

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**HUMAN SERVICES COMMITTEE**

Tuesday, January 7, 2014  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Chuck Damschen, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Chuck Damschen, Dick Anderson, Kathy Hogan, Dwight Kiefert, Diane Larson, Naomi Muscha, Alon Wieland; Senators Dick Dever, Robert Erbele, Judy Lee, Tim Mathern, John M. Warner

**Members absent:** Representatives Curt Hofstad, Alex Looyen, Gail Mooney; Senators Tyler Axness, Nicole Poolman

**Others present:** Representative Marvin E. Nelson, member of the Legislative Management, was also in attendance.

See [Appendix A](#) for additional persons present.

**It was moved by Senator Mathern, seconded by Representative Larson, and carried on a voice vote that the minutes of the October 29, 2013, meeting be approved as distributed.**

**STUDY OF BEHAVIORAL HEALTH NEEDS OF YOUTH AND ADULTS**

The Legislative Council staff presented a memorandum entitled [Study of Behavioral Health Needs - Information Regarding the Request for Proposal and Proposal Responses](#). Section 1 of 2013 Senate Bill No. 2243 allows the Legislative Council to contract for consulting and coordination of study services to assist the Legislative Management in conducting the behavioral health study. On November 12, 2013, as directed by the committee, the Legislative Council issued a request for proposal (RFP) for the consultant services. Proposals were due to the Legislative Council office on December 13, 2013. Proposals were received from the North Dakota Rural Behavioral Health Network (NDRBHN), the Public Consulting Group (PCG), the Technical Assistance Collaborative, Inc. (TAC), and Schulte Consulting, LLC. PCG later withdrew its proposal. The memorandum includes a summary comparison of selected components of each of the three potential consultants' proposals.

To select the order in which the potential consultants gave their presentations, a drawing was performed by Senator Erbele and read by Chairman Damschen. The selected order was:

1. NDRBHN.
2. TAC.
3. Schulte Consulting, LLC.

Ms. Carlotta McCleary, Chair, North Dakota Rural Behavioral Health Network, presented information ([Appendix B](#)) regarding the NDRBHN proposal to assist with the study of behavioral health needs of youth and adults in North Dakota. She said NDRBHN is collaborating with existing behavioral health resources in North Dakota that include:

- Public and private institutions and providers;
- Tribal communities and providers;
- Advocacy organizations;
- North Dakota Consumer Family Network;
- Veterans' groups;
- Head Start; and
- Certain state agencies.

Ms. McCleary said NDRBHN has already begun a behavioral health needs assessment for rural and tribal communities in North Dakota, and this project would allow for the creation of a more comprehensive needs assessment for all of North Dakota. She said the objectives of the NDRBHN proposal are:

1. Engage stakeholders to identify sources of data, refine the needs assessment process, complete a plan with goals and objectives, and prioritize strategies.
2. Describe behavioral health needs of children and adults by region and statewide.
3. Identify available prevention, early intervention, and treatment services for youth and adults by region.
4. Describe the adequacy of integration of the physical health care and behavioral health care systems.
5. Identify areas of treatment needing improvement (evidence-based recovery).
6. Develop a plan based on specific goals and objectives to improve behavioral health services in North Dakota.
7. Make recommendations to implement the plan.
8. Disseminate the needs assessment.

In response to a question from Senator Mathern, Ms. McCleary said NDRBHN would make the final decisions on recommendations based on information available.

In response to a question from Senator Lee, Ms. McCleary said NDRBHN has existed for about three years, and the group provided testimony during the 2013 legislative session.

In response to a question from Representative Hogan, Ms. McCleary said another member of the research team, Dr. Pat Conway, has previous work experience involving the development of recommendations, but NDRBHN as an organization does not.

In response to a question from Senator Lee regarding the rural behavioral health needs assessment the group has already begun, Dr. Jennifer Boeckel, Boeckel Consulting, North Dakota Rural Behavioral Health Network, said she believes the NDRBHN behavioral health needs assessment report will be made public upon its completion.

In response to a question from Senator Lee, Ms. McCleary said NDRBHN should be selected as the consultant due to the group's passion, the fact the group is local, and the group has extensive involvement from those involved in the behavioral health system. She said the staff also has substantial experience in behavioral health.

Mr. Peter Rockholz, Technical Assistance Collaborative, Inc., presented information ([Appendix C](#)) regarding the TAC proposal to assist with the study of behavioral health needs of youth and adults in North Dakota. He said TAC is a nonprofit consulting group with a broad national practice and perspective. He said TAC has extensive awareness of current national best practices. He said TAC proposes to conduct the behavioral health needs assessment and gaps analysis project using three interrelated tasks:

1. Review available documents and data to produce baseline descriptions of behavioral health service resources and potential gaps on a statewide and regional basis.
2. Receive and review stakeholder input - TAC believes considerable stakeholder input has been collected by the Division of Mental Health and Substance Abuse Services (DMHSAS) over the past few years. There is also an indication that DMHSAS has collected and is currently assembling additional stakeholder input. To the extent feasible, TAC will use the key informant interviews and focus groups to collect respondents' information and perspectives on these topics. TAC is proposing to conduct onsite visits early in the project to collect additional stakeholder input relative to service gaps and potential service improvements for the behavioral health system.
3. Produce the interim and final reports - TAC proposes to produce a brief interim report in PowerPoint format for review and discussion by the end of April 2014. TAC will be available to discuss this report with the committee via teleconference at the end of April or early May. Once review of the interim report is completed, TAC will prepare a draft and final report. It will highlight major findings and observations and outline recommended strategic directions, but will not include specific details on all topics.

In response to a question from Senator Mathern, Mr. Rockholz said TAC has provided technical assistance to North Dakota in the past. He added that his personal experience in North Dakota was a review of the substance abuse facilities in the corrections system a number of years ago.

In response to a question from Senator Lee, Mr. Rockholz said TAC will rely on information reported by the Department of Human Services to the federal government.

In response to a question from Senator Lee, Mr. Rockholz said it will not be possible to hold focus site visits across North Dakota due to the limited budget available for the project. He said TAC would like to add more site visits, but the group is limited by available resources.

In response to a question from Senator Lee, Mr. Rockholz said TAC brings commitment and an interest in developing high-quality behavioral health services across the country.

Ms. Renee Schulte, Schulte Consulting, LLC, presented information ([Appendix D](#)) regarding the Schulte Consulting, LLC, proposal to assist with the study of behavioral health needs of youth and adults in North Dakota. She said she has relevant experience, including developing a proposal for youth services in Iowa. She said Schulte Consulting, LLC, authored the administrative rules to implement the mental health reform in Iowa. She said additional work includes consulting relating to children's disability and advocacy workgroups and shaping the peer support training program in Iowa. She said the plan to complete the North Dakota project is:

1. Review all the previous interim, committee, and subcommittee recommendations to date and any implementation.
2. Determine stakeholders who have historically been part of discussions of behavioral health care in North Dakota and identify any others that should be included.
3. Obtain any maps and budgetary information available to assess statewide access and needs.
4. Review current law related to mental health coverage and the Affordable Care Act.
5. Request outcome data from the eight regional facilities.
6. Work with stakeholders to determine gaps and needs across the state.
7. Develop a plan with recommendations to implement behavioral health reform in North Dakota.

Ms. Schulte said the proposal includes four trips to North Dakota.

In response to a question from Senator Mathern, Ms. Schulte said more collaborative groups would be involved with her work, and she would be aided by law students and policy analysts. She said she currently has a contract with the state of Iowa to implement the state's new behavioral health system with a regional design. She said Iowa is in year three of a five-year to seven-year project.

In response to a question from Senator Warner, Ms. Schulte said she was a licensed mental health counselor and has also worked in other areas of the mental health system.

In response to a question from Senator Lee, Ms. Schulte said she would consider committee input for determining an appropriate location for the stakeholder meetings.

In response to a question from Representative Hogan, Ms. Schulte said it is important for consumers to have choice of services. She said the changes made in Iowa were based on the needs of the clients.

In response to a question from Senator Mathern, Ms. Schulte said weekly meetings were held with stakeholders in Iowa to ensure they had input and were informed.

In response to a question from Senator Dever, Ms. Schulte said the redesign in Iowa included streamlining services, becoming more cost-effective, and improving services without just increasing appropriations.

In response to a question from Senator Lee, Ms. Schulte said she brings passion and flexibility. She added that the leaders of Schulte Consulting, LLC, will be those working on the project.

Senator Lee said she would be interested in discussing the possibility of selecting the Schulte Consulting, LLC, proposal.

Senator Mathern said it is important that the recommendations resulting from the study be implemented. He said he believes NDRBHN or Schulte Consulting, LLC, would be more effective in involving stakeholders than the TAC organization. He expressed concern, however, that NDRBHN may have a potential conflict of interest in the outcome of the project. He said Ms. Schulte has an impressive history of accomplishing behavioral health reform in Iowa.

Senator Dever said he would prefer to select Schulte Consulting, LLC, because of Ms. Schulte's knowledge of the legislative process.

**It was moved by Senator Dever, seconded by Representative Wieland, and carried on a roll call vote that the committee recommend the Chairman of the Legislative Management enter a contract with Schulte Consulting, LLC, to assist with the study of behavioral health needs of youth and adults in North Dakota.** Representatives Damschen, Anderson, Hogan, Kiefert, Larson, Muscha, and Wieland and Senators Dever, Erbele, Lee, and Mathern voted "aye." Senator Warner voted "nay."

Mr. John Vastag, Director of Health and Medical Transformation, Blue Cross Blue Shield of North Dakota, Behavioral Health Stakeholders Group, was not able to attend the meeting but provided written testimony ([Appendix E](#)) to the committee regarding an update on the activities of the group. The written testimony states the group will have a meeting on Thursday and Friday, February 6-7, 2014, to frame key issues and prioritize recommendations.

Mr. Alex Schweitzer, Director, Field Services Division, Department of Human Services, presented information ([Appendix F](#)) regarding behavioral health services client demographic information, major cost and usage changes and trends in behavioral health services, and information on the estimated fiscal impact to the state of the decreasing private insurance coverage for behavioral health services. He said the Department of Human Services provided behavioral health services for 26,494 clients in fiscal year 2012, including over 6,000 youth clients. He said the Field Services Division expended \$155,121,561 in the 2011-13 biennium for services in the eight regional human service centers, and of that amount, \$102,696,046 (66.2 percent) was expended for community-based behavioral health services. He said the 2013-15 appropriation for all services in the eight regional human service centers totals \$181,075,261, and of that amount, \$123,906,923 (68.4 percent) is for community-based behavioral health services. He said there is a trend toward the use of mobile crisis teams to reduce admissions of clients to inpatient and residential facilities by providing services in the client's place of residence. He said at this time, the department is unable to determine the fiscal impact to the state of the decreasing private insurance coverage for behavioral health services.

In response to a question from Senator Warner, Mr. Schweitzer said the department will provide longitudinal data information to identify chronic problems. He said if available, the data will include information across education, corrections, and human services.

In response to a question from Representative Larson, Mr. Schweitzer said the Department of Human Services has a mobile crisis unit in Fargo. He said it is a pilot program in Cass County, and it is being reviewed to determine its effectiveness. He said to date, the program appears to be working well.

Senator Lee suggested Mr. Schweitzer provide additional information regarding the \$2.2 million appropriated for additional bed capacity. She asked that the information identify the different examples provided and how the Department of Human Services is progressing with adding the beds. Mr. Schweitzer said he would provide the information.

In response to a question from Senator Lee, Mr. Schweitzer said state standards for licensed addiction counselors are important. He said the standards in North Dakota are higher than surrounding states, but the Department of Human Services is working with potential applicants to assist them in meeting the standards and becoming licensed.

Ms. Rebecca Ternes, Deputy Commissioner, Insurance Department, presented information ([Appendix G](#)) regarding the effects of the implementation of the federal Affordable Care Act in North Dakota, specifically relating to insurance coverage for behavioral health services and compliance with applicable state laws and department rules. She said all health insurers have made changes to their plans and rating schedules because of the Affordable Care Act. She said the actual impact of the plan changes to benefits will not be known until the new plans have been in place for some time.

In response to a question from Senator Mathern, Ms. Ternes said even though insurance benefits for certain substance abuse treatment services have been reduced, the new benefit packages do meet the state standards with regard to mandated benefits. She said the insurance companies were providing selected services beyond those required by the state prior to the passage of the Affordable Care Act.

In response to a question from Senator Lee, Ms. Ternes said she would provide information on insurance coverage for brain injuries with regard to acquired brain injuries compared to traumatic brain injuries.

Ms. Theresa Will, Director, City-County Health District, Valley City, presented testimony ([Appendix H](#)) regarding access to behavioral health services. She said access barriers to behavioral health services include travel to reach services, limited number of providers, and lack of health insurance. She said a 1,400-hour internship is required to become a licensed addiction counselor. She said these internships are generally unpaid or minimal pay internships, which makes it difficult to meet the requirement.

Ms. Megan Houn, Blue Cross Blue Shield of North Dakota, presented testimony ([Appendix I](#)) regarding coverage changes resulting from the Affordable Care Act as it affects behavioral health and addictions insurance benefits. She said historically, Blue Cross Blue Shield health plans offered more benefits than those included in the Sanford benchmark plan, which was chosen as North Dakota's essential health benefits benchmark plan. She said the benchmark chosen did not have the extent of coverage provided by the previous Blue Cross Blue Shield benchmark; therefore, Blue Cross Blue Shield adjusted its products to the Sanford benchmark.

Senator Mathern suggested the Board of Addiction Counseling Examiners present information to the committee regarding its standards. Chairman Damschen said the board will be asked to present information at the committee's next meeting regarding licensure requirements in North Dakota compared to surrounding states and rationale for the licensure requirements in North Dakota.

Senator Mathern suggested the committee receive information on the current NDRBHN study relating to behavioral health services. Chairman Damschen said the information will be requested for the next meeting.

### **STUDY OF THE NEED FOR A COMPREHENSIVE SYSTEM OF CARE FOR INDIVIDUALS WITH BRAIN INJURY**

Ms. Julie Schwab, Director, Medical Services Division, Department of Human Services, presented information ([Appendix J](#)) regarding options to allow individuals with brain injury who are working to access Medicaid services. She said if an individual is interested and has the financial resources to buy in to the Medicaid program, the individual can do so through the workers with disabilities program. She said the workers with disabilities income eligibility level for one person is \$2,155 per month, and the amount of the premium to buy in would be 5 percent of the person's gross earned and unearned income. She said another option is now available with the Medicaid Expansion package. She said the maximum annual income amount for an individual to qualify for the Medicaid Expansion group is \$15,856.

In response to a question from Senator Mathern, Ms. Maggie D. Anderson, Executive Director, Department of Human Services, said the Sanford benchmark health plan would have comparable coverage to the Medicaid Expansion health plan.

The Legislative Council staff presented a memorandum entitled [Key Issues Regarding Brain Injury Services](#). The memorandum summarizes testimony presented to the committee to date relating to concerns and suggestions regarding brain injury services. Key issues identified include:

- Better financial assistance;
- The need for reminders for meetings and appointments;
- Assistance with employment responsibilities;
- The need for a more flexible sliding scale plan with regard to government services;
- Social services caseworkers should be trained in how to work with people with memory issues and those who have suffered brain injuries;
- The need for improved coordinated advocacy effort;
- The state should provide the right services and supports;
- The need for more community-based supports;
- The need for case management services for the lifetime of the brain injury survivor;
- The need for additional long-term supports and actual day-to-day services;
- Legislative language should include all acquired brain injuries in addition to traumatic brain injuries;
- A brain injury registry should be established;
- A traumatic brain injury waiver should be reestablished;

- The level of care screening tool should be adjusted to improve access to the current programs offered through home and community-based services; and
- A service similar to the developmental disability community, where people live in their own apartments but have onsite supervision provided to all the clients in the building should be added.

Ms. Rebecca Quinn, Program Director, Center for Rural Health, University of North Dakota School of Medicine and Health Sciences, presented testimony ([Appendix K](#)) regarding the need for a comprehensive system of care for individuals with brain injury. She said solutions should be developed that will create a comprehensive system of care for brain injuries. She suggested creating a brain injury registry to connect individuals who have sustained a brain injury with available services.

In response to a question from Representative Hogan, Ms. Quinn said approximately 13,000 North Dakota residents are living with long-term disabilities due to brain injury. She said registries are effective in Minnesota, Tennessee, and Iowa because their registries are connected to followup services.

In response to a question from Senator Mathern, Ms. Quinn suggested North Dakota establish a registry for brain injuries in either the State Department of Health or the Department of Human Services.

In response to a question from Representative Anderson, Ms. Quinn said she would provide a listing of services available to individuals who have suffered a brain injury.

Ms. Trina Gress, Vice President of Employment Services, Community Options, Inc., presented testimony ([Appendix L](#)) regarding gaps in services for individuals with traumatic brain injury. She said gaps in services include the lack of day programming, long-term extended services for individuals who are working, residential services, and case management services.

In response to a question from Representative Hogan, Ms. Gress said a system similar to the developmentally disabled system would work well for individuals with brain injury.

In response to a question from Representative Larson, Ms. Gress said the services necessary for individuals with brain injury differ from those needed by developmentally disabled persons. Ms. Quinn said certain traumatic brain injured individuals still have a very high IQ but have deficits with memory, emotional control, and other areas.

Representative Hogan suggested creating a service system that would include a broad disability program model with developmental disability services and brain injury services as components of the overall program.

Ms. Lynn Ostrum, Rugby, provided testimony to the committee regarding her and her son's experiences with traumatic brain injury services. She said while living in Iowa, a number of services were available; however, a number of barriers to services exist in North Dakota. As an example, she said, the Department of Human Services will pay for taxi services to attend speech therapy but will not pay for mileage if a family member or friend drives the brain injury survivor to the speech therapy session.

Ms. Rhonda Boehm, Bismarck, presented testimony ([Appendix M](#)) regarding the financial difficulties of living with traumatic brain injury and not qualifying for sufficient government assistance. She also proposed the adoption of a state flex fund program for individuals with traumatic brain injury who qualify as midfunctioning.

Ms. April Fairfield, Executive Director, Head Injury Association, presented testimony ([Appendix N](#)) regarding brain injuries and brain injury services. She said she supported the reestablishment of a brain injury registry but suggested other areas of entry outside of a hospital setting to allow brain injured individuals who move to North Dakota to access the registry without first being hospitalized.

Senator Mathern suggested a bill be drafted to include acquired brain injuries as part of the definition of traumatic brain injuries in North Dakota Century Code. He suggested the State Department of Health and the Department of Human Services consider establishing a brain injury registry.

Senator Lee suggested the Legislative Council staff be asked to review potential changes to definitions relating to acquired brain injuries and traumatic brain injuries. She also said in the development of a registry, consideration be given to the effect on providers that will have to submit the information.

Senator Mathern suggested the State Department of Health and the Department of Human Services present information to the committee at its next meeting regarding options for establishing a brain injury registry. He also suggested the Department of Human Services propose an appropriate definition of traumatic brain injury, including

the possible inclusion of acquired brain injury as part of the definition. He also suggested the Legislative Council staff identify similar registries already established the state. Chairman Damschen said these items will be requested for the next meeting.

In response to a suggestion from Senator Mathern, Chairman Damschen said the Department of Human Services will be asked to provide information to the committee at its next meeting regarding the feasibility of implementing a flex fund program for individuals with brain injury.

Chairman Damschen asked the Legislative Council staff to update the memorandum entitled *Key Issues Regarding Brain Injury Services* to include information from this meeting's testimony.

## STUDY OF HOME AND COMMUNITY-BASED SERVICES

Ms. Schwab presented information ([Appendix O](#)) regarding options and changes that would be necessary to facilitate replication of the Cass County Community of Care model in other parts of the state and to provide an update on the long-term care study. She said \$120,000 per biennium has been provided to the Community of Care organization through the Department of Human Services. She said according to the 2013-15 budget information provided by Community of Care, the total estimated expenses and revenue for its two-year budget period total \$416,248. She said revenue sources other than the \$120,000 per biennium provided from the Department of Human Services include various foundations, donations, grants, fundraisers, and memberships. She said to replicate the Community of Care model in other communities in North Dakota, it would require a mixture of revenue, including state funds, local support, grants, memberships, donors, and fundraisers. She said it would also require recruiting and retaining volunteers.

Ms. Schwab said the Department of Human Services is conducting a long-term care study to:

- Review available capacity for nursing facilities, basic care facilities, and assisted living facilities within the state;
- Assess the disbursement of the available capacity;
- Identify and describe home and community-based services options that are available to individuals in the state either through the Department of Human Services or other entities;
- Assess and define service delivery gaps in North Dakota's current long-term care continuum;
- Define the primary cost drivers to publicly funded long-term care institutional services;
- Identify long-term care quality and access measures and provide sample data indicators or surveys; and
- Assess the program of all-inclusive care for the elderly (PACE) role in the long-term care continuum.

Ms. Schwab said the contract was awarded to Myers and Stauffer, LC. She said Myers and Stauffer, LC, is continuing to gather information regarding the long-term care continuum in North Dakota. She said stakeholder meetings are scheduled for the week of January 12-18, 2014, in Bismarck and Fargo. She said an interim report is due to the Department of Human Services by Monday, March 3, 2014, and the final report is due by Tuesday, July 1, 2014.

Senator Lee expressed concern that the department is not addressing the appropriateness of the definitions of assisted care, basic care, and skilled care in the study. She said North Dakota is the only state to have three separate definitions, and these definitions sometimes cause issues with insurance reimbursement.

Ms. Sally Holewa, State Court Administrator, Supreme Court, presented information ([Appendix P](#)) regarding guardianships appointed by the court system. She said there were 3,225 active adult guardianship and conservatorship cases in 2013. She said \$828,600 was provided for the 2013-15 biennium for defraying the expenses of public administrators when they are acting as guardians.

The Legislative Council staff presented a memorandum entitled [Key Issues Regarding Home and Community-Based Services](#). The memorandum summarizes testimony presented to the committee relating to concerns and suggestions regarding home and community-based services. Key issues identified include:

- Certain areas of the state are lacking services and certain services are difficult to provide due to lack of qualified service providers as well as the necessary travel;
- Service gaps exist for individuals who do not meet the total impairments needed to qualify for home and community-based services but still have service needs to remain at home safely;

- The need for medical transportation and escort to be included in allowable tasks under current funding sources;
- The requirement that clients apply for Medicaid if they need personal care services;
- The medical expense deductions for the service payments for elderly and disabled (SPED) program have not been adjusted in more than seven years; and
- Concern regarding the issue of loneliness and the need for funding for services that address the loneliness and isolation.

Representative Hogan suggested the Department of Human Services provide information to the committee at a future meeting regarding the feasibility of developing programs to address issues included in the Legislative Council memorandum.

Ms. Diane Mortenson, Stark County Social Services, presented testimony ([Appendix Q](#)) regarding issues relating to home and community-based services. She said individuals who cannot afford to pay privately for services often do not receive the needed services soon enough to avoid a nursing home placement. She recommended the addition of another level of service funding under SPED by reducing the number of impairments needed to qualify for services.

Chairman Damschen asked the Legislative Council staff to update the memorandum entitled *Key Issues Regarding Home and Community-Based Services* to include information from this meeting's testimony. Chairman Damschen also asked the Legislative Council staff to arrange for representatives of the Department of Human Services to respond to the issues and suggestions identified in the memorandum at a future meeting.

Chairman Damschen announced the next meeting is tentatively scheduled in early April.

**It was moved by Representative Wieland, seconded by Senator Lee, and carried on a voice vote that the meeting be adjourned subject to the call of the chair.**

The meeting adjourned subject to the call of the chair at 3:50 p.m.

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Alex J. Cronquist  
Fiscal Analyst

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Allen H. Knudson  
Legislative Budget Analyst and Auditor

ATTACH:17