

## **REPORT TO THE LEGISLATURE**

### **Addressing Delays in Patient Discharge**

Engrossed Second Substitute House Bill 5187, Section 202 (25)

December 1, 2023

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# Table of Contents

## Contents

Executive Summary .....	3
Addressing Delays in Patient Discharge.....	3
Reporting Data .....	6

## **Executive Summary**

The 2023 Washington State Legislature appropriated \$2,233,000 of the general fund for fiscal year 2024, \$4,118,000 of the general fund for fiscal year 2025, and \$297,000 of the general fund for federal appropriation, provided solely for the department to address delays in patient discharge as provided in this subsection.

The reporting requirement of the bill state:

*(a) The department shall hire staff dedicated to discharge reviews, including psychologists to complete reviews and staff for additional discharge review work, including, but not limited to, scheduling, planning, and providing transportation; and establish and implement a sex offense and problematic behavior program as part of the sex offense review and referral team program.*

*(b) Of the amounts provided in this subsection, \$504,000 per year shall be used for bed fees for patients who are not guilty by reason of insanity.*

*(c) The department shall track data as it relates to this subsection and, where available, compare it to historical data. The department will provide a report to the appropriate fiscal and policy committees of the legislature. A preliminary report is due by December 1, 2023, and the final report is due by September 15, 2024, and at a minimum must include the:*

*(i) Volume of patients discharged;*

*(ii) Volume of patients in a sex offense or problematic behavior program;*

*(iii) Number of beds held for not guilty by reason of insanity patients;*

*(iv) Average and median duration to complete discharges;*

*(v) Staffing as it relates to this subsection; and*

*(vi) Average discharge evaluation caseload.*

## **Addressing Delays in Patient Discharge**

### **Background:**

Patients that are ready to transition out of the state hospitals face a wide variety of barriers that impact the timelines for discharge. For many patients, there are regulatory requirements and legal processes that must be followed before discharge can occur. For some, there are complex discharge related issues that their care teams work to resolve ahead of discharge. In December 2022, the Department reached a settlement agreement with Disability Rights Washington to improve discharge planning processes and minimize discharge delays for civilly committed patients at Eastern and Western State Hospital.

The Civil Discharge Settlement Agreement includes the following actions:

- Develop consistent discharge planning processes so civil patients discharging from state hospitals can live in the most integrated community setting. Improving processes through:
  - Stakeholder feedback.
  - Creating clear and timely discharge plans.
  - Updating policies, procedures, processes, and forms to be used for

- individuals discharging from civil commitment beds operated by BHA.
- Defines the discharge transition team and components of a timely discharge.
- Processes for complex case staffing.
- Development of a Transition and Discharge Planning System.

### **Discharge Reviews:**

Pursuant to RCW 71.05.232, the department is required to complete Discharge Reviews for patients with histories of criminal justice involvement prior to their discharge from the state hospitals. These are patients who are committed under RCW 71.05 with a history of one or more violent acts as defined in RCW 71.05.020 and either (1) have been transferred from a correctional facility (any jail, prison, etc.) or (2) [is now or has ever] been under the authority of the Department of Corrections or the Indeterminate Sentence Reviews Board and have a history of violence. The purpose of this evaluation is to complete a discharge review providing an independent opinion regarding whether the person presents a likelihood of serious harm and whether the person is appropriate for release to a less restrictive alternative. Each evaluation requires a detailed review of clinical and criminal history and the amount of time required can range from 8-30 hours to complete, depending on the complexity of the patient's history.

The department currently employs two full-time psychologists at Eastern State Hospital and two full-time psychologists at Western State Hospital to complete discharge reviews for civil patients. Western State Hospital is actively recruiting for a third psychologist. Additionally, the department contracted with 5 psychologists in 2023 to support both hospitals in completing these evaluations given the increasing number of patients that meet the legal requirements.

### **Sex Offense and Problematic Behavior Program:**

Since early 2021, BHA has been taking active preliminary steps to address identified gaps in patient treatment and evaluation needs when patients have an identified sex offense history. Using contractors, interim services were established BHA wide to support referrals for patients to avoid potential delays in discharge, while ensuring needs were addressed to enhance likelihood of success and a safe transition. The use of contractors, while helpful in the interim, still did not address the scope of need as issues on timing, and challenges with appropriate placements often exceeded available resources. While no formal program at either Eastern State Hospital or Western State Hospital has existed to provide treatment, BHA also began the process of identifying what would be needed to create a program that could provide services to patients as a long-term solution for this area of need. To help facilitate the development of a program, BHA began identifying gaps in current data to support a formal request to the legislature to fund this important area of work, and equally important, for BHA to better understand our current state of patients with this history, as well as what the hospital needs are to support this occurring while inpatient. In 2022, financial support to develop the program and positions was approved.

Progress to date:

1. In 2021, a formal monthly report and quarterly report process was established with RDA to provide more complete numbers of patients who have sex offense histories, and includes demographic information to help inform treatment need conversations, statutory requirements for releases, and better informs our approaches in program development.
2. ESH and WSH participated separately in a mapping of their respective current states and an assessment of current needs for this population with a LEAN facilitator.
3. In late 2021- early 2022, a combined project group was formed to begin working on the mapping of the future state of the SO program for consistency between the two hospitals.
  - a. Specific work was ‘bucketed’ to look at intake, assessment, treatment and discharge, with multiple tasks and action items to be considered in the development of a program.
  - b. In the area of Intake, the group has created a referral form to address the initial process of intake and discussed the development of a Sex Offense Review and Referral Team for each hospital. Currently, a manual is in progress that would guide the work of this team’s scope and process. The project team also discussed what positions would be needed to support the work of a team.
  - c. In the area of Assessment, the project team participated in learning sessions and presentations on various assessments that would support evaluating patients and triaging them into treatment based on the Risk, Need, Responsivity (RNR) model.
    - i. Assessments were selected for static & dynamic risk, and protective factors, as well as assessments for individuals with cognitive and intellectual disabilities. The team also discussed an approach to assessment in the event a formal tool could not be used based on scoring rules and or lack of norms on the population (e.g., assessment with women, folks whose primary language or country of origin differs from the US)
  - d. In late 2022- early 2023 the area of Treatment focus began, and the project team began compiling a menu of what each hospital offers patients, as some programs could potentially support responsivity areas for a patient and would be most cost effective.
    - i. In review of programs offered, issues of consistency led the group to consider a smaller group approach which would help identify key programs to work toward consistency as a formal offering of the eventual sex offense program, and support curriculum development of new programs that would be needed.

### **Bed Fees for NGRI:**

Patients that are found Not Guilty by Reason of Insanity (NGRI) require multiple levels of clinical and legal reviews as they progress through treatment and move towards eventual discharge into the community. A typical conditional release into the community requires, at a minimum, review by the state hospital Risk Review Board, Public Safety Review Panel, BHA Assistant Secretary, and a court order. For patients that will be discharging to residential settings, such as Adult Family Homes, Adult Residential Treatment Facilities (group homes), or Enhanced Services Facilities, the owner/provider of the residential setting must wait for all the legal and clinical review teams to evaluate and approve the proposed

discharge plan, a process that can often take 6 months. Many of these residential providers will reserve a bed for an NGRI patient for the entire timeframe, without compensation. The department is currently exploring the possibility of developing short term contracts with residential providers to fund retainer payments as a mechanism of reserving a bed at the residential setting. This will help ensure that the bed is available at the time that the discharge plan is approved by all entities, offer financial benefit to the provider, and provide some incentive for providers to continue serving this population. A common bed retainer rate is approximately 75% of the daily rate for the residence. Early estimates indicate that the monthly expense will be \$2,000-\$4,000 per patient from the point that a provider has accepted a patient at their residential setting to the date of discharge.

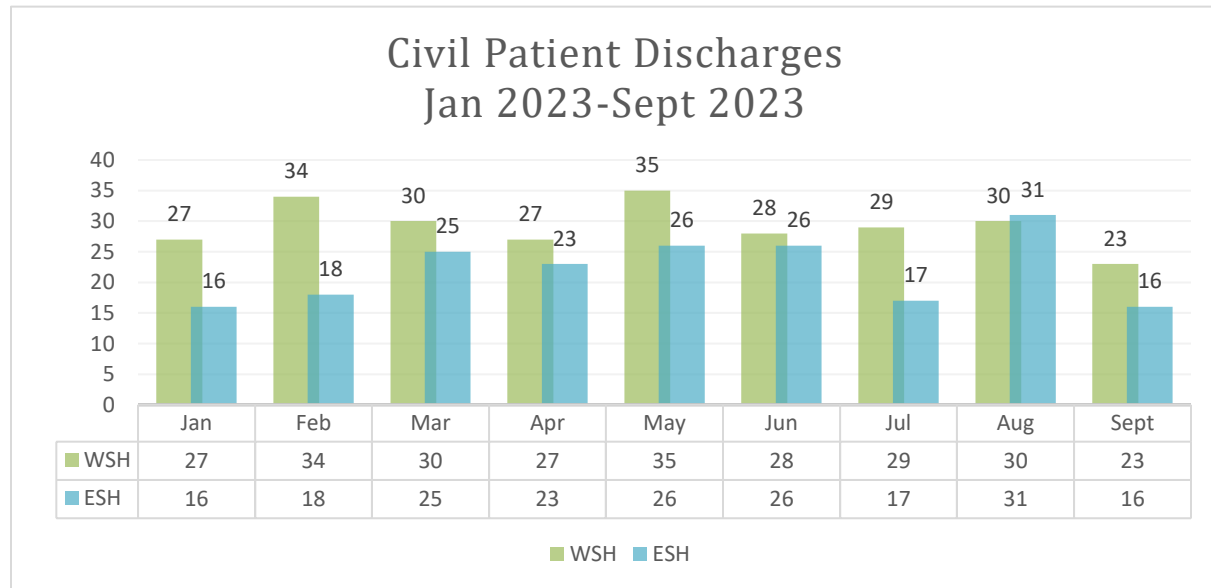
**Reporting Data:**

**Requirement (i) Volume of patients discharged:**

The following chart outlines the number of civilly committed patients that have discharged from the state hospitals between January 1<sup>st</sup>, 2023- September 30<sup>th</sup>, 2023.

*Western State Hospital Civil Discharges: 263*

*Eastern State Hospital Civil Discharges: 198*



**Requirement (ii) Volume of patients in a sex offense or problematic behavior program:**

Currently, the work to develop a sex offense and problematic behavior program and establish position descriptions remains the focus of the project group. With funding beginning in 2025 to hire individuals to provide treatment, the department does not have any patient data or volume of patients served to report at this time.

**Requirement (iii) Number of beds held for not guilty by reason of insanity patients:**

The following chart outlines the number of Not Guilty by Reason of Insanity (NGRI) patients at Eastern and Western State Hospital.

<b>Eastern State Hospital</b>	<b>68 NGRI patients</b>
<b>Western State Hospital</b>	<b>123 NGRI patients</b>

**Requirement (iv) Average and median duration to complete discharges:**

The department does not currently track the average and median duration to complete discharges and is actively working to develop a consistent way to track and report those numbers. The Civil Discharge Settlement Agreement requires that the department build an electronic record system to track key discharge timeframes and information. The Transition and Discharge Planning System (TDPS) is anticipated to be implemented at Western State Hospital and Eastern State Hospital no later than December 2024.

**Requirement (v) Staffing as it relates to this subsection:**

The staffing that have been established at Western State Hospital as part of the funding are as follows:

- 3.0 Mental Health Technician 3's
- 4.0 Institutional Counselor 3's
- 6.0 Psychiatric Social Worker 3's

These staff are needed for discharge related transportation (ex. pre-placement visits, bank, etc.), scheduling and monitoring remote provider visits and discharge evaluations, escorting on-site visits for providers, and managing money access/draws, etc.

**Requirement (vi) Average discharge evaluation caseload:**

ESH	2 Psychologist positions	6 discharge reviews each month per evaluator (average)
WSH	3 Psychologist positions (2 currently hired)	8 discharge reviews each month per evaluator (average)
Contractors	5 contractors (varied availability)	30 Discharge Reviews completed in 2023