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FISCAL IMPACT REPORT

ORIGINAL DATE 02/26/07
 LAST UPDATED 3/9/07

SPONSOR Lopez HB _____

SHORT TITLE Behavioral Health collaborative Rule Making SB 1179/aSPAC

ANALYST Weber

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 727, SB 1102

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Administrative Office of the Courts (AOC)
- Indian Affairs Department (IAD)
- Human Services Department (HSD)
- Department of Health (DOH)
- Children Youth and Families Department (CYFD)
- Corrections Department (CD)
- Public Education Department (PED)

SUMMARY

Synopsis of SPAC Amendment

1. On page 4, strike lines 16 through 25 and on page 5, strike lines 1 through 7 and insert in lieu thereof:

"E. Pursuant to the State Rules Act, the collaborative shall adopt rules through the human services department for:

- (1) standards of delivery for behavioral health services provided through contracted behavioral health entities, including:
 - (a) quality management and improvement;

- (b) performance measures;
- (c) accessibility and availability of services;
- (d) utilization management;
- (e) credentialing of providers;
- (f) rights and responsibilities of consumers and providers;
- (g) clinical treatment and evaluation and supporting documentation; and
- (h) confidentiality of consumer records; and

(2) approval of contracts and contract amendments by the collaborative, including public notice of the proposed final contract.”

The amendment better defines the criteria that the Collaborative must use to develop rules.

Synopsis of Original Bill

Senate Bill 1179 requires the behavioral health collaborative to make rules regarding performance measures and standards of the service providers, including the single statewide entity that administers the system. In addition, hearings must be held to take formal testimony from consumers about behavioral health provider services. The hearings must be held at least annually in each quadrant of the state after posting a public notice of hearing that lists the subject matter of the rule, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed rule may be obtained. The hearing date shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice of hearing. All rules shall be filed in accordance with the State Rules Act.

FISCAL IMPLICATIONS

HSD and DOH express concern that it would take at least one FTE plus expenses to manage this function. However, many of these functions already exist and if additional expense is incurred it should be minimal.

SIGNIFICANT ISSUES

HSD notes that while the Collaborative chairs have expressed support for giving the Collaborative rule-making authority, this would have to be done carefully to avoid duplication or inconsistency with single state agencies responsible for various federal dollars. It would be duplicative for the Collaborative to make additional rules in these same areas. This would not seem an overriding concern since if the proposed transfer of the DOH Behavioral Health Division to HSD takes place over \$289 million of the \$300 million budget will be in one agency. Effectively, all the funds are at HSD minimizing concern of ineffectiveness or duplication of effort among various agencies.

HSD goes on that rules currently exist surrounding performance measures and standards for providers. These rules are mostly through Medicaid regulations, but other member agencies also have rules that pertain to their behavioral health programs and providers. There are also performance measures and standards throughout the contract between the Collaborative and the

Statewide Entity. Additionally, there are monthly Collaborative meetings that are open to the public. Consumers, family members, and other stakeholders frequently address provider issues and issues related to the statewide entity during the regular public comment periods. The Collaborative already holds monthly meetings with notice as required by law, and rules currently exist. SB 1179 unnecessarily imposes a level of specificity regarding development of rules and how hearings are to be conducted and it is inappropriate that this be required by statute.

It is true there are presently public Collaborative meetings however, it is uncertain where the rules reside regarding the issues required in SB 1179. Also, HSD fails to define the inappropriateness of rules for performance measures and standards of behavioral health service providers including the single entity.

CYFD adds that should the bill pass, it will require even closer coordination across agencies to ensure that current standards and measures are incorporated and/or subsumed into the new process. The current process (CYFD overseeing behavioral health services for children and youth up to age 21) ensures that individuals with expertise in the area provide the leadership. If the rulemaking process becomes centralized with the Collaborative, this may weaken CYFD's ability to advocate for children/youth—particularly in those years when CYFD is not a co-chair of the Collaborative.

CYFD's comments seem to question the value of the Collaborative and expresses concern the Collaborative may lack the expertise required to effectively develop rules that carry out the agency's mission. CYFD is concerned the lack of expertise is of particular danger to the agency in years when CYFD is not the co-chair. However, this could also be interpreted that the existence of wise rules will protect the interests CYFD in all years, thereby increasing the value of rulemaking authority.

MW/mt