

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

**HEALTH SERVICES COMMITTEE**

Tuesday, October 24, 2017

West Conference Center, Nutrition Services Building, Room 147  
Life Skills and Transition Center  
701 West Sixth Street  
Grafton, North Dakota

Senator Judy Lee, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators Judy Lee, Tom Campbell, Robert Erbele, Tim Mathern, Nicole Poolman; Representatives Bert Anderson, Gretchen Dobervich, Karla Rose Hanson, Karen Karls, Aaron McWilliams, Mary Schneider, Kathy Skroch

**Members absent:** Representatives Karen M. Rohr, Pamela Anderson

**Others present:** Senators Joan Heckaman, New Rockford, and Ray Holmberg, Grand Forks, and Representative Kathy Hogan, Fargo, members of the Legislative Management; Senators Curt Kreun, Grand Forks, and Janne Myrdal, Edinburg, and Representatives Gary Paur, Gilby, and Wayne Trottier, Northwood  
See [Appendix A](#) for additional persons present.

**It was moved by Senator Mathern, seconded by Representative Karls, and carried on a voice vote that the minutes of the August 1, 2017, meeting be approved as distributed.**

**STUDY OF DEVELOPMENTAL DISABILITIES  
AND BEHAVIORAL HEALTH NEEDS**

**Tour of the Life Skills and Transition Center**

Mr. Chris West, Mayor, City of Grafton, welcomed committee members to Grafton.

Ms. Susan Foerster, Superintendent, Life Skills and Transition Center, Department of Human Services, welcomed committee members and provided information ([Appendix B](#)) regarding the Life Skills and Transition Center. She said the Life Skills and Transition Center works to integrate individuals at the center into the local community. She presented a video demonstrating the community participation and interactions of its residents.

Ms. Jessica Pankow, Coordinator, Upper Valley Special Education Unit, presented information ([Appendix C](#)) regarding students with intellectual disabilities that transition to the Life Skills and Transition Center. She said students transferred to the center have exhausted all services available in their local communities. She said each student served by the center has a highly individualized program that is administered and evaluated. She said the goal of the program is to provide free and appropriate public education in the least restrictive environment.

Mr. Jake Anderson, Grafton, presented information regarding his experiences and involvement in the Grafton community. He lives in an individualized supported living arrangement. He provided information regarding a number of activities in which he participates including self-advocacy group involvement, employment, volunteering, attending church, shopping in the community, and private business.

The committee divided into two groups and conducted tours of the Life Skills and Transition Center, including the Sunset building; New Horizons building; All Faiths Chapel; laundry building; Collette Community Fitness Center; health services building; physical therapy, occupational therapy, and speech therapy building; and the Cedar Grove residential building.

**STUDY OF EARLY INTERVENTION SYSTEM FOR INDIVIDUALS  
WITH DEVELOPMENTAL DISABILITIES**

**Early Intervention System Task Force**

At the request of Chairman Lee, Ms. Roxane Romanick, Bismarck, presented information ([Appendix D](#)) regarding the formation of a task force to review concerns with the early intervention system, including progress of

the task force and its plan for developing possible solutions for the committee's consideration. She said the purpose of the task force is to create a shared vision for a statewide system of support for children aged 0 through 3 with special health care needs, delays, potential delays, and disabilities due to the individuals diagnosis; and their families. She said the task force anticipates reviewing information regarding:

- The full implications of participating in the federal Part C program of the Individuals with Disabilities Education Act;
- Other state models, strategies, challenges, and strengths for the Part C program delivery systems and funding methods;
- System characteristics that promote quality outcomes for children and families; and
- The number of stakeholders within the state that understand the unique strengths and challenges of the state's early intervention system.

Ms. Romanick said the goals of the task force include:

- Identifying potential efficiencies, collaborations, and resources that will improve services for children with developmental disabilities aged 0 through 3 and their families;
- Identifying alternative funding strategies to assist with implementing the shared vision, and preventing potential funding issues; and
- Providing prioritized recommendations to the interim Health Services Committee for its study.

Ms. Romanick said the efforts of the task force will be assisted by services from Emerald Consulting and Agency, LLC. She said the task force anticipates holding a summit on Wednesday, November 29, 2017.

Chairman Lee suggested the task force consider inviting members of the interim Human Services Committee, interim Health Services Committee, House Appropriations - Human Resources Division, and Senate Appropriation members involved in the development of the Department of Human Services' budget.

### **Department of Human Services**

Chairman Lee called on Ms. Tina Bay, Director, Developmental Disabilities Division, Department of Human Services, who presented information ([Appendix E](#)) regarding the state's early intervention system for children aged 0 through 3 with developmental disabilities pursuant to Section 2 of 2017 Senate Bill No. 2325.

#### **Early Intervention System - Coordination Process**

Ms. Bay said any child under the age of 3 who may have a delay, or a medical condition that could result in a developmental delay or disability is eligible for referral. She said individuals, including physicians, parents, family members, and social workers may refer a child to a regional developmental disabilities unit. She said the developmental disabilities unit is a single point of entry for the early intervention program. She said a developmental disabilities program manager will contact the family to schedule an intake visit. She said the developmental disabilities program manager will also provide information to the family regarding applying for Medicaid to access services through the Medicaid waiver. She said eligibility determination must be completed if a family decides to receive early intervention services. She said the family, an infant development provider, the developmental disabilities program manager, and other professionals must develop an individualized family service plan within 45 days from the date of referral if the family is determined eligible. She said the plan must identify services, supports, and frequency of services and supports. She said the plan must be reviewed at least every 6 months. In addition, she said the developmental disabilities program manager will conduct quarterly visits with the family.

#### **Early Intervention System - Billing Process**

Ms. Bay said a developmental disabilities program manager will create an authorization for direct services when the services and frequency of services is determined. She said the information is provided to the infant development provider for use when billing the state. She said the process for billing direct services does not change regardless of whether the child is eligible for the Medicaid Waiver or receiving Part C funds.

#### **Early Intervention System - Statewide Developmental Screening Program**

Ms. Bay said right track is a developmental screening and observation program that is less intensive than infant development. She said right track provides access to highly qualified professionals for recommendations and referrals. She said there is at least one right track provider in each region of the state providing developmental screenings. She said right track coordinators work with staff and families to determine the frequency of followup visits based on the screening results, observations, and parental questions.

**Early Intervention System - Administrative Costs**

Ms. Bay said total administrative and direct services expenditures from the federal Part C funds were \$2,148,938 in federal fiscal year 2015 and \$2,247,675 in federal fiscal year 2016. She said the Department of Human Services (DHS) has reallocated a full-time equivalent position to the early intervention system program. She said the department also anticipates hiring a full-time Part C Coordinator position soon. She said the additional position will increase the overall administrative costs for the Part C program.

In response to a question from Chairman Lee, Ms. Bay said federal regulations do not allow DHS to require individuals to apply for Medicaid to receive infant development services. She said individuals who do not apply for Medicaid may still receive services through the Part C program. She said there are various reasons an individual may not apply for Medicaid.

In response to a question from Representative Skroch, Ms. Bay said federal regulations relating to the Part C program allow states to bill private insurance for services. She said DHS currently does not bill private insurance companies for services relating to the Part C program.

In response to a question from Representative Schneider, Ms. Bay said any state that accepts federal Part C funds is responsible for the costs of all Part C services regardless of whether federal funds are sufficient.

In response to a question from Representative McWilliams, Ms. Bay said developmental disabilities program managers may assist families with completing the Medicaid application.

**Comments by Interested Persons**

Representative Paur provided comments ([Appendix F](#)) regarding the Life Skills and Transition Center, its services, and the community's role with the center. He expressed support for the services and programs of the center.

Ms. Becky Matthews, Bismarck, presented information ([Appendix G](#)) regarding the early intervention system for individuals with developmental disabilities study. She expressed concerns regarding DHS's lack of adequate coordination of the federal Part C early intervention system program.

Mr. Darren Albrecht, Superintendent, Grafton Public Schools, presented information ([Appendix H](#)) regarding the relationship of the Grafton Public School District, the Upper Valley Special Education Unit, and the Life Skills and Transition Center. He expressed support for programs provided by the center.

**Committee Discussion**

At the request of Chairman Lee, Ms. Foerster commented on reports that the Life Skills and Transition Center is adding services at the center for individuals with autism. She said the City of Grafton developed a community plan in December 2015 which identified opportunities for future development. She said one of the opportunities identified was adding services and outreach for individuals with autism. She said the possibility of adding these services has not been a discussion item within DHS.

Chairman Lee distributed an article ([Appendix I](#)) regarding autism services for children.

At the request of Chairman Lee, Mr. Christopher D. Jones, Executive Director, Department of Human Services, provided comments regarding the Life Skills and Transition Center. He said DHS reviews services at the center from a client perspective. He said, based on feedback from community providers and other interested individuals, the center needs to continue to serve its current population, but the department does not believe it needs to expand services to meet needs that are already being met in the community.

At the request of Chairman Lee, Mr. Eric Monson, former Chief Executive Officer, Anne Carlsen Center, provided comments on behalf of Mr. Tim Eissinger, Chief Executive Officer, Anne Carlsen Center, regarding autism services provided by the Anne Carlsen Center. He said the Anne Carlsen Center provides services to children and adults both at its Jamestown center and in community-based settings. He said the center works with school districts, the Life Skills and Transition Center, and others to provide services that are detailed in specific plans for each individual. He said the introduction of the Board Certified Behavioral Analyst (BCBA) has allowed more individuals with higher behavioral needs to be served in the community. He said the center has been focused on the attraction, recruitment, and engagement of BCBA's and Registered Behavior Technicians.

In response to a question from Senator Poolman, Mr. Monson said a BCBA is a national certification, and therefore, not all states require a state licensure in order to practice as a behavioral analyst. He said North Dakota is one of the states that does require state licensure. He said the Anne Carlsen Center has been working with the State Board of Psychologist Examiners to address some of the issues regarding the process for licensure.

Chairman Lee provided comments regarding occupational licenses. She said its important for the boards to address licensing issues this interim or the Legislative Assembly will need to address them next session through legislation.

## **STUDY OF DEVELOPMENTAL DISABILITIES AND BEHAVIORAL HEALTH NEEDS**

### **Department of Human Services - Organizational Structure**

Mr. Jones presented information ([Appendix J](#)) regarding the organizational structure of DHS. He said the mission of the department is to provide quality, efficient, and effective human services, which improves the lives of people. He said the department is in the process of identifying its vision, values, and how it measures success. He said behavioral health is not just about severe mental illness and substance use disorder. He said a concept called the social determinants of health will be the foundation for developing its vision and priorities. He said this concept is about the health and well-being of all. The social determinants of health include:

- **Economic Stability** - Including employment, level of income, expenses, debt, medical bills, and support.
- **Neighborhood and physical environment** - Including housing, transportation, safety, parks, playgrounds, and walkability.
- **Education** - Including literacy, language, early childhood education, vocational training, and higher education.
- **Food** - Including addressing hunger and providing access to healthy options.
- **Community and social context** - Including social integration, support system, community engagement, and preventing discrimination.
- **Health care system** - Including health coverage, provider availability, provider linguistic and cultural competency, and quality of care.

Mr. Jones said DHS's study of county social services will identify how social services can be delivered in a more efficient way to improve the social determinants of health. He said components of the "Main Street Initiative," government reinvention, and tribal and behavioral health principles will be included in the study.

Mr. Jones said other key priorities of DHS include addressing the developmental disabilities payment system and redesigning the employee workplace culture. He said the current retrospective payment system does not allow for effective development and growth of community providers. He said there is a need to build capacity within the system. He said the current system could not support a transition to a managed care Medicaid system. He said improving the system is the first step in developing a continuum of care for developmental disabilities. He said the goal for redesigning the workplace culture is to make work more enjoyable and to empower employees.

In response to a question from Representative McWilliams, Mr. Jones said the Governor's office recently hired a Chief People Officer. He said an employee satisfaction survey was also recently conducted. He said other measures to assist DHS include stakeholder feedback, and analysis of key data including comparisons to other states.

Representative Dobervich expressed support for the use of wrap around services, service quality, and a more holistic model of caring for individuals.

Representative Hogan said the human services studies being conducted this interim provide a significant opportunity to ensure clients are receiving the services they need in a cost-effective way.

### **Department of Human Services - Life Skills and Transition Center**

Ms. Foerster presented information ([Appendix K](#)) regarding the committee's study of state and federal laws and regulations relating to the care and treatment of individuals with developmental disabilities and behavioral health needs, including an overview of the Life Skills and Transition Center. She said the budget for the center is \$58,860,913 for the 2017-19 biennium, of which \$28,478,830 is from the general fund. She said the Life Skills and Transition Center is a service provider included in the continuum of services for individuals with intellectual disabilities, and serves as the "safety net." She said the center serves individuals who typically need the highest level of care and have unique and complex medical or behavioral health needs. She said the center's residential intermediate care facility serves 54 adults and 13 youth. She said the center also served 234 individuals in state fiscal year 2016 in other regions of the state.

In response to a question from Representative Skroch, Ms. Foerster said the Life Skills and Transition Center continually supports efforts to transition individuals back to their home communities when possible and appropriate.

In response to a question from Senator Heckaman, Ms. Foerster said the Life Skills and Transition Center's census goal for the 2015-17 biennium was 45 residents in its residential intermediate care facility. She said a transition committee is developing a census goal for the 2017-19 biennium. She said more infrastructure including crisis beds and apartment settings are becoming available in other regions of the state for individuals experiencing a crisis.

In response to a question from Senator Mathern, Ms. Foerster said the Life Skills and Transition Center has been providing more outreach services in recent years. She said the center is focusing on providing more outreach services and at a greater level in the future.

### **Department of Human Services - Developmental Disabilities**

Ms. Bay presented information ([Appendix L](#)) regarding the costs of serving an individual at the Life Skills and Transition Center compared to the costs of serving an individual in a community setting. She said the current daily cost of serving an individual at the center is \$981.77 per day. She said this is a comprehensive rate and includes a comprehensive package of services including room; board; therapies; psychiatric services; clinical psychology and applied behavioral analysis services; pharmacy, lab, and x-ray services; medical services; dental services; nutrition services; recreational therapy and community integration skill building; adaptive equipment; day activities; transportation; vocational activities; clothing and incidentals; and staff supervision. She said the center is certified as an intermediate care facility. She said the average length of stay is from 1.5 years to 3.3 years. She said the current daily cost of serving an individual at a community-based intermediate care facility is from \$377.70 per day to \$724.69 per day for adults, from \$404.34 per day to \$1,003.93 per day for children, and from \$400.07 per day to \$763.40 per day for physically handicapped adults. She said the rates for serving an individual at a community-based intermediate care facility includes room; board; day programs, including day supports or extended services, and some medical items; and staff time for supervision and habilitative care.

In response to a question from Senator Mathern, Ms. Bay said both the daily rates for serving an individual at the Life Skills and Transition Center and the daily rates for serving an individual at a community-based intermediate care facility include depreciation expenses.

In response to a question from Representative Schneider, Ms. Bay said Individuals at the Life Skills and Transition Center are eligible for Medicaid. She said all services at the center are included in the daily rate. She said community-based intermediate care facilities may not have some of the nondevelopmental disabilities type services available like dental and medical services. She said individuals at a community-based intermediate care facility will receive these types of services from other community providers. She said the costs of these other services are not included in the community-based intermediate care facility daily rate and the providers of those other services would bill Medicaid separately.

In response to a question from Representative McWilliams, Ms. Foerster said she will provide information to the committee regarding the percentage of fixed overhead costs related to the current daily rate.

Senator Campbell provided comments regarding the Life Skills and Transition Center being the "safety net" provider. He said many of the individuals at the center are there because the community is unable to support the needs of that individual.

Ms. Bay presented information ([Appendix M](#)) regarding types of developmental disabilities services. She said the report includes information on both home- and community-based waiver services and services provided by the Medicaid state plan.

Ms. Bay presented information ([Appendix N](#)) regarding the unduplicated number of clients receiving developmental disabilities program management services. She said the report identifies continued growth of services from state fiscal year 2012 through state fiscal year 2017.

### **Community-Based Services**

Ms. Sandi Marshall, Chief Executive Officer, Development Homes, Inc.; Board Member, North Dakota Association of Community Providers; and Co-Chairman, Community Development Committee, Grand Forks, presented information ([Appendix O](#)) regarding community-based services, including services for dually diagnosed individuals with behavioral health concerns. She said dually diagnosed individuals with behavioral health issues are the most vulnerable to a loss of community placement opportunities, and therefore, a "safety net" program is needed.

In response to a question from Senator Mathern, Dr. Paul D. Kolstoe, Director of Clinical Services and Psychology, Life Skills and Transition Center, Department of Human Services, said state licensure requirements do not allow a private provider to use techniques and treatments that include timeout restraints and floor restraints. He

said the Life Skills and Transition Center is not licensed by another state agency. He said federal standards do allow for timeout restraints, but he said the Council on Quality and Leadership, which provides the accreditation for the center, has established that floor restraints should not be used.

Mr. Tom Newberger, Chief Executive Officer, Red River Human Services Foundation, Fargo, presented information ([Appendix P](#)) regarding community-based services. He said the average daily cost of an individual in an intermediate care facility of the Red River Human Services Foundation is \$460.13. He said the average daily cost is \$198.92 for congregate care, \$267.95 for transitional care living facility, and \$25.30 for day supports. He provided information regarding Red River Human Services Foundation internal and external quality assurance measures.

### Comments by Interested Persons

Ms. Karen Semmens, parent, presented information ([Appendix Q](#)) regarding her son's experience with the Life Skills and Transition Center. She expressed support for the center and support for the services provided by the center.

Ms. Carla Tice, Self-Advocacy Solutions, Grand Forks, presented information ([Appendix R](#)) regarding Self-Advocacy Solutions, North Dakota. She said Self-Advocacy Solutions has a vision for a better future for individuals with intellectual and developmental disabilities. She expressed support for finding ways to provide community supports in community settings for individuals with developmental disabilities.

Ms. Helen Bechold, Grand Forks, testified regarding her experiences growing up in Grafton at the Life Skills and Transition Center. She expressed support for services that enable individuals with developmental disabilities to live in a community setting.

Ms. Rhonda Anderson, Grand Forks, testified regarding her experiences growing up in Grafton at the Life Skills and Transition Center. She expressed support for services that enable individuals with developmental disabilities to live in a community setting.

Mr. Mike Lorenz, Grand Forks, testified regarding his experiences growing up in Grafton at the Life Skills and Transition Center. He expressed support for services that enable individuals with developmental disabilities to live in a community setting.

Ms. Roberta Middagh, Grand Forks, testified regarding her experiences growing up in Grafton at the Life Skills and Transition Center. She expressed support for services that enable individuals with developmental disabilities to live in a community setting.

Ms. Brenda Ruehl, Advocate, North Dakota Protection and Advocacy Project, presented information ([Appendix S](#)) regarding the community placement of eligible individuals with developmental disabilities. She expressed support for increasing community placement and funding options for individuals to live in a community-based setting.

Ms. Kirsten Dvorak, Executive Director, The Arc of North Dakota, presented information ([Appendix T](#)) regarding the system of support for individuals with intellectual or developmental disabilities. She expressed support for increasing clinical assistance, resources, and evaluation services throughout the state.

Ms. Dvorak submitted information ([Appendix U](#)) on behalf of Ms. Julianne Horntvedt, Chairman, North Dakota Disabilities Advocacy Consortium, regarding the study of developmental disabilities and behavioral health needs. Ms. Horntvedt expressed concerns regarding the lack of services available for individuals with developmental disabilities and behavioral health needs.

Ms. Horntvedt provided the following suggestions for areas the committee should address as part of its study:

- Increase the number of providers by adding additional services in the private sector.
- Add additional services for youth.
- Review implementing the 1915(i) state plan option for adding Medicaid coverage of mental health services.
- Consider the use of an assertive community treatment model.
- Review the need for peer supports, including family and youth supports.
- Consider the use of flex funds as a last resort for individuals.
- Review the mental health system to add independent and neutral checks and balances for accountability.

- Consider the use of wrap-around services for youth and adults.
- Implement the early and periodic screening, diagnostic, and treatment services.

Mr. West presented information ([Appendix V](#)) regarding the Life Skills and Transition Center and its integration with the community. He expressed support for the role of the center both locally and statewide.

### **Olmstead v. L.C. - Recent Activities**

The Legislative Council staff presented a memorandum entitled [Olmstead v. L.C. - Recent Activities](#). He said the memorandum addresses the 1999 United States Supreme Court case *Olmstead v. L.C.* 527 U.S. 581 (1999) (Olmstead), relating to the application of the federal Americans with Disabilities Act, 42 U.S.C. 126, (ADA) to individuals with mental disabilities. He said the memorandum also discusses recent developments in the related federal laws and rules and recent case law relating to Olmstead.

### **Department of Human Services - State's Behavioral Health Services and Delivery System**

Chairman Lee called on Dr. Rosalie Etherington, Superintendent/Administrator, State Hospital, to present information ([Appendix W](#)) regarding the state's behavioral health services and delivery systems. Dr. Etherington said the number of individuals served at the State Hospital has been consistent over the last 3 years; however, she said the number of individuals enrolled in a regular pattern treatment plan of care has decreased, while the number of individuals receiving emergency services and assessment and referral services have increased. She said approximately 4,000 individuals receive behavioral health services at the human service centers as well as services from other programs of DHS.

### **Behavioral Health Workforce Implementation Plan Development**

Chairman Lee called on Ms. Rebecca Quin, Program Director, Center for Rural Health, University of North Dakota School of Medicine and Health Services, to present information ([Appendix X](#)) regarding a behavioral health workforce implementation plan development. Ms. Quin said the DHS's Behavior Health Division has contracted with the University of North Dakota to develop an action-oriented behavioral health workforce development plan. She said the purpose of the plan is to prioritize and expand on the work already completed in previous assessments and by the behavioral health stakeholder group. She said the goals of the plan are to create a comprehensive plan for increasing the number of behavioral health providers and to facilitate the development of a peer support specialist certification.

### **Comments by Interested Persons**

Ms. Carlotta McCleary, Executive Director, Mental Health America of North Dakota, presented information ([Appendix Y](#)) regarding priorities for addressing the state's behavioral health system. She expressed concerns that not enough has been done to address the lack of mental health services in the state. She suggested priorities include peer-to-peer and parent-to-parent support, consumer choice, diversion from corrections, a core services zero-reject model, conflict free grievance and appeals processes, and access to a continuum of care.

### **Committee Discussion**

Representative Hogan suggested the committee receive a report from DHS regarding the behavioral health component of the Justice Reinvestment.

Chairman Lee said the committee will request a report from DHS at the next meeting regarding the behavioral health component of Justice Reinvestment.

Senator Mathern suggested the committee receive a report from DHS at the next meeting regarding an update on the activities of the consultant hired by the department for behavioral health-related issues.

Senator Lee said she anticipates the next meeting will be held on Wednesday, January 3, 2018, in Bismarck.

**It was moved by Senator Mathern, seconded by Representative McWilliams, and carried on a voice vote that the meeting be adjourned.**

No further business appearing, Chairman Lee adjourned the meeting at 5:15 p.m.

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Michael C. Johnson  
Fiscal Analyst

ATTACH:25