

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

HUMAN SERVICES COMMITTEE

Thursday, August 28, 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, Kathy Hogan, Dwight Kiefert, Diane Larson, Alex Looyesen, Gail Mooney, Naomi Muscha; Senators Tyler Axness, Dick Dever, Robert Erbele, Judy Lee, Tim Mathern

Members absent: Representative Dick Anderson, Curt Hofstad, Alon Wieland; Senators Nicole Poolman, John M. Warner

Others present: See [Appendix A](#)

It was moved by Representative Kiefert, seconded by Senator Mathern, and carried on a voice vote that the minutes of the July 22, 2014, meeting be approved as distributed.

STUDY OF BEHAVIORAL HEALTH NEEDS OF YOUTH AND ADULTS

Ms. Lynette Dickson, Chair, Health Information Technology Advisory Committee, presented information ([Appendix B](#)) on behalf of the Information Technology Department regarding the use of electronic health records in North Dakota, including the potential use of the electronic health record system to facilitate a behavioral health data repository. She said the North Dakota Health Information Network could be used to collect information for a behavioral health data repository, but the system will require extensive work to implement the data repository appropriately. She also said the electronic health records completed by behavioral health service providers would need to identify the information required for the data repository.

In response to a question from Senator Mathern, Ms. Dickson said representatives of the North Dakota Health Information Network have attempted to contact behavioral health service providers to gather information regarding the use of electronic health records.

In response to a question from Representative Mooney, Ms. Dickson said the data collected would be restricted or confidential to protect client privacy.

Dr. Lisa Feldner, Vice Chancellor for Information Technology and Institutional Research, North Dakota University System, presented information ([Appendix C](#)) regarding the activities of the North Dakota Health Information Hub relating to the establishment of a new health data system. She said the proposed North Dakota Health Information Hub data system could house multiple state registries to create a single point of access. She said the data hub could house registries where consistent review and analysis of the data could create efficiencies, improve quality, benefit policymakers, support strategy and allocation of resources, and support key stakeholders and North Dakota citizens.

Senator Lee expressed support for the North Dakota Health Information Hub, including its focus on data confidentiality and privacy.

Representative Kiefert expressed concern with data security and the ability to maintain confidentiality of private medical information in a health data system.

Mr. Alex Schweitzer, Director, Field Services Division, Department of Human Services, presented information ([Appendix D](#)) regarding the potential use of the electronic health record system to facilitate a behavioral health data repository and the number of people served at the human service centers, including the types of services provided. He said the Department of Human Services (DHS) electronic health record information system could collect information for submission to the behavioral health data repository. He said DHS provided services for 17,750 unduplicated clients in fiscal year 2006 and 19,617 unduplicated clients in fiscal year 2014.

In response to a question from Senator Lee, Mr. Schweitzer said the numbers of unduplicated clients include clients served by DHS contractors as well as those served at the human service centers.

In response to a question from Senator Mathern, Mr. Schweitzer said the electronic health record data could provide information for private provider clients similar to the data currently available for DHS clients.

Ms. Shari Doe, Director, Children and Family Services Division, Department of Human Services, provided information ([Appendix E](#)) regarding children entering foster care who have behavioral health needs. She said most of the children who enter foster care in North Dakota could be identified as having behavioral health needs. She said available data does not distinguish between a child entering foster care because of "behaviors" and entering care because of "behavioral health needs."

Ms. Maggie D. Anderson, Executive Director, Department of Human Services, presented information ([Appendix F](#)) regarding DHS responses to recommendations in the consultant's final report for the study of behavioral health needs of youth and adults in North Dakota and plans to implement the recommendations involving DHS. She said DHS has had difficulty recruiting addiction counselor positions in western North Dakota and has contracted with a private provider in the northwest region. She said DHS is exploring the use of telemedicine from the northeast region to provide addiction evaluations for clients in western North Dakota. She indicated services to address certain recommendations in the report may be included in the DHS 2015-17 budget request.

In response to a question from Representative Kiefert, Ms. Anderson said DHS is exploring options to increase the availability of addiction counseling services. She said debt forgiveness and grants for licensed addiction counselors may be options the Legislative Assembly may want to consider.

Representative Kiefert suggested the committee receive additional information regarding potential methods to address the lack of addiction counselors in North Dakota.

In response to a question from Representative Hogan, Ms. Anderson said DHS has been working on identifying strategies to address the overall goals included in the consultant's report.

Ms. Betsy Dalrymple, ND Cares Task Force, presented information ([Appendix G](#)) regarding behavioral health of military veterans in North Dakota. She said ND Cares is a coalition dedicated to strengthening an accessible, seamless network of support for service members, veterans, families, and survivors in North Dakota. She said the priority of ND Cares is behavioral health, including promotion of emotional health, prevention of mental health disorders, prevention of substance use disorders, and treatment and recovery support.

Ms. Mikki Savelkoul, Director, Suicide Prevention Program, State Department of Health, presented information regarding veteran and military member suicides. She said of 89 North Dakota resident suicides in 2009, 14 were committed by military members or veterans, and of 138 suicides in 2013, 22 were committed by military members or veterans.

Ms. Pamela Sagness, Prevention Administrator, Division of Mental Health and Substance Abuse Services, Department of Human Services, presented information regarding veterans' behavioral health. She said almost half of returning service members who need treatment for mental health conditions seek it, but only slightly more than half who seek treatment receive adequate care.

Ms. Valerie Fischer, Director, Safe and Healthy Schools, Department of Public Instruction, presented information ([Appendix H](#)) regarding the inclusion of emotional intelligence in school health education curriculum. She said the content of health education is determined by each local school district and school board. She said the Department of Public Instruction does not have a mechanism to identify how many schools specifically teach emotional intelligence and in specific classes or grades.

Mr. Adam W. Hamm, Insurance Commissioner, presented information ([Appendix I](#)) regarding changes in insurance coverage relating to behavioral health services. He said the Insurance Department has asked all insurers to update their filings to address compliance with the federal Mental Health Parity and Addiction Equity Act for plans issued after January 1, 2015, or upon renewal of older plans after that date. He said insurers will also be given the opportunity to justify rate changes to recoup the cost of benefit changes.

In response to a question from Senator Mathern, Mr. Hamm said any rate or form changes must be approved by the Insurance Department. He said typically, any service change will involve a discussion with the

Insurance Department. He said service changes usually involve a rate change, which can only be done once per year and must be approved by the Insurance Department.

The Legislative Council staff presented a memorandum entitled [Actions to Implement Behavioral Health Recommendations](#). The memorandum provides information regarding the actions taken or proposed to address recommendations for the 2015 Legislative Assembly included in the consultant's final report for the study of behavioral health needs of youth and adults in North Dakota. The memorandum identifies the provisions of three bill drafts prepared for the Human Services Committee and a bill draft [\[15.0079.02000\]](#) prepared for the Health Care Reform Review Committee.

In response to a question from Senator Mathern, Ms. Anderson said certain services are not reimbursable, but licensed professional counselors and other qualified mental health professionals may generally be reimbursed by DHS through Medicaid.

In response to a question from Representative Hogan, Ms. Anderson said it is not uncommon for private providers to be unaware of services eligible for Medicaid reimbursement. She said DHS would provide the committee with a list of enrolled Medicaid behavioral health service providers.

Mr. Kurt Snyder, Executive Director, Heartview Foundation, expressed concern that addiction treatment providers must employ a medical director in order to be reimbursed through Medicaid for services.

Ms. Anderson said day treatment for addictions is reimbursable through Medicaid, but the treatment program must be overseen by a medical director who may be a physician or psychiatrist. She said diagnostic assessment, individual therapy, and group therapy services provided by licensed addiction counselors are reimbursable without a medical director being involved.

Representative Kiefert suggested the committee recommend changes which will result in an increase in the number of licensed addiction counselors in North Dakota.

Senator Mathern said recommendations to increase the number of licensed addiction counselors are identified in the report presented by the Behavioral Health Stakeholders Group at the committee's July 22, 2014, meeting.

The Legislative Council staff presented a bill draft [\[15.0231.01000\]](#) to establish an oversight system and reciprocity language for behavioral health licensing boards. Section 1 of the bill draft requires the State Health Council to develop a plan for the administration and implementation of uniform licensing and reciprocity standards for licensees of the Board of Addiction Counseling Examiners, Board of Counselor Examiners, North Dakota Board of Social Work Examiners, State Board of Psychologist Examiners, State Board of Medical Examiners, and North Dakota Marriage and Family Therapy Licensure Board. Sections 2 through 7 of the bill draft require the licensing boards to participate with and respond to requests from the State Health Council.

The Legislative Council staff presented a bill draft [\[15.0232.01000\]](#) to amend the definition of qualified mental health professional in North Dakota Century Code to more closely reflect the definition identified in Iowa state code. The definition is identified in Chapter 25-03.2 relating to residential treatment centers for children. The bill was drafted to address a recommendation in the consultant's final report for the study of behavioral health needs of youth and adults in North Dakota.

The Legislative Council staff presented a bill draft [\[15.0230.01000\]](#) to provide appropriations of \$3 million for adult and youth substance abuse services, \$175,000 for e-psychiatry equipment, \$175,000 for telemedicine equipment, and \$25,000 for mental health first-aid training for law enforcement personnel. The bill draft directs DHS to develop an outcomes-based data system in conjunction with the North Dakota University System. The bill draft also directs the Legislative Management to consider studying the structure of DHS and judicial issues relating to behavioral health during the 2015-16 interim.

Senator Mathern suggested Section 4 of the bill draft [\[15.0230.01000\]](#) be broadened to allow for any licensed professional to receive a grant for e-psychiatry equipment, with priority given to critical access hospitals.

It was moved by Senator Mathern, seconded by Representative Hogan, and carried on a voice vote that the bill draft [\[15.0230.01000\]](#) relating to appropriations for behavioral health services be amended to allow all licensed hospitals access to grant funding for e-psychiatry equipment and identify priority of funding for critical access hospitals.

It was moved by Senator Mathern, seconded by Representative Mooney, and carried on a roll call vote that the bill draft [\[15.0230.01000\]](#) relating to appropriations for behavioral health services be amended to broaden eligibility for telemedicine grants. Representatives Hogan, Kiefert, Looyesen, Mooney, and Muscha and Senators Axness and Mathern voted "aye." Representatives Damschen and Larson and Senators Dever, Erbele, and Lee voted "nay."

It was moved by Senator Lee, seconded by Senator Dever, and carried on a voice vote that the bill draft [\[15.0230.01000\]](#) relating to appropriations for behavioral health services be amended to remove the requirement that the Department of Human Services work in conjunction with the University System to develop an outcomes-based system.

In response to a question from Senator Dever, Representative Hogan said the licensed marriage and family therapists have requested changes to allow them to receive Medicaid and private insurance reimbursement for the behavioral health services they provide.

Senator Mathern said the bill draft [\[15.0230.01000\]](#) would make the behavioral health services provided by licensed marriage and family therapists available to clients on Medicaid.

Senator Lee suggested the committee receive additional information regarding the training necessary to become a licensed marriage and family therapist, including whether the training is comparable to the training received by other licensed therapists.

Representative Hogan expressed concern regarding the provisions of bill draft [\[15.0230.01000\]](#) relating to an appropriation of \$3 million for substance abuse services. She said the funding is limited only to the expansion of substance abuse services. She suggested additional funding be provided to expand other behavioral health services.

The committee recessed for lunch at 12:30 p.m. and reconvened at 1:10 p.m.

Mr. Rod St. Aubyn, Steering Committee, Behavioral Health Stakeholders Group, presented testimony ([Appendix J](#)) regarding the recommendations included in the report from the Behavioral Health Stakeholders Group. He said the appendices included with his testimony combine the recommendations from the consultant's report and the recommendations made by the Behavioral Health Stakeholders Group. He said some items can be accomplished by collaboration with stakeholders and others, some items can be accomplished administratively, some items require legislative action, and some items require a combination of actions.

In response to a question from Senator Mathern, Mr. St. Aubyn said many recommendations in the Behavioral Health Stakeholders Group's report were not addressed by the bill drafts currently being considered by the committee.

Ms. Siobhan Deppa, Bismarck, presented testimony ([Appendix K](#)) regarding her experience with behavioral health services in North Dakota. She expressed support for the reestablishment of state funding for peer support services.

In response to a question from Representative Hogan, Ms. Deppa said peer support was a pilot program in North Dakota during the 2011-13 biennium and not included in the DHS 2013-15 biennium budget.

Mr. Snyder presented testimony ([Appendix L](#)) regarding behavioral health services provided by the Heartview Foundation and expressed support for the proposed actions to implement the recommendations relating to behavioral health services in the state. He expressed support for providing funding for telemedicine equipment. He also expressed support for legislative review of the essential health benefit package and the structure and responsibilities of DHS.

Mr. Nate Medhus, President/CEO, ShareHouse, Inc., Fargo, commented regarding the proposed behavioral health data repository. He suggested the goal of the data collection be identified before a decision is made to establish a data repository.

Senator Mathern suggested the Legislative Council staff be asked to draft bills to address all recommendations identified by the Behavioral Health Stakeholders Group to be addressed by the 64th Legislative Assembly. Senator Lee suggested the Legislative Council staff hold discussions with representatives of the Behavioral Health Stakeholders Group to clarify the recommendations.

It was moved by Senator Mathern, seconded by Senator Lee, and carried on a voice vote to direct the Legislative Council staff to draft bills to address all recommendations to be addressed by the 64th Legislative Assembly identified by the Behavioral Health Stakeholders Group.

STUDY OF A COMPREHENSIVE SYSTEM OF CARE FOR INDIVIDUALS WITH BRAIN INJURY

The Legislative Council staff presented a memorandum entitled [Prevocational Services for Individuals with Brain Injury - Statutory Provisions](#). The memorandum provides information regarding Section 34-13-13.1, including its effect on the provision of prevocational services for individuals with brain injury. Chapter 34-13 applies to all employment agents or agencies that are licensed by the Labor Commissioner to provide certain employment services. Section 34-13-13.1(1) requires a partial service charge refund if an employee is fired or laid off within 90 days. Certain entities that provide prevocational services for individuals with developmental disabilities or brain injury are licensed to provide these services by DHS rather than the Labor Commissioner; therefore, these entities are not required to comply with the provisions of Chapter 34-13. These entities may not provide services to private pay individuals unless the entity would also be licensed by the Labor Commissioner and comply with the provisions of Chapter 34-13; however, the provisions of Chapter 34-13 present risk for entities that work primarily with individuals with developmental disability, brain injury, or mental health issues primarily because of the refund provisions.

Ms. Trina Gress, Vice President of Employment Services, Community Options, Inc., commented regarding Chapter 34-13. She suggested the chapter be repealed or amended to exempt providers of prevocational services for individuals with developmental disability or brain injury.

Ms. Rhonda Boehm, Bismarck, presented testimony ([Appendix M](#)) in support of a comprehensive system of care for individuals with brain injury. She also expressed support for continuing the study of a comprehensive system of care for individuals with brain injury during the 2015-16 interim.

In response to a question from Representative Mooney, Ms. Boehm suggested the bill draft presented at the committee's July 22, 2014, meeting to establish a flex fund program for individuals with brain injury be more specific regarding the implementation plan and the amount of funding available per individual.

Mr. Eric Boehm, Bismarck, presented testimony ([Appendix N](#)) regarding his experience with traumatic brain injury. He expressed support for the brain injury flex fund program and the development of a comprehensive system of care for individuals with brain injury.

It was moved by Senator Mathern, seconded by Representative Mooney, and carried on a voice vote that the Legislative Council staff be asked to draft a resolution to continue the study of a comprehensive system of care for individuals with brain injury during the 2015-16 interim.

In response to a question from Representative Hogan, the Legislative Budget Analyst and Auditor said a bill could be drafted to repeal Chapter 34-13 or to amend its provisions to exempt certain types of employment agents or agencies.

Senator Lee suggested the Labor Commissioner be asked to provide additional information to the committee at its next meeting regarding provisions of Chapter 34-13.

Senator Mathern suggested DHS be asked to meet with the Labor Commissioner to discuss the requirements of Chapter 34-13.

Chairman Damschen asked the Legislative Council staff to work with DHS and the Department of Labor and Human Rights to draft a bill related to Chapter 34-13 and its effect on prevocational services for individuals with brain injury.

STUDY OF HOME AND COMMUNITY-BASED SERVICES

Ms. Shirley Dykshoorn, Program Director, Lutheran Social Services of North Dakota, presented testimony ([Appendix O](#)) regarding the potential for Lutheran Social Services of North Dakota to become a sponsoring organization to assist in the establishment of programs similar to Helping Enderlin Area Residents Thrive (HEART) in other communities in North Dakota. She suggested providing an appropriation of \$350,225 for the 2015-17 biennium to establish six new program sites. She said the \$350,225 includes \$115,902 for personnel costs, \$30,000 for six startup grants, \$175,000 for matching grants, and \$29,323 for other costs.

Representative Muscha expressed concern with providing grants to communities without having a group similar to the entity proposed by Ms. Dykshoorn to develop and support the community organizations.

It was moved by Representative Hogan, seconded by Representative Muscha, and carried on a roll call vote that the Legislative Council staff be asked to draft a bill to appropriate \$350,225 for a community-based services sponsoring organization. Representatives Hogan, Kiefert, Larson, Mooney, and Muscha and Senator Mathern voted "aye." Representative Damschen and Senators Dever, Erbele, and Lee voted "nay."

OTHER COMMITTEE RESPONSIBILITIES

Ms. Marcia Gums, Chief Operations Officer, Community-Based Services, Anne Carlsen Center, presented information ([Appendix P](#)) regarding the Anne Carlsen Center and its work to support individuals with autism spectrum disorder. She said the Anne Carlsen Center committed \$500,000 in 2013 to Specialisterne Midwest for training and employing individuals with autism spectrum disorder in the technology field.

Mr. Tony Thomann, Executive Director, Specialisterne Midwest, presented information ([Appendix Q](#)) regarding the training program for individuals with autism spectrum disorder. He said the first group of six trainees is currently undergoing assessment and training. He said placement and employment will begin September 15, 2014. He said as a requirement for reporting and payment in the autism/technology training grant, baseline reports, business profiles, placement information, starting wage, and an interim funding request form will be sent to the North Dakota Department of Career and Technical Education. He said the grant of \$250,000 would allow for 27 program participants, and it is the hope of Specialisterne Midwest to begin another assessment and training cycle in November 2014.

In response to a question from Representative Hogan, Mr. Thomann said the individuals served by Specialisterne Midwest are high-functioning individuals with autism spectrum disorder. He said the individuals range in age from 21 to 36.

Ms. Trisha Page, Autism Coordinator, Department of Human Services, presented information ([Appendix R](#)) regarding the autism spectrum disorder voucher program pilot project pursuant to Section 50-06-32.1. She said the voucher program began on July 1, 2014. She said the individuals served by the voucher program are families with incomes below 200 percent of the federal poverty level that have a child with an autism spectrum disorder diagnosis who is under the age of 18. She said each qualifying child is eligible for up to \$12,500 per year. She said 14 voucher applications have been received since July 1, 2014, and nine families have met the income criteria and are in the process of securing assistance equipment or services.

In response to a question from Representative Mooney, Ms. Page said services requested by the individuals and families include respite care, tutoring, and job coaching.

Ms. Carol Cartledge, Director, Economic Assistance Policy Division, Department of Human Services, presented information ([Appendix S](#)) regarding the impact of changing the eligibility requirement for the child care assistance program from 50 percent of the state median income to 85 percent and beginning July 1, 2014, reducing copay requirements for the child care assistance program pursuant to Section 8 of 2013 House Bill No. 1422. She said the change in eligibility allows a family of three to have a gross income of up to \$4,915 per month to qualify, compared to the previous income limit of \$3,074. She said the average monthly child care assistance program payment per child per month from July 1, 2013, through June 30, 2014, was \$331.32.

In response to a question from Representative Hogan, Ms. Cartledge said the child care provider rates are currently the same throughout the state, but DHS is considering implementing variable rates dependent on location and availability of services.

No further business appearing, Chairman Damschen adjourned the meeting at 3:10 p.m.

Alex J. Cronquist
Fiscal Analyst

Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:19