

IN THE SENATE

SENATE BILL NO. 1104

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO BEHAVIORAL HEALTH; AMENDING SECTION 39-302, IDAHO CODE, TO RE-
2 VISE A DEFINITION; REPEALING SECTION 39-303, IDAHO CODE, RELATING TO
3 THE DESIGNATION OF A STATE SUBSTANCE ABUSE AUTHORITY; AMENDING SECTION
4 39-304, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-3124,
5 IDAHO CODE, TO PROVIDE FOR A CERTAIN DUTY OF THE STATEWIDE BEHAVIORAL
6 HEALTH INTERAGENCY COOPERATIVE AND TO REMOVE CERTAIN RESPONSIBILITIES
7 AND DUTIES OF THE STATE MENTAL HEALTH AUTHORITY; AMENDING CHAPTER 31,
8 TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3124A, IDAHO
9 CODE, TO DESIGNATE A STATE MENTAL HEALTH AUTHORITY AND PROVIDE SPECI-
10 FIED DUTIES AND RESPONSIBILITIES FOR THE AUTHORITY; REPEALING SECTION
11 39-3125, IDAHO CODE, RELATING TO THE STATE PLANNING COUNCIL ON MENTAL
12 HEALTH; REPEALING SECTION 67-821, IDAHO CODE, RELATING TO COORDINATION
13 OF POLICY AND PROGRAMS RELATED TO DRUG AND SUBSTANCE ABUSE; AMENDING
14 CHAPTER 8, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-821,
15 IDAHO CODE, TO PROVIDE FOR THE BEHAVIORAL HEALTH TRANSFORMATION OFFICE,
16 THE ADMINISTRATOR OF TRANSFORMATION AND THE STATEWIDE INTERAGENCY BE-
17 HAVIORAL HEALTH COOPERATIVE; AND AMENDING CHAPTER 8, TITLE 67, IDAHO
18 CODE, BY THE ADDITION OF A NEW SECTION 67-822, IDAHO CODE, TO PROVIDE FOR
19 THE STATE BEHAVIORAL HEALTH PLANNING COUNCIL.
20

21 Be It Enacted by the Legislature of the State of Idaho:

22 SECTION 1. That Section 39-302, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 39-302. DEFINITIONS. As used in this chapter, the terms defined in
25 this section shall have the following meanings, unless the context clearly
26 indicates another meaning:

27 (1) "Addiction" or "alcoholism" means a primary, chronic, neurobiolog-
28 ical disease with genetic, psychosocial and environmental factors influenc-
29 ing its development and manifestations. It is characterized by behaviors
30 that include one (1) or more of the following: impaired control over drug or
31 alcohol use, compulsive use, continued use despite harm, and craving.

32 (2) "Alcoholic" means a person who has the disease of alcoholism, which
33 is characterized by behaviors that include one (1) or more of the follow-
34 ing: impaired control over alcohol use, compulsive use, continued use de-
35 spite harm, and craving.

36 (3) "Approved private treatment facility" means a private agency meet-
37 ing the standards prescribed in section 39-305(1), Idaho Code, and approved
38 under the provisions of section 39-305(3), Idaho Code, and rules promulgated
39 by the board of health and welfare pursuant to this chapter.

40 (4) "Approved public treatment facility" means a treatment agency op-
41 erating under the provisions of this chapter through a contract with the de-
42 partment of health and welfare pursuant to section 39-304(7), Idaho Code,

1 and meeting the standards prescribed in section 39-305(1), Idaho Code, and
 2 approved pursuant to section 39-305(3), Idaho Code, and rules promulgated by
 3 the board of health and welfare pursuant to this chapter.

4 (5) "Department" means the Idaho department of health and welfare.

5 (6) "Director" means the director of the Idaho department of health and
 6 welfare.

7 (7) "Drug addict" means a person who has the disease of addiction, which
 8 is characterized by behaviors that include one (1) or more of the following:
 9 impaired control over drug use, compulsive use, continued use despite harm,
 10 and craving.

11 (8) "Incapacitated by alcohol or drugs" means that a person, as a result
 12 of the use of alcohol or drugs, is unconscious or has his judgment otherwise
 13 so impaired that he is incapable of realizing and making a rational decision
 14 with respect to his need for treatment.

15 (9) "Incompetent person" means a person who has been adjudged incompe-
 16 tent by an appropriate court within this state.

17 (10) "Interagency ~~committee cooperative~~" means the statewide be-
 18 havioral health interagency committee on substance abuse prevention and
 19 treatment cooperative as provided for in section ~~39-303~~ 67-821, Idaho Code.

20 (11) "Intoxicated person" means a person whose mental or physical func-
 21 tioning is substantially impaired as a result of the use of drugs or alcohol.

22 (12) "Recovery support services" means those ancillary, nonclinical
 23 services needed for a client to maintain substance abuse or addiction recov-
 24 ery. These services may include transportation, childcare, drug testing,
 25 safe and sober housing and care management.

26 (13) "Substance abuse" means the misuse or excessive use of alcohol or
 27 other drugs or substances.

28 (14) "Treatment" means the broad range of emergency, outpatient, in-
 29 tentive outpatient, and inpatient services and care, including diagnostic
 30 evaluation, medical, psychiatric, psychological, and social service care,
 31 vocational rehabilitation and career counseling, which may be extended to
 32 alcoholics and intoxicated persons and/or drug addicts.

33 SECTION 2. That Section 39-303, Idaho Code, be, and the same is hereby
 34 repealed.

35 SECTION 3. That Section 39-304, Idaho Code, be, and the same is hereby
 36 amended to read as follows:

37 39-304. COMPREHENSIVE PROGRAM FOR TREATMENT. The Idaho department of
 38 health and welfare is hereby designated as the state substance abuse author-
 39 ity.

40 (1) The department shall establish a comprehensive and coordinated pro-
 41 gram for the treatment of alcoholics, intoxicated persons and drug addicts.
 42 The interagency ~~committee cooperative~~ shall direct the department in the es-
 43 tablishment and in the content of this program.

44 (2) The program shall include:

45 (a) Emergency detoxification treatment and medical treatment directly
 46 related thereto provided by a facility affiliated with or part of the
 47 medical service of a general hospital;

48 (b) Inpatient treatment;

- 1 (c) Intensive outpatient treatment;
 2 (d) Outpatient treatment;
 3 (e) Community detoxification provided by an approved facility; and
 4 (f) Recovery support services.

5 (3) The department shall provide for adequate and appropriate treat-
 6 ment for persons admitted pursuant to section 39-307, Idaho Code. Treatment
 7 shall not be provided at a correctional institution except for inmates.

8 (4) The department shall maintain, supervise, and control all facili-
 9 ties operated by it. The administrator of each such facility shall make an
 10 annual report of its activities to the director in the form and manner the di-
 11 rector specifies.

12 (5) All appropriate public and private resources shall be coordinated
 13 with and utilized in the program whenever possible.

14 (6) The department shall prepare, publish and distribute annually a
 15 list of all approved public and private treatment facilities.

16 (7) The department may contract for the use of any facility as an ap-
 17 proved public treatment facility if the director considers this to be an ef-
 18 fective and economical course to follow.

19 (8) The program shall include an individualized treatment plan pre-
 20 pared and maintained for each client.

21 SECTION 4. That Section 39-3124, Idaho Code, be, and the same is hereby
 22 amended to read as follows:

23 39-3124. DESIGNATION OF STATE MENTAL HEALTH AUTHORITY. The Idaho de-
 24 partment of health and welfare is hereby designated the state mental health
 25 authority. The statewide behavioral health interagency cooperative, estab-
 26 lished pursuant to section 67-821, Idaho Code, shall direct t~~The state men-~~
 27 ~~tal health authority is responsible for taking into consideration and incor-~~
 28 ~~porating the recommendations and evaluations of the state planning council~~
 29 ~~on mental health and the regional health boards in all statewide efforts to~~
 30 ~~expand, improve, modify or transform the mental health service delivery sys-~~
 31 ~~tem of the state. The state mental health authority shall identify the re-~~
 32 ~~sources necessary for these efforts to be implemented on a statewide basis in~~
 33 ~~transforming the state's existing mental health and substance use disorder~~
 34 ~~systems into a single, effective, outcome-based and recovery-oriented be-~~
 35 ~~havioral health system as provided for in section 67-821, Idaho Code.~~

36 SECTION 5. That Chapter 31, Title 39, Idaho Code, be, and the same is
 37 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 38 ignated as Section 39-3124A, Idaho Code, and to read as follows:

39 39-3124A. STATE BEHAVIORAL HEALTH AUTHORITY. (1) The Idaho department
 40 of health and welfare, as both the state mental health authority pursuant
 41 to section 39-3124, Idaho Code, and the state substance abuse authority
 42 pursuant to section 39-304, Idaho Code, shall serve as the state behavioral
 43 health authority.

44 (2) The state behavioral health authority shall:

- 45 (a) Develop and secure a shared understanding of statewide behavioral
 46 health service standards;

1 (b) In coordination with the administrator of transformation and the
2 statewide behavioral health interagency cooperative, established
3 pursuant to section 67-821, Idaho Code, integrate those statewide
4 behavioral health service standards into regional provider contract
5 arrangements;

6 (c) Monitor the performance measures and outcomes outlined in the re-
7 gional provider contract arrangements;

8 (d) Generate and implement a provider certification process;

9 (e) Secure a medicaid waiver for managed care of behavioral health ser-
10 vices;

11 (f) Continue to enhance the data reporting process to support the
12 transformation of Idaho's behavioral health system, as described in the
13 plan adopted by the governor's behavioral health transformation work
14 group in 2010;

15 (g) Facilitate the data reporting process to enable informed regional
16 planning and input processes that can be used to generate continuous im-
17 provement to Idaho's behavioral health system; and

18 (h) Contract for behavioral health services with regional advisory
19 councils and regional mental health advisory boards.

20 (3) The state behavioral health authority shall receive direction from
21 the statewide behavioral health interagency cooperative in the establish-
22 ment and implementation of the transformation of Idaho's behavioral health
23 system and coordinate and communicate the status of its duties, as provided
24 for in subsection (2) of this section to the statewide behavioral health in-
25 teragency cooperative.

26 (4) If a regional advisory committee or a regional mental health advi-
27 sory board fails to perform the level of behavioral health services required
28 by its contract with the state behavioral health authority, the state behav-
29 ioral health authority shall have the authority to deliver those behavioral
30 health services within that region.

31 (5) The state behavioral health authority shall have the authority to
32 promulgate rules to carry out its responsibilities under this chapter.

33 SECTION 6. That Section [39-3125](#), Idaho Code, be, and the same is hereby
34 repealed.

35 SECTION 7. That Section [67-821](#), Idaho Code, be, and the same is hereby
36 repealed.

37 SECTION 8. That Chapter 8, Title 67, Idaho Code, be, and the same is
38 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
39 ignated as Section 67-821, Idaho Code, and to read as follows:

40 67-821. BEHAVIORAL HEALTH TRANSFORMATION OFFICE -- ADMINISTRATOR OF
41 TRANSFORMATION -- STATEWIDE INTERAGENCY BEHAVIORAL HEALTH COOPERATIVE. (1)
42 There is hereby created in the office of the governor the "Behavioral Health
43 Transformation Office."

44 (2) The office shall be administered by the administrator of transfor-
45 mation who shall be appointed by the governor and approved by the senate and
46 shall serve at the pleasure of the governor.

1 (a) The administrator is the state official designated to oversee and
2 execute the coordination of the transformation of Idaho's existing men-
3 tal health and substance use disorder systems into a single, effective,
4 outcome-based and recovery-oriented behavioral health system. The
5 behavioral health system is intended to be one where Idaho citizens and
6 their families have appropriate access to quality services provided
7 through a system that is coordinated, efficient, accountable and fo-
8 cused on recovery. The administrator is specifically intended to act as
9 a daily and continuous champion for the transformation provided for in
10 this section on a local, regional and state level.

11 (b) The administrator shall have daily responsibility and accountabil-
12 ity for achieving the transformed system working in coordination with
13 the statewide behavioral health interagency cooperative and shall have
14 the authority to contract for the services required to facilitate the
15 transformation.

16 (c) The administrator shall be responsible for:

17 (i) Managing and achieving the transformation vision and goals
18 articulated in the 2010 plan adopted by the governor's behavioral
19 health transformation work group, created pursuant to executive
20 orders 2009-04 and 2010-01;

21 (ii) Serving as the chairman of the statewide behavioral health
22 interagency cooperative, coordinating its respective, equitable
23 participation in the transformation process and system on an oper-
24 ational, programmatic and policy level;

25 (iii) Serving as the liaison to the regional advisory committees,
26 as provided for in section 39-303A, Idaho Code, and the regional
27 mental health advisory boards, as provided in chapter 31, title
28 39, Idaho Code, to help facilitate the development of a viable re-
29 gional and/or local community behavioral health delivery system
30 while honoring entity and agency roles, responsibilities and ac-
31 countabilities;

32 (iv) Ensuring that the inputs and priorities of the regional ad-
33 visory committees, regional mental health advisory boards and the
34 statewide behavioral health interagency cooperative are effec-
35 tively used to guide the development of regional provider networks
36 that deliver services based on consistent statewide standards;

37 (v) Coordinating the development of statewide or series con-
38 tracts in a manner that reflects regional priorities, meets agency
39 accountability and reporting requirements, reflects consistent
40 statewide standards and maximizes the use of the taxpayer dollar;
41 and

42 (vi) Refining and focusing the transformation effort over time as
43 implementation lessons are learned, research and best practices
44 are identified, considered and applied as appropriate and as eval-
45 uation measurements inform strategic direction.

46 (d) The administrator shall have the following minimum qualifications:

47 (i) Considerable knowledge of policy and procedures for all
48 branches of state and local government;

49 (ii) Demonstrated understanding and/or experience with govern-
50 ment systems, judicial processes and systems evolution;

- 1 (iii) Demonstrated understanding and/or experience with public
 2 behavioral health delivery systems and consumer and family needs;
 3 (iv) Considerable knowledge of quality, outcome-based, cost-ef-
 4 fective treatment for a behavioral health system of care, includ-
 5 ing substance use disorders, persistently mentally ill and chil-
 6 dren with emotional disorders;
 7 (v) Demonstrated leadership skills;
 8 (vi) Competency in management; and
 9 (vii) Demonstrated ability to:
 10 1. Hire and supervise staff;
 11 2. Interpret and apply laws, rules and regulations;
 12 3. Develop and implement new policy and procedures;
 13 4. Facilitate, coordinate and communicate effectively with
 14 diverse groups of stakeholders and the public;
 15 5. Support contractual and fiscal responsibilities;
 16 6. Manage complex projects; and
 17 7. Solve problems.

18 (e) Subject to available funding, the administrator shall have the
 19 authority to hire and contract for staff to assist in the performance
 20 of the administrator's responsibilities. Each agency member of the
 21 statewide behavioral health interagency cooperative shall assist in
 22 the performance of these responsibilities by assigning staff to work
 23 with the administrator and the office.

24 (3) There is hereby created within this office the "Statewide Behav-
 25 ioral Health Interagency Cooperative."

26 (a) The statewide behavioral health interagency cooperative shall:

- 27 (i) Work in coordination with the administrator to secure a coord-
 28 inated and effective system;
 29 (ii) Work in close coordination with all local and state govern-
 30 ments, and specifically with the governor and members of the senate
 31 and house of representatives committees on health and welfare;
 32 (iii) Ensure the implementation of the transformation of Idaho's
 33 behavioral health system, as described in the plan adopted by the
 34 behavioral health transformation work group in 2010, by providing
 35 for efficient and effective interagency coordination of systems,
 36 operations, services and funding;
 37 (iv) Recommend statutory changes to the 2012 session of the Idaho
 38 legislature to implement the transformation of Idaho's behavioral
 39 health system, as described in the plan adopted by the behavioral
 40 health transformation work group in 2010, including recommenda-
 41 tions for funding;
 42 (v) Work with the regional advisory committees, the regional
 43 mental health advisory boards, the Idaho department of health and
 44 welfare and the administrator of transformation to develop stan-
 45 dards, data, needs, priorities and funding coordination that will
 46 further inform the development of a behavioral health delivery
 47 system featuring regional provider networks;
 48 (vi) Explore how to best leverage the taxpayer dollars to get the
 49 most appropriate services to consumers and families at the most
 50 appropriate times, locations and costs; and

- 1 (vii) Meet as needed, but no less than on a monthly basis.
 2 (b) The members of the statewide behavioral health interagency cooper-
 3 ative shall be:
 4 (i) The director of the Idaho department of health and welfare;
 5 (ii) The director of the Idaho department of correction;
 6 (iii) The director of the Idaho department of juvenile correc-
 7 tions;
 8 (iv) The Idaho superintendent of public instruction;
 9 (v) The administrative director of the courts;
 10 (vi) One (1) representative from among the counties, appointed by
 11 and serving at the pleasure of the Idaho association of counties;
 12 and
 13 (vii) The chairman of the state behavioral health planning coun-
 14 cil, created pursuant to section 67-822, Idaho Code, or the chair-
 15 man's designee, representing consumers and families of individu-
 16 als receiving behavioral health services, appointed by and serv-
 17 ing at the pleasure of the council.

18 The governor may appoint additional ex officio members to the statewide
 19 behavioral health interagency cooperative who shall serve at the plea-
 20 sure of the governor.

- 21 (c) The administrator shall serve as the chairman of the statewide be-
 22 havioral health interagency cooperative.

23 SECTION 9. That Chapter 8, Title 67, Idaho Code, be, and the same is
 24 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 25 ignated as Section 67-822, Idaho Code, and to read as follows:

26 67-822. STATE BEHAVIORAL HEALTH PLANNING COUNCIL. (1) There is hereby
 27 created within the office of the governor the "State Behavioral Health Plan-
 28 ning Council." The purpose of the council is to:

- 29 (a) Serve as an advocate for adults with a mental illness, for children
 30 and adolescents with emotional disorders and for individuals with sub-
 31 stance use and co-occurring disorders;
 32 (b) Review the state behavioral health systems plan, advise the state
 33 behavioral health authority on issues of concern, policies and pro-
 34 grams, and provide guidance to the state behavioral health authority in
 35 the development and implementation of the plan;
 36 (c) Monitor and evaluate the allocation and adequacy of behavioral
 37 health services within the state on an annual basis;
 38 (d) Serve as a vehicle for intra-agency and interagency policy and pro-
 39 gram development; and
 40 (e) Present to the governor and the legislature by June 30 of each year
 41 a report on the council's achievements and the impact on the quality of
 42 life that behavioral health services has on citizens of the state, in-
 43 corporating the recommendations made by the regional advisory commit-
 44 tees and the regional mental health advisory boards.

45 (2) The composition of the behavioral health planning council shall
 46 conform to the requirements in 42 U.S.C. section 300x-3(c), and shall in-
 47 clude:

1 (a) One (1) representative from each of the seven (7) regions appointed
2 by the region's regional advisory committee and the regional mental
3 health advisory board, acting jointly;

4 (b) One (1) member appointed by the director of the Idaho department of
5 health and welfare with expertise in medicaid;

6 (c) One (1) member appointed by the director of the Idaho department of
7 correction with expertise in behavioral health;

8 (d) One (1) member appointed by the director of the Idaho department of
9 juvenile corrections with experience in behavioral health;

10 (e) One (1) member appointed by the Idaho superintendent of public in-
11 struction;

12 (f) Up to six (6) members appointed by the governor, subject to the fol-
13 lowing criteria:

14 (i) No member appointed by the governor shall be an employee of
15 the state of Idaho or shall be a provider of mental health ser-
16 vices;

17 (ii) The ratio of parents of children with an emotional distur-
18 bance to other members of the council is sufficient to provide ad-
19 equate representation of such children in the deliberations of the
20 council;

21 (iii) At least one (1) such member shall be a representative of a
22 mental health or substance use disorder advocacy nonprofit organ-
23 ization; and

24 (g) Three (3) ex officio members:

25 (i) One (1) member of the Idaho senate, as appointed by the presi-
26 dent pro tempore of the senate;

27 (ii) One (1) member of the Idaho house of representatives, as ap-
28 pointed by the speaker of the house of representatives; and

29 (iii) One (1) member appointed by the Idaho supreme court to repre-
30 sent the judicial branch of Idaho government.

31 Members of the council shall serve at the pleasure of the appointing entity.

32 (3) The council shall elect a chairman and a secretary who shall serve
33 two (2) year terms from the date of election.

34 (4) The behavioral health planning council may establish subcommittees
35 at its discretion.

36 (5) The chairman of the council or his designee shall serve on the
37 statewide behavioral health interagency cooperative established pursuant
38 to section 67-821, Idaho Code.