

September 25, 2020

Robert Werthwein, Ph.D.
Director, Office of Behavioral Health
3824 West Princeton Circle
Denver, CO 80236

RE: 27-65, C.R.S. Statutory and Regulatory Recommendations

Dear Director Werthwein:

The Mental Health Advisory Board for Service Standards and Regulations was created pursuant to Section 27-65-131, C.R.S., and is responsible for recommending standards and rules relevant to the provision of Title 27, Article 65, C.R.S., the Care and Treatment of Persons with Mental Health Disorders. Board members are appointed by the Governor and are assigned to assist and advise the Executive Director of the Colorado Department of the Human Services in accordance with Section 27-65-130, C.R.S., in the development of service standards and rules.

The Mental Health Advisory Board for Service Standards and Regulations (MHAB) recommends the following statutory and regulatory recommendations regarding Article 65 of Title 27, C.R.S., the Care and Treatment of Persons with Mental Health Disorders:

Statutory Recommendations (S-1 through S-4):

S-1. *Convene a multidisciplinary group to review the “intervening professional” definition and update the Involuntary Transportation Hold.* This multidisciplinary group shall present their finding and recommendation to the MHAB, these recommendations shall address, but not be limited to:

- Section 27-65-105(1)(a)(II)(C) and (D), C.R.S., which requires licensed marriage and family therapists, licensed professional counselors, licensed addiction counselors, and registered professional nurses to have “postgraduate education and additional preparation” in order to place an individual on a hold. The “postgraduate education and additional preparation” requirements should be reviewed and updated to allow behavioral health professionals to practice within their professional scope of practice, acknowledging that additional 27-65, C.R.S. training may be required.
- If additional professionals, such as physician assistants, advanced nurse practitioners, and paramedics, should be included in the “intervening professional” definition.

- The Involuntary Transportation Hold provisions, established in §27-65-105(1)(a)(I.5), C.R.S. These statutory updates should:
 - Clarify what it means when an individual “is in need of immediate evaluation for treatment in order to prevent physical or psychiatric harm to himself or others”;
 - Update who can execute this transportation hold, including paramedics;
 - Clearly define what kinds of facilities are required to receive individuals on this hold;
 - Address the custody of individuals upon arrival at a facility; and,
 - Consider renaming this emergency procedure intervention.

S-2. *Establish a facility designation system based on the type of services provided at each type of facility.* Create specific requirements, including what rights, under 27-65, C.R.S., patients have at each facility, to ensure rights are protected and facilities are able to afford individuals all of their rights. This designation system includes:

- Hospital or Freestanding Emergency Department designation requirements that align with the patient rights afforded to any individual in need of physical health emergency care and treatment.
- Hospital Inpatient specific designation requirements that ensure individuals receive all of their afforded rights while receiving involuntary mental health care and treatment in a 24-hour setting, including on medical/surgical units.
- Outpatient specific designation requirements that ensure individuals and providers have clear expectation and requirements for providing involuntary mental health care and treatment in an outpatient setting.

S-3. *Establish clear transportation procedures for individuals needing a mental health intervention.* Create safe and secure transportation requirements to ensure individuals have timely access to transportation services when individuals need a facility-based mental health intervention.

Regulatory Recommendations (R-1 through R-3):

R-1. *Utilization of telehealth in the care and treatment of persons with mental health disorders.* Create standards for when and how telehealth can support mental health care and treatment across Colorado. Telehealth standards should address how telehealth may be used when placing a mental health hold (Section 27-65-105, C.R.S.) or during the certifications and certification renewal process (Section 27-65-106, 107, and 108, C.R.S.) and how telehealth may be utilized to support the care and treatment services provided in inpatient and outpatient settings.

- R-2. Evaluation of voluntary individuals seeking immediate facility discharge.** Create standards and timeframes for how to evaluate an individual that is receiving inpatient mental health care and treatment services voluntarily and wants to discharge, but may be an imminent danger to others or to himself/herself.
- R-3. Standardized statewide training.** To ensure consistent 27-65, C.R.S. training across Colorado, establish regulatory standards that require facilities to complete an annual training that is standardized and administered by the Department.

Thank you for your willingness to engage in the review and possible implementation of these recommendations. Please reach out to the Board for any clarification or discussion. We, as the Mental Health Advisory Board for Service Standards and Regulations, look forward to supporting the vision of the Department of Human Services *to serve Coloradans through bold and innovative health and human services.*

Respectfully submitted,

E. Lowdermilk, MD

Dr. Elizabeth Lowdermilk, Board Chair
Mental Health Advisory Board for Service Standards and Regulations

This letter was approved unanimously by voting members of the Mental Health Advisory Board for Service Standards and Regulations during the September 25, 2020 Board Meeting. This letter was created by the Mental Health Advisory Board for Service Standards and Regulations and does not necessarily represent the views of the facilities or agencies the board members represent.