURAL CONGRUENCE AND FOR YOUTH, ADULT, AND FAMILY INVOLVEMENT;

(VIII) PROMOTING AND UTILIZING EVIDENCE-BASED AND PROMISING PRACTICES TO THE EXTENT POSSIBLE;

(IX) CREATING WORKFORCE-DEVELOPMENT STRATEGIES REQUIRED FOR AN INTEGRATED BEHAVIORAL HEALTH SYSTEM; AND

(X) DEVELOPING A COMPREHENSIVE BEHAVIORAL HEALTH SERVICE SYSTEM THAT INCLUDES SERVICES TO PERSONS WITH MENTAL ILLNESS, ADDICTIONS, DISABILITIES, AND CO-OCCURRING ISSUES;

(b) TO MAKE RECOMMENDATIONS TO THE CABINET THAT ENCOURAGE AND PROMOTE COLLABORATION, PARTNERSHIPS, AND INNOVATION ACROSS GOVERNMENTAL AGENCIES AND OTHER AGENCIES IN THE BUDGETING, PLANNING, ADMINISTRATION, AND PROVISION OF BEHAVIORAL HEALTH SERVICES ASSOCIATED WITH THE GOALS ABOVE; AND

(c) TO COORDINATE AND CONSOLIDATE THE COUNCIL'S EFFORTS WITH THE EFFORTS OF OTHER GROUPS THAT ARE WORKING ON BEHAVIORAL HEALTH ISSUES TO INCREASE THE EFFECTIVENESS AND EFFICIENCY OF THESE EFFORTS.

(4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2020. PRIOR TO SUCH REPEAL, THE COUNCIL SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

SECTION 2. 2-3-1203 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(gg) JULY 1, 2020:

(I) THE BEHAVIORAL HEALTH TRANSFORMATION COUNCIL, CREATED IN SECTION 27-64-102, C.R.S.

SECTION 3. 25.5-5-411, Colorado Revised Statutes, is amended to read:

25.5-5-411. Medicaid community mental health services - legislative declaration - administration - rules. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(a) THERE IS AN URGENT NEED TO ADDRESS THE ECONOMIC, SOCIAL, AND PERSONAL COSTS TO THE STATE OF COLORADO AND ITS CITIZENS OF UNTREATED MENTAL HEALTH AND SUBSTANCE USE DISORDERS;

(b) BEHAVIORAL HEALTH DISORDERS, INCLUDING MENTAL HEALTH AND SUBSTANCE USE DISORDERS, ARE TREATABLE CONDITIONS NOT UNLIKE OTHER CHRONIC HEALTH ISSUES THAT REQUIRE A COMBINATION OF BEHAVIORAL CHANGE AND MEDICATION OR OTHER TREATMENT. WHEN INDIVIDUALS RECEIVE APPROPRIATE PREVENTION, EARLY INTERVENTION, TREATMENT, AND RECOVERY SERVICES, THEY CAN LIVE FULL, PRODUCTIVE LIVES.

(c) UNTREATED BEHAVIORAL HEALTH DISORDERS PLACE INDIVIDUALS AT HIGH RISK FOR POOR HEALTH OUTCOMES AND SIGNIFICANTLY AFFECT VIRTUALLY ALL ASPECTS OF LOCAL AND STATE GOVERNMENT BY REDUCING FAMILY STABILITY, STUDENT ACHIEVEMENT, WORKFORCE PRODUCTIVITY, AND PUBLIC SAFETY;

(d) CURRENTLY, THERE IS NO SINGLE BEHAVIORAL HEALTH CARE SYSTEM IN COLORADO. INSTEAD, CONSUMERS OF ALL AGES WITH BEHAVIORAL HEALTH DISORDERS RECEIVE SERVICES FROM A NUMBER OF DIFFERENT SYSTEMS, INCLUDING THE HEALTH CARE, BEHAVIORAL HEALTH CARE, CHILD WELFARE, JUVENILE AND CRIMINAL JUSTICE, EDUCATION, AND HIGHER EDUCATION SYSTEMS.

(e) ADULT AND YOUTH CONSUMERS AND THEIR FAMILIES NEED QUALITY BEHAVIORAL HEALTH CARE THAT IS INDIVIDUALIZED AND COORDINATED TO MEET THEIR CHANGING NEEDS THROUGH A COMPREHENSIVE AND INTEGRATED SYSTEM;

(f) TIMELY ACCESS THROUGH MULTIPLE POINTS OF ENTRY TO A FULL CONTINUUM OF CULTURALLY RESPONSIVE SERVICES, INCLUDING PREVENTION, EARLY INTERVENTION, CRISIS RESPONSE, TREATMENT, AND RECOVERY, IS NECESSARY FOR AN EFFECTIVE INTEGRATED SYSTEM;

(g) EVIDENCE-BASED AND PROMISING PRACTICES RESULT IN FAVORABLE OUTCOMES FOR COLORADO'S ADULT AND YOUTH CONSUMERS, THEIR FAMILIES, AND

THE COMMUNITIES IN WHICH THEY LIVE;

(h) LACK OF PUBLIC AWARENESS REGARDING BEHAVIORAL HEALTH ISSUES CREATES A NEED FOR PUBLIC EDUCATION THAT EMPHASIZES THE IMPORTANCE OF BEHAVIORAL HEALTH AS PART OF OVERALL HEALTH AND WELLNESS AND CREATES THE DESIRE TO INVEST IN AND SUPPORT AN INTEGRATED BEHAVIORAL HEALTH SYSTEM IN COLORADO;

(i) TO REDUCE THE ECONOMIC AND SOCIAL COSTS OF UNTREATED BEHAVIORAL HEALTH DISORDERS, COLORADO NEEDS A SYSTEMIC TRANSFORMATION OF THE BEHAVIORAL HEALTH SYSTEM THROUGH WHICH TRANSFORMATION THE STATE STRIVES TO ACHIEVE CRITICAL GOALS TO ADDRESS MENTAL HEALTH AND SUBSTANCE USE DISORDERS; AND

(j) THE OVERARCHING GOAL OF THIS BEHAVIORAL HEALTH SYSTEM TRANSFORMATION SHALL BE TO MAKE THE BEHAVIORAL HEALTH SYSTEM'S ADMINISTRATIVE PROCESSES, SERVICE DELIVERY, AND FUNDING MORE EFFECTIVE AND EFFICIENT TO IMPROVE OUTCOMES FOR COLORADO CITIZENS.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT, TO IMPROVE THE QUALITY OF LIFE FOR THE CITIZENS OF COLORADO, STRENGTHEN THE ECONOMY, AND CONTINUE THE RESPONSIBLE MANAGEMENT OF THE STATE'S RESOURCES, THE LEADERSHIP OF THE THREE BRANCHES OF COLORADO'S STATE GOVERNMENT AND THE STAKEHOLDERS MOST AFFECTED BY MENTAL HEALTH AND SUBSTANCE USE DISORDERS MUST COLLABORATE TO BUILD ON THE PROGRESS OF PAST EFFORTS AND TO SUSTAIN A FOCUS ON THE IMPROVEMENT OF BEHAVIORAL HEALTH SERVICES.

~~(1)~~ (3) Except as provided for in ~~subsection (3)~~ SUBSECTION (6) of this section, the state department shall administer all medicaid community mental health services for medical assistance recipients including but not limited to the prepaid capitated single entry point system for mental health services, the fee-for-service mental health services, and alternatives to institutionalization. The administration of medicaid community mental health services shall include but shall not be limited to program approval, program monitoring, and data collection.

~~(1.5)~~ (a) (4) (a) The requirements of section 25.5-5-408 shall not apply to the capitated rate calculation process for medicaid community mental health services; except that each medicaid community mental health services MCO shall be subject to the requirements of section 25.5-5-404 (1) (k) and (1) (l).

(b) The state department shall establish cost-effective, capitated rates for community mental health services in a manner that includes cost containment mechanisms. These cost containment mechanisms may include, but are not limited to, restricting average per member per month utilization growth, restricting unit cost growth, limiting allowable administrative cost, establishing minimum medical loss ratios, or establishing other cost containment mechanisms that the state department determines appropriate.

(c) Effective June 1, 2010, the state department shall make a capitation payment to a medicaid community mental health services MCO for each medical assistance recipient no sooner than the first day of the month following the month the recipient

is enrolled with that MCO.

~~(2)~~ (5) The state department is authorized to seek federal approval for any necessary changes to the state's waiver that authorizes the statewide system of community mental health care to reflect the provisions of this section. The state department is authorized to limit a recipient's freedom of choice with respect to a provider of mental health services and to restrict reimbursements for mental health services to designated and contracted agencies in such waiver.

~~(3)~~ (6) The administration of the mental health institutes shall remain the responsibility of the department of human services.

~~(4)~~ (7) On and after April 6, 2004, all positions of employment in the department of human services concerning the powers, duties, and functions of administering all medicaid community mental health services for medical assistance recipients transferred to the state department pursuant to this section and determined to be necessary to carry out the purposes of this section by the executive director of the state department shall be transferred to the state department and shall become employment positions therein.

~~(5)~~ (8) On and after April 6, 2004, all items of property, real and personal, including office furniture and fixtures, computers and software, books, documents, and records of the department of human services pertaining to the duties and functions of administering all medicaid community mental health services for medical assistance recipients are transferred to the state department and shall become the property thereof.

~~(6)~~ (9) On and after April 6, 2004, for state fiscal year 2003-04, the state department may bill the department of human services medicaid-funded programs division appropriation within the state department's appropriation for the provision of medicaid community mental health services as authorized in this section.

~~(7)~~ (10) On or before July 1, 2004, the state department and the department of human services shall jointly produce a document to assist mental health consumers and advocates and providers that participate in Colorado's publicly funded mental health system to understand the respective roles of each department in the provision of mental health services and each department's ability to provide high quality and accessible mental health services. The state department and the department of human services shall make the document available to the public and shall send at least one copy to each community mental health center, statewide mental health advocacy organization, and mental health assessment and services agency. The information contained in the document shall be made available on each department's internet web site. The state department and the department of human services are encouraged to consult with representatives of mental health consumer and provider organizations in the development of the document to ensure that it benefits consumers seeking mental health services and consumers who need to express concerns or complaints regarding the quality, availability, or accessibility of mental health services.

~~(8)~~ (11) When the state auditor conducts an audit of the statewide mental health system, the state auditor shall evaluate the coordination of services between the state

department and the department of human services and the impact of the administration of the mental health system on the quality of care within the statewide mental health system.

~~(9)~~ (12) The state board shall adopt any rules necessary for the implementation of this section. In adopting rules concerning medicaid community mental health services, the state board shall consider the effect the rules may have on the statewide mental health system.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 26, 2010