

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 6274 SB	<b>Title:</b> Psychiatric patient safety	<b>Agency:</b> 303-Department of Health
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## Part I: Estimates

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No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT		FY 2020	FY 2021	2019-21	2021-23	2023-25
General Fund-Private/Local	001-7		24,000	24,000	1,745,000	2,069,000
	<b>Total \$</b>		24,000	24,000	1,745,000	2,069,000

### Estimated Operating Expenditures from:

		FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years		0.0	3.5	1.8	4.3	4.3
<b>Account</b>						
General Fund-State	001-1	0	746,000	746,000	0	0
General Fund-Private/Local	001-7	0	0	0	1,744,000	1,744,000
	<b>Total \$</b>	0	746,000	746,000	1,744,000	1,744,000

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

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If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

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If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

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Capital budget impact, complete Part IV.

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Requires new rule making, complete Part V.

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## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

This bill establishes a 24-month provisional license for new psychiatric hospitals and expands enforcement options for all psychiatric hospitals.

Section 2: Adds a new section to chapter 43.70 RCW (Department of Health) allowing the Department of Health (department) to take action against psychiatric hospitals when the psychiatric hospital has failed or refused to comply with applicable state statutes or regulation. Provides the department authority to refuse to issue a license; impose conditions on a license; impose civil fines; suspend, revoke or refuse to renew a license; and suspend new admissions (stop placement) for all or certain categories of patients.

Section 3: Adds a new section chapter 43.70 RCW (Department of Health) directing the department to, as resources allow, make health care facility inspection and investigation reports available to the public on the web, starting with psychiatric hospitals.

Section 4: Adds a new section to chapter 43.70 (Department of Health) directing a review of statutes related to health care facilities regulated by the department to evaluate appropriate levels of oversight and identify opportunities to consolidate and standardize licensing and enforcement requirements across facility types, including acute care hospitals.. The department must work with stakeholders to create recommendations for a uniform health care facility enforcement act for consideration in the 2021 legislative session.

Section 5: Modifies 71.12.455 RCW (Mental Illness-Private Establishments-Definitions) to include the definitions of elopement, psychiatric hospital, residential treatment facility and technical assistance.

Section 6: Modifies 71.12.460 RCW (Mental Illness-Private Establishments-License to be obtained—Penalty) to add a 24-month provisional psychiatric hospital license that is not subject to renewal effective July 1, 2020. This applies to both new psychiatric hospitals and existing psychiatric hospitals changing ownership. During the period of provisional license the department must provide enhanced oversight through at least three (3) inspections, one-initial licensure inspection and three-unannounced inspections along with technical assistance.

Section 7: Modifies 71.12.470 RCW (Mental Illness-Private Establishments-License application—Fees) to allow the department to establish and collect a provisional license fee. Also, until the department establishes the provisional license fee in rules, psychiatric hospitals seeking a provisional license will pay the annual psychiatric hospital licensing fee.

Section 8: Modifies 71.12.480 (Mental Illness-Private Establishments-Examination of operation of establishment and premises before granting license) to require the department to perform at least three (3) unannounced inspections of a psychiatric hospital operating under a provisional license and conduct additional inspections of the hospital as necessary to determine whether the hospital has met the requirements in RCW 71.12.460 for licensure.

Section 9: Adds a new section to chapter 71.12 RCW (Mental Illness-Private Establishments), requiring all psychiatric hospitals to report every patient elopement and every death that occurs on hospital grounds within three (3) days of the elopement or death to the department.

Section 10: Adds a new section to chapter 71.12 RCW. Upon request, the department must make technical assistance available to psychiatric hospitals on compliance with all categories of regulation, except during the time between when an investigation of a psychiatric hospital has been initiated and when such investigation is resolved.

Section 11: Amends 71.12.500 (Mental Illness-Private Establishments-Examination of premises as to compliance with the chapter, rules, and license—License changes) adds that psychiatric provisional licenses are subject to this section.

Section 12: This act takes effect immediately.

## **II. B - Cash receipts Impact**

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

Section 7: Current law, RCW 43.70.250 (License fees for professions, occupations, and businesses), requires that a business-licensing program be fully self-supporting and that sufficient revenue be collected through fees to fund expenditures. The determination of specific fees will occur through the rulemaking process and a fee proposal presented as part of the rules package. The department will monitor the psychiatric hospital program, and will adjust fees over a six (6) year period to ensure that the fees are sufficient to cover all expenditures. Revenue collection will start July 1, 2021 after the fee rules are in place.

The department requests General Fund State until sufficient fee revenue is earned to cover the cost of implementing the provisional license.

The following revenue estimates are based on the average size of a new psychiatric hospital opened in Washington over the last five years. The initial application is estimated between \$3,250 and \$3,300 per bed. This range illustrates potential fees based on assumed expenditures and licensees. During the rulemaking process, a fee study is prepared with proposed fees and provided to stakeholders for input. Actual fees are adopted following stakeholder input.

### **Provisional Psychiatric Hospital License Fee Revenue**

FY 2022 – 2 applications \$660,000 (\$3,300 per bed x 200 beds)

FY 2023 – 2 applications \$660,000 (\$3,300 per bed x 200 beds)

FY 2024 – 2 applications \$660,000 (\$3,300 per bed x 200 beds)

FY 2025 – 2 applications \$660,000 (\$3,300 per bed x 200 beds)

### **Psychiatric Hospital License Fee Revenue**

FY 2022 – \$157,000 (\$435 x 360 beds)

FY 2023 – \$244,000 (\$435 x 560 beds)

FY 2024 – \$331,000 (\$435 x 760 beds)

FY 2025 – \$418,000 (\$435 x 960 beds)

The existing psychiatric hospital fees will need to be increased to support technical assistance, death report reviews and enforcement. The initial application and renewal fee is currently \$120 per bed. The department estimates the increase necessary to support the work is between \$385 and \$435 per bed for a total of \$505 - \$555 per bed licensing fee. A fee range illustrates potential fees based on assumed expenditures and licensees.

Since the bill has an emergency clause, the department will implement the provisional license July 1, 2020. Any applicants during FY 2021 would pay the existing psychiatric hospital per bed fee of \$120 annually for two years. Estimated revenue:

FY 2021 – 2 applications \$24,000 (\$120 per bed x 200 beds x 1 year)

FY 2022 – 2 applications \$24,000 (\$120 per bed x 200 beds x 1 year)

Section 2: Fines will be assessed during the enforcement process. The department estimates taking four (4) enforcement actions each fiscal year through the 2023-2025 biennium. Fines collected will be used to support the technical assistance efforts at the department. The minimum fine is \$10,000 per violation and the total fine may not exceed \$1,000,000. While the department estimates taking four (4) formal enforcement actions, the value of revenue collected from civil fines is indeterminable.

## II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

The following assumptions were used to inform this analysis:

- Expenditure estimates are based on the average size of new psychiatric hospitals opened in Washington over the past five (5) years.
- Two (2) new facilities a year for five (5) years for a total 10 new psychiatric hospitals through FY 2025.
- Twelve months for rulemaking (July 2020 – June 2021).
- Implementation date for the new provisional license is July 1, 2020.
- Provisional license will not exceed 24 months (2-year license with a 2-year fee) and is not renewable. Until fee rules are adopted, applicants will pay the existing annual psychiatric hospital license fee.
- The department will establish new fees for the provisional license in rule.
- In FY 2019 the department received 43 complaints from 11 facilities which is a 255% complaint rate or three (3) new complaints a year per new facility under the provisional license plus 12 patient death reports from all psychiatric hospitals each year.
- All complaints are investigated.
- Four (4) enforcement actions per year starting in FY 2021.
- Higher utilization of Office of the Attorney General services with increased enforcements and rules support.
- Increased work for the Washington State Patrol-State Fire Marshal (WSP-SFM) for both inspections and complaint investigations. The department will increase the current contract with WSP.

## Rulemaking

Sections 2, 6, 7, 9, 10, 11 & 12: The department will develop and adopt rules to add the provisional psychiatric hospital license. Rulemaking will include two stakeholder meetings and one formal rules hearing. All meetings will be held in free facilities. This allows stakeholders the opportunity to participate and provide comments during the rulemaking process. Costs include Office of the Attorney General support in the amount of \$3,600 for rule review.

In FY 2021, total one-time costs will be 0.2 FTE and \$44,000.

## Posting Inspection & Investigation Reports

Section 3: Starting on the effective date, the department will make health care facility inspection and investigation reports available to the public on the department's website. The department will begin with psychiatric hospitals and as resources allow, add inspections and investigations reports for the other facility types that the department regulates. Work for this section only will be completed within existing resources.

#### Uniform Health Care Facility Act Recommendations

Section 4: In FY 2021 and FY 2022, there will be one-time costs to complete a review of statutes for all of health care facilities regulated by the department. This review will compare the different levels of oversight between the facility types to evaluate appropriate levels of oversight and identify opportunities to consolidate and standardize licensing and enforcement requirements across facility types, including acute care hospitals. The department must work with stakeholders to create recommendations for a uniform health care facility enforcement act for consideration in the 2021 legislative session.

The department will contract with a facilitator to coordinate work sessions with stakeholders. Costs in FY 2021 will include the facilitator contract for a total of \$44,000.

#### Program Implementation and Administration

Sections 6, 7 & 9: Staff will be required to implement and manage the new provisional license. Based on the department's experience with implementing new license types, staff will update policies and procedures, initial application, update the psychiatric hospital website, and respond to phone calls, emails, and general program management duties.

In FY 2021, total one-time costs will be 0.1 FTE and \$25,000. Starting FY 2022 and ongoing, total costs will be \$4,000 each year.

#### Technical Assistance

Section 10: Staff will be required to provide technical assistance during the provisional license period. Staff will organize and conduct an initial meeting with prospective licensees and various department representatives to: 1) share the path to licensure (e.g. certificate of need, construction review services, credentialing, and inspection and complaint investigations); 2) discuss facility vision; and 3) discuss common pitfalls. Other opportunities for technical assistance include: 1) conduct a pre-licensure visit (possibly in conjunction with construction review services); 2) develop a resource guidebook; and 3) provide technical assistance after the provisional license is issued.

In FY 2021, total one-time costs will be 0.9 FTE and \$140,000. Starting FY 2022 and ongoing, total costs will be 1.0 FTE and \$163,000 each year.

#### Health Technology Solutions

Sections 6, 7 & 9: During FY 2021, information technology (IT) staff will be required to modify the department's Integrated Licensing and Regulatory System (ILRS) to add the new psychiatric hospital provisional license. This will include conducting a business analysis, configuration, and testing a new credential. Tasks include updating credentialing workflows, user defined fields, templates, fee tables, renewals and modification or creation of reports in ILRS.

In FY 2021 total one-time costs will be \$3,000.

## Inspections

Sections 6, 8 & 11: The department will conduct initial on-site psychiatric hospital inspections and at least three (3) unannounced inspections for compliance with state law over the two-year provisional license period. Tasks include the examination of all phases of the hospital operations, drafting an inspection report, tracking response(s) from the facility, meeting with facility management and coordinating with the Washington State Patrol (WSP) State Fire Marshal's Office. To complete an onsite inspection, the department estimates two staff at an average of 93 hours including travel to the facility to complete the tasks related to onsite inspection: 1) inspection preparations; 2) travel; 3) onsite inspection; 4) coordination with the State Fire Marshal's Office; 5) inspection report writing; 6) responding to the facility's questions and reviewing a statement of corrections if necessary; and 7) management review and oversight.

The department will update the contract with the WSP-State Fire Marshal's Office to conduct the fire and life safety portion of the initial and unannounced inspections in the amount of \$6,605 in FY2021. Starting in FY2022 and ongoing, the contract will be updated by \$13,210 to conduct the additional inspections each year.

Starting FY 2021, total costs will be 0.6 and \$130,000 each year. In FY 2022 and ongoing, total costs will be 1.1 FTE and \$249,000 each year.

## Complaint Investigations and Enforcement

The complaint response process includes five steps: 1) intake, 2) assessment, 3) investigation, 4) case disposition, and 5) adjudication. Staff review the complaint, identify the history of the facility, and assess whether an investigation is needed. In most cases, investigation is needed. The investigator conducts an on-site investigation about the complaint allegations and prepares a report detailing the findings. After investigation, the department decides whether to pursue legal action. Staff attorneys, paralegals, and other staff work to develop the legal documents and charge the violation. Most cases are settled, and the staff attorney manages that process. If the respondent asks for a hearing, staff must schedule the hearing, and the health law judge considers all legal motions, presides over the hearing, and drafts the final order.

Sections 8 & 11: In FY 2019 the department received 43 complaints from 11 facilities which is a 255% complaint rate or three (3) new complaints a year for each psychiatric hospital under provisional license. The complaint investigation includes steps 1-3 of the complaint response process: 1) intake; 2) assessment and; 3) investigation. Staff review the complaint, identify the history of the facility, and assess whether an investigation is needed. In most cases, investigation is needed. The investigator conducts an on-site investigation about the complaint allegations and prepares a report detailing the findings.

FY2021 – 2 psychiatric hospitals w/ provisional license, 6 complaints  
FY2022 – 4 psychiatric hospitals w/ provisional license, 12 complaints  
FY2023 – 4 psychiatric hospitals w/ provisional license, 12 complaints  
FY2024 – 4 psychiatric hospitals w/ provisional license, 12 complaints  
FY2025 – 4 psychiatric hospitals w/ provisional license, 12 complaints

In FY 2022, total one-time costs will be 0.4 FTE and \$96,000. Starting FY 2023 and ongoing, total costs will be 0.8 FTE and \$194,000 each year.

Section 9: The department will begin receiving reports of patient elopements and deaths in psychiatric hospitals. The department estimates 12 reports per year based on the number of deaths in psychiatric hospitals over the last

four (4) years. The complaint investigation includes steps 1-3 of the complaint response process: 1) intake; 2) assessment and; 3) investigation. Staff review the complaint, identify the history of the facility, and assess whether an investigation is needed. In most cases, investigation is needed. The investigator conducts an on-site investigation about the complaint allegations and prepares a report detailing the findings.

It is assumed there will be 12 patient elopement and death reports per year across all psychiatric hospitals.

In FY 2021, total one-time costs will be 0.8 FTE and \$174,000. Starting FY 2022 and ongoing, total costs will be 0.8 FTE and \$172,000 each year.

## Enforcement

Sections 2, 5 & 11: From the complaint investigations above, the department projects taking four (4) enforcement actions per fiscal year. The enforcement process includes steps 4-5 of the complaint response process: 4) case disposition and 5) adjudication. Following investigation, the department decides whether to pursue legal action. Staff attorneys, paralegals, and other staff develop the legal documents and charge the violation. Most cases are settled, and the staff attorney manages that process. If the respondent asks for a hearing, staff must schedule the hearing, and the health law judge considers all legal motions, presides over the hearing, and drafts the final order. The increase in enforcement efforts will increase utilization of Office of Attorney General support in the amount of \$20,000.

Starting FY 2021 and ongoing, total costs will be 0.5 FTE and \$90,000 each year.

Total costs to implement the bill:

FY2021 – 3.5 FTE and \$746,000 (GF-S)

FY2022 – 4.3 FTE and \$872,000 (Private/Local)

FY2023 – 4.3 FTE and \$872,000 (Private/Local)

FY2024 – 4.3 FTE and \$872,000 (Private/Local)

FY2025 – 4.3 FTE and \$872,000 (Private/Local)

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
001-1	General Fund	State	0	746,000	746,000	0	0
001-7	General Fund	Private/Local	0	0	0	1,744,000	1,744,000
<b>Total \$</b>			0	746,000	746,000	1,744,000	1,744,000

### III. B - Expenditures by Object Or Purpose

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years		3.5	1.8	4.3	4.3
A-Salaries and Wages		409,000	409,000	1,022,000	1,022,000
B-Employee Benefits		147,000	147,000	368,000	368,000
C-Professional Service Contracts		43,000	43,000		
E-Goods and Other Services		58,000	58,000	116,000	116,000
G-Travel		27,000	27,000	82,000	82,000
J-Capital Outlays		9,000	9,000		
N-Grants, Benefits & Client Services		18,000	18,000	70,000	70,000
T-Intra-Agency Reimbursements		35,000	35,000	86,000	86,000
<b>Total \$</b>	0	746,000	746,000	1,744,000	1,744,000

**III. C - Operating FTE Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2020	FY 2021	2019-21	2021-23	2023-25
FORMS & RECORDS ANALYST 2	49,932		0.3	0.2	0.3	0.3
FORMS & RECORDS ANALYST 3	56,568		0.1	0.1	0.1	0.1
HEALTH SERVICES CONSULTANT 3	62,460		0.1	0.1	0.1	0.1
HEALTH SERVICES CONSULTANT 4	77,952		1.8	0.9	2.2	2.2
Health Svcs Conslt 1	53,000		0.1	0.1	0.1	0.1
NURSING CONSULTANT ADVISOR	138,564		0.1	0.1	0.1	
NURSING CONSULTANT, INSTITUTIONAL	125,544		0.8	0.4	1.3	1.3
WMS02	107,532		0.2	0.1	0.2	0.2
<b>Total FTEs</b>			3.5	1.8	4.3	4.3

**Part IV: Capital Budget Impact**

NONE

NONE

**Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

Sections 2, 6, 7, 9, 10, 11 & 12: Require the department to adopt rules as necessary to implement this bill.