

Mend the Safety Net

Strengthen connections between the civil commitment system, law enforcement, criminal justice, and outpatient care; fill the gaps between inpatient and community treatment.

The problem:

The continuum of care for individuals with serious mental illness has been seriously compromised in recent years through well-intentioned reforms and chronic underfunding. The loss of beds for civil commitments and inpatient psychiatric care means fewer places to take individuals who need more than outpatient care. Law enforcement accountability reforms have made peace officers reluctant to partner with family members and providers to pick up individuals who have been certified for inpatient treatment or who are gravely disabled or in danger of hurting themselves. Seriously ill individuals, their families, and their communities are put in jeopardy when the right level of care isn't available at the right time.

Our ask of legislators:

- Support SB 25-042's provisions to catalogue existing alternative crisis response initiatives, assess funding gaps for those options, and seek to expand such funding when the state budget allows.
- Support policies and initiatives that strengthen partnerships in your district between community providers, courts, and law enforcement.

Enable community behavioral health providers to serve high-risk clients while protecting the safety of their staff, their facilities, and other clients and community members.

The problem: New BHA regulations effective 7/1/24 include a series of "no refusal" requirements for comprehensive safety net behavioral health providers, including for individuals who display or have a history of aggressive behavior as a symptom of a diagnosed mental health or substance use disorder. While the intention behind this requirement is admirable, CBHC members unfortunately encounter situations in which clients physically attack staff, resulting in serious bodily injury. In addition to the immediate injury to the affected staff, there is also secondary trauma for other staff who witness it. Providers must be allowed to protect their staff from potentially harmful individuals. Further, this section of rule is contradictory to OSHA guidelines for employers' responsibility to provide a safe work environment for their employees.

Our ask of legislators: CBHC has suggested guardrails for this requirement to BHA—e.g., explicit allowances to serve such clients only by telehealth or in a secure setting, transport to another setting, etc.—through detailed legal guidance or a rule revision. At this writing we are continuing to work with BHA on this in good faith and hope to avoid the need for legislative intervention. *We ask legislators to monitor this progress with help from their local CMHC.*

Thoughtfully evolve the regulatory structure for comprehensive behavioral health providers so it balances accountability and transparency with appropriate oversight and does not inadvertently adversely affect client experience and access to care.

The problem: After the passage of BH 22-1278, BHA developed—with stakeholder input—nearly five hundred pages of regulations for behavioral health safety net providers to implement that statute. Those rules took effect July 2024. Such a comprehensive regulatory structure will inevitably need refinement once providers and clients begin to operate within them. CBHC has identified a number of rules that inadvertently are having an adverse impact on client experience and access to care as well as provider costs and satisfaction. While we have shared these concerns with BHA since late summer, we have not yet experienced real progress in addressing those concerns. We were pleased to hear a commitment from Commissioner Smith to work with providers on these issues at last week’s BHA SMART Act Hearing.

Our ask of legislators: While we continue to work in partnership with BHA leadership to address these issues through the regulatory process, *we ask legislators to track these discussions and request regular progress updates from BHA.* If we are unable to improve the identified challenges regulatorily, we will ask legislators to change the enabling statute to ensure it does not perpetuate unintended adverse consequences.