

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

SENATE FILE NO.

Community behavioral health-priority populations.

Sponsored by: SDraft Committee

A BILL

for

1 AN ACT relating to public health and safety; amending
2 provisions related to community health services; specifying
3 and prioritizing the categories of persons to receive state
4 funded mental illness and substance use disorder services;
5 providing definitions; making conforming amendments;
6 repealing obsolete provisions; requiring a report; and
7 providing for effective dates.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 25-10-101(a)(vii), (ix), 25-10-
12 112(g), (j), 35-1-612, 35-1-613(a)(i), (iv), (v), (viii),
13 by creating new paragraphs (xiv) through (xxii) and

1 renumbering (xiv) as (xxiii), 35-1-614, 35-1-618(a)(intro),
2 35-1-620(a)(i) and (ii), (b)(ii), (iii), (vi) and by
3 creating new paragraphs (ix) through (xi), 35-1-621, 35-6-
4 622(a)(i), (b), 35-1-623(a)(i) and (ii), (b), 35-1-
5 625(a)(intro) and (b)(intro) and 35-7-1033(b)(iv) are
6 amended to read:

7

8 **25-10-101. Definitions.**

9

10 (a) As used in this act:

11

12 (vii) "Mental health center" means a ~~community~~
13 ~~human services program for the prevention, treatment and~~
14 ~~amelioration of mental illness under~~ behavioral health
15 center as defined by 35-1-613(a)(xv) or other provider
16 under W.S. 35-1-611 through 35-1-627 or an equivalently
17 staffed and equipped student health service;

18

19 (ix) "Mental illness" and "mentally ill" mean a
20 physical, emotional, mental or behavioral disorder which
21 causes a person to be dangerous to himself or others and
22 which requires treatment, but do not include addiction to
23 drugs or alcohol, drug or alcohol intoxication or

1 developmental disabilities~~i, except when one (1) or more of~~
2 ~~those conditions co-occurs as a secondary diagnosis with a~~
3 ~~mental illness;~~

4

5 **25-10-112. Liability for costs of detention,**
6 **involuntary hospitalization and proceedings therefor.**

7

8 (g) The department in consultation with each board of
9 county commissioners may establish a single point of
10 responsibility or gatekeeper but shall prioritize a
11 behavioral health center as defined by 35-1-613(a)(xv) as
12 the single point of responsibility. Gatekeeper duties shall
13 include, but are not limited to, providing guidance on
14 issues of detention and involuntary treatment and
15 monitoring and coordinating timely, efficient and effective
16 patient treatment prior to, during and after any emergency
17 detention or involuntary treatment under this act. No
18 gatekeeper designated under this subsection shall provide
19 inpatient psychiatric treatment to patients under this act,
20 unless the gatekeeper has been approved by the department
21 of health to provide these services.

22

1 (j) The department, boards of county commissioners,
2 designated hospitals, gatekeepers and other treatment
3 providers may, upon contract or agreement, coordinate and
4 monitor the services and payments required for the
5 treatment of persons with mental illness as provided under
6 this section. Pursuant to contract or agreement and only
7 when a gatekeeper has been contracted through a behavioral
8 health center as defined by 35-1-613(a)(xv), the department
9 may assume any part of the expenses associated with a
10 gatekeeper which expenses would otherwise be the
11 responsibility of a county under this act, including
12 expenses for the transportation of patients to appropriate
13 care settings.

14

15 **35-1-612. Purpose.**

16

17 The purpose and intent of this act is to establish,
18 maintain and promote the development of a comprehensive
19 range of services in communities of the state to provide
20 prevention of, and treatment for individuals serve priority
21 populations and other persons affected by, ~~mental illness,~~
22 substance ~~abuse~~ use disorders, or developmental

1 disabilities, and to provide shelter and crisis services
2 for victims of family violence and sexual assault.

3

4 **35-1-613. Definitions.**

5

6 (a) As used in this act:

7

8 (i) "Community board" means a community mental
9 health board, a substance ~~abuse~~use disorder board, a
10 developmental disabilities board, or a family violence and
11 sexual assault board, or a board offering a combination of
12 human services programs, created under this act. For the
13 purposes of this act every community board is also a public
14 agency;

15

16 (iv) "Human services program" means community
17 facilities, services and programs which exclusively or in
18 part, are used or operated to prevent or treat mental
19 illness, substance ~~abuse~~use disorders or developmental
20 disabilities, to provide shelter and crisis services for
21 victims of family violence or sexual assault or to provide
22 other community based services which serve a public
23 purpose;

1

2 (v) "Mental illness" means a condition which is
3 manifested by a disorder or disturbance in behavior,
4 feeling, thinking or judgment to such an extent that care
5 and treatment are required, but does not include addiction
6 to drugs or alcohol, drug or alcohol intoxication or
7 developmental disabilities;

8

9 (viii) "Substance ~~abuse~~use disorder" means the
10 use, without compelling medical reason, of any substance
11 which results in psychological or physiological dependency
12 as a function of continued use in such a manner as to
13 induce mental, emotional or physical impairment or to cause
14 socially dysfunctional behavior;

15

16 (xiv) "Adults with acute mental illness" means
17 persons who are subject to an emergency detention under
18 W.S. 25-10-109, an involuntary hospitalization order under
19 W.S. 25-10-110 or a directed outpatient commitment order
20 under W.S. 25-10-110.1, or who were released from an
21 emergency detention or were discharged from an involuntary
22 hospitalization or directed outpatient commitment order
23 within the last six (6) months;

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(xv) "Behavioral health center" means a nationally accredited organization that is licensed to conduct business in the state of Wyoming and provides a comprehensive range of services for the treatment and management of mental illness and substance use disorders for priority populations;

(xvi) "Families at high risk" means:

(A) Children who have been discharged from an acute psychiatric facility or a psychiatric residential treatment facility within the previous six (6) months, and their immediate family members as defined by rule of the department of family services;

(B) A child or the parent, legal guardian or other immediate family member of a child, as defined by rule of the department of family services, who has been referred to a behavioral health center by the department of family services for treatment for a mental illness or a substance use disorder and the treatment is necessary to

1 prevent the removal of the child from the child's home or
2 to reunify the child with the child's family.

3
4 (xvii) "General access clients" means persons
5 who do not meet the definition of a priority population
6 under paragraph (xxi) of this subsection;

7
8 (xviii) "Indigent general access clients" means
9 persons who do not have private or public health insurance
10 that provides coverage for mental illness or substance use
11 disorder treatment and whose total household income is not
12 more than one hundred percent (100%) of the federal poverty
13 level;

14
15 (xix) "Indigent clients with high needs" means
16 persons who meet the definition of indigent general access
17 clients under paragraph (xviii) of this subsection and who
18 have a mental illness or substance use disorder that
19 substantially impairs their ability to function in society;

20
21 (xx) "Nonstate level justice involved" means:
22

1 (A) Persons who within the previous six (6)
2 months have been placed on probation and made subject to an
3 intensive supervision program under W.S. 7-13-1102 that
4 includes treatment for a mental illness or a substance use
5 disorder;

6
7 (B) Persons who within the previous six (6)
8 months have been convicted of or pled nolo contendere to a
9 criminal offense and ordered to enroll in an intensive
10 outpatient treatment program for a mental illness or
11 substance use disorder as part of their sentence;

12
13 (C) Persons on probation, parole or who
14 have been conditionally released, who within the previous
15 six (6) months have been sanctioned under W.S.
16 7-13-1802(b)(iv) through (vi) and ordered to receive
17 treatment for a mental illness or a substance use disorder;

18
19 (D) Qualified offenders under W.S.
20 7-13-1301 through 7-13-1304 who within the previous six
21 (6) months have been ordered to receive treatment for a
22 substance use disorder.

23

1 (xxi) "Priority population" means any person, as
2 determined by the department, who falls into any of the
3 following categories:

4
5 (A) State level justice involved;

6
7 (B) Nonstate level justice involved;

8
9 (C) Families at high risk;

10
11 (D) Adults with acute mental illness;

12
13 (E) Indigent clients with high needs;

14
15 (F) Indigent general access clients.

16
17 (xxii) "State level justice involved" means
18 persons that within the previous six (6) months have been
19 released or paroled from an institution as defined by W.S.
20 7-13-401(a)(vi), released or discharged from a facility as
21 defined under W.S. 7-11-301(a)(ii) and who require
22 continuing treatment for a mental illness or substance use
23 disorder;

1

2 ~~(xiv)~~(xxiii) "This act" means W.S. 35-1-611
3 through 35-1-627.

4

5 **35-1-614. Counties, school districts and cities may**
6 **contract for human services programs; counties may**
7 **establish community boards.**

8

9 (a) A county may contract with behavioral health
10 centers or private or public agencies to provide human
11 services programs for the county. The county may
12 appropriate funds for the programs.

13

14 (b) A municipality may contract with behavioral
15 health centers or private agencies or a community board to
16 provide human services programs for the municipality. The
17 municipality may appropriate funds for the programs.

18

19 (c) A school district may contract with behavioral
20 health centers or private or public agencies to provide
21 human services programs for school age children.

22

1 (d) A county may establish, or two (2) or more
2 counties may agree to establish a community board, or
3 community boards in accordance with this act. A community
4 board shall provide human services to the entire county or
5 counties in which it is established. A community board may
6 offer one (1) or more services for ~~the mentally ill,~~
7 ~~substance abuser, developmentally disabled or the victim~~
8 persons affected by mental illness, substance use
9 disorders, developmental disabilities or victims of family
10 violence or sexual assault.

11

12 **35-1-618. Community boards; powers.**

13

14 (a) For each human services program authorized by the
15 county commissioners the community boards may contract with
16 a behavioral health center or a local public or private
17 nonprofit provider or:

18

19 **35-1-620. Powers and duties of the department and its**
20 **divisions.**

21

22 (a) The department through its divisions may:

23

1 (i) Enter into cooperative contracts with
2 behavioral health centers, private agencies, public
3 agencies and community boards by negotiation without
4 competitive bids or by competitive bidding. The department
5 shall not contract with any entity which is not in
6 substantial compliance with the standards and guidelines
7 under subsection (b) of this section. The department shall
8 not contract with any entity to purchase shelter and crisis
9 services for victims of domestic abuse or sexual assault;

10

11 (ii) Consult with and advise community boards,
12 political subdivisions, nonprofit corporations, state
13 agencies, health and medical groups within the state and
14 the United States public health service about standards for
15 the promotion of services to residents of Wyoming for the
16 prevention, diagnosis and treatment of mental illness,
17 substance ~~abuse~~use disorders and developmental
18 disabilities and for the provision of other community based
19 services which serve a public purpose.

20

21 (b) The department shall:

22

1 (ii) Prescribe standards for the quality of
2 human services programs which provide state ~~purchased~~
3 funded services under this act;

4
5 (iii) Establish ~~a uniform schedule of fees which~~
6 ~~will act as a guideline~~ payment policies for state
7 ~~purchased~~ funded services provided to ~~clients by~~ priority
8 populations ~~human services programs under this act. The~~
9 ~~schedule shall accurately reflect~~ that take into account a
10 client's ability to pay and utilize general funds
11 authorized for expenditure as the payment of last resort;

12
13 (vi) ~~For~~ Prioritize behavioral health centers as
14 the providers of state ~~purchased~~ funded services. If a
15 behavioral health center cannot provide sufficient
16 services, the department shall select the most appropriate
17 service ~~providers within each region~~ provider in order to
18 achieve ~~the most~~ an effective and efficient delivery of
19 mental illness and substance abuse disorder services and
20 human services ~~system~~ programming;

21
22 (ix) Prioritize the delivery of state funded
23 services to priority populations and allocate those

1 services between priority populations in the following
2 order of priority, with tier one (1) being the highest
3 priority and tier three (3) being the lowest priority among
4 priority populations:

5
6 (A) Tier one (1): priority populations
7 specified under W.S. 35-1-613(a)(xxi)(A) through (D);

8
9 (B) Tier two (2): priority populations
10 specified under W.S. 35-1-613(a)(xxi)(E);

11
12 (C) Tier three (3): priority populations
13 specified under W.S. 35-1-613(a)(xxi)(F).

14
15 (x) Subject to the priority populations tier
16 requirements under paragraph (ix) of this subsection and in
17 addition to other contractual payments to behavioral health
18 centers and other service providers under this act, the
19 department shall provide essential subsidy payments to
20 eligible behavioral health centers, or to other eligible
21 service providers under paragraph (vi) of this subsection,
22 to help defer continuing operating costs. A behavioral
23 health center or other service provider under paragraph

1 (vi) of this subsection shall be eligible to receive
2 essential subsidy payments only upon demonstrating a need
3 for operational cost assistance as determined by rule of
4 the department. The amount of any essential subsidy payment
5 shall be subject to available funding and based on the
6 total population of the geographic area served by the
7 behavioral health center or other provider and the number
8 of other behavioral health care providers within a thirty-
9 five (35) mile radius;

10
11 (xi) Prioritize behavioral health centers for
12 the delivery of gatekeeping services as provided by W.S.
13 25-10-112(g) and only assume the expenses associated with a
14 gatekeeper under W.S. 25-10-112(j) when the gatekeeper has
15 been contracted through a behavioral health center.

16
17 **35-1-621. All state funds for human services**
18 **contracted to department; federal and private funding not**
19 **affected.**

20
21 A state agency which provides state or federal funds to a
22 community based mental health, substance ~~abuse~~use
23 disorder, developmental disabilities or other human

1 services program shall contract the funds to the
2 department. The department shall expend the funds in
3 accordance with W.S. 9-2-102 and this act. This section
4 does not impair the ability of community based programs to
5 apply for or receive funds directly from federal or private
6 sources, subject to W.S. 35-1-620(b)(i).

7

8 **35-1-622. Department; budget requests; purchase of**
9 **service contracts.**

10

11 (a) The department's budget request shall recommend:

12

13 (i) The types of services that the division
14 shall purchase, in accordance with the priority populations
15 tier requirements provided by W.S. 35-1-620(b)(ix), which
16 shall not include shelter and crisis services for victims
17 of domestic abuse or sexual assault;

18

19 (b) The division shall terminate a contract with a
20 ~~program~~ behavioral health center or other provider made
21 under this act when the division finds, after a hearing in
22 accordance with W.S. 16-3-107 through 16-3-112 if requested
23 by the provider, that the ~~program~~ behavioral health center

1 or other provider is not using contract funds for contract
2 purposes, or that a contract ~~program~~ is not being
3 administered in accordance with this act.

4

5 **35-1-623. Contracts; reports; regular payments;**
6 **termination.**

7

8 (a) Every contract awarded pursuant to this act shall
9 require:

10

11 (i) The ~~program~~ provider to submit annual
12 financial and expenditure reports to the department;

13

14 (ii) The division to make regular payments to
15 the ~~program~~ provider based on the services provided;

16

17 (b) The division shall terminate a contract with a
18 ~~program~~ behavioral health center or other provider made
19 under this act when the division finds, after a hearing in
20 accordance with W.S. 16-3-107 through 16-3-112 if requested
21 by the provider, that the ~~program~~ provider is not using
22 contract funds for contract purposes, or that a contract

1 ~~program~~ is not being administered in accordance with this
2 act.

3

4 **35-1-625. Protection of clients' rights.**

5

6 (a) Every contract awarded under this act shall
7 require the ~~program~~ provider to guarantee the clients'
8 rights to:

9

10 (b) Every contract awarded under this act shall
11 require the ~~program~~ provider to:

12

13 **35-7-1033. Unlawful acts; distribution; registration;**
14 **possession; records; counterfeiting; punishment.**

15

16 (b) Except for a violation of subparagraph
17 (a)(iii)(B) of this section and except as otherwise
18 provided:

19

20 (iv) In the event a substance abuse assessment
21 ordered pursuant to this section is provided by an entity
22 with whom the department of health contracts for treatment
23 services, the costs of the assessment shall be paid by the

1 offender subject to the ~~sliding fee scale~~ payment policies
2 adopted pursuant to W.S. 35-1-620 ~~and 35-1-624~~; provided
3 however, if the assessment is ordered as a result of a
4 felony conviction under this section, the assessment shall
5 be conducted and costs assessed pursuant to W.S. 7-13-1301,
6 et seq.;

7

8 **Section 2.** W.S. 35-1-620(b)(iv), (v), (vii) and
9 (viii), 35-1-622(b) and 35-1-624 are repealed.

10

11 **Section 3.**

12

13 (a) The department of health shall consult with
14 affected mental illness and substance use disorder
15 treatment providers and other stakeholder organizations as
16 determined by the department regarding the reform and
17 redesign of the state-funded mental illness and substance
18 use disorder treatment programs required under this act and
19 other related topics, to include the following subjects:

20

21 (i) Eligibility requirements for receipt of
22 state funding consistent with the population priorities as

1 defined by W.S. 35-1-613(a)(xxi) as created under Section 1
2 of this act;

3

4 (ii) Eligibility requirements for receipt of
5 essential subsidy payments under W.S. 35-1-620(b)(x), as
6 created under Section 1 of this act, in order to target
7 geographic areas with inadequate access for general access
8 clients to mental illness and substance use disorder
9 treatment providers. A methodology for establishing the
10 manner in which, and amount in which, essential subsidy
11 payments could be provided to eligible behavioral health
12 centers and other eligible service providers shall also be
13 considered under this paragraph;

14

15 (iii) A pay for performance program methodology
16 and standards for priority populations as defined by W.S.
17 35-1-613(a)(ix) and priority population tiers under W.S.
18 35-1-620(b)(ix) as created under Section 1 of this act that
19 rewards providers for administering the case management
20 process as provided by paragraph (iv) of this subsection
21 and for achieving outcomes that support independence and
22 self-reliance, including but not limited to:

23

1 (A) Prevention of psychiatric
2 hospitalization;

3

4 (B) Prevention of reincarceration in an
5 institution as defined by W.S. 7-13-401(a)(vi) or other
6 penal institution;

7

8 (C) Competitive employment in an integrated
9 setting, as provided under with W.S. 9-2-1002(a)(xiii)
10 and(xv);

11

12 (D) Independent housing.

13

14 (iv) Implementation of a case management process
15 and applicable standards for continuing assessment,
16 planning, treatment facilitation, care coordination and
17 evaluation of priority populations to promote patient
18 safety, quality of care and cost effective outcomes;

19

20 (v) Delivery of housing and crisis shelter
21 assistance to priority populations to be provided by
22 behavioral health centers.

23

1 (b) On or before July 31, 2021, the department shall
2 report to the joint labor, health and social services
3 interim committee on the discussions, findings and
4 recommendations generated by the consultations required
5 under subsection (a) of this section. As part of the
6 report, the department shall present recommendations on
7 funds that could be repurposed to best implement the policy
8 changes required under Section 1 of this act and the
9 recommendations contained in the report, which shall
10 include identifying potential budget units from which funds
11 could be repurposed, including but not limited to:

12

13 (i) Unit 2506 (MH Outpatient);

14

15 (ii) Unit 2507 (SA Outpatient);

16

17 (iii) Unit 2508 (MH Residential);

18

19 (iv) Unit 2509 (SA Residential).

20

21 (c) The department of health and department of family
22 services shall promulgate rules and regulations necessary
23 to implement section 1 of this act by July 1, 2022.

