

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**HUMAN SERVICES COMMITTEE**

Monday and Tuesday, July 25-26, 2016  
 Roughrider Room, State Capitol  
 Bismarck, North Dakota

Representative Kathy Hogan, Chairman, called the meeting to order at 8:30 a.m.

**Members present:** Representatives Kathy Hogan, Bert Anderson, Dick Anderson, Chuck Damschen, Alan Fehr, Dwight Kiefert, Gail Mooney, Naomi Muscha, Jay Seibel, Peter F. Silbernagel, Greg Westlind; Senators Tyler Axness, Dick Dever, Oley Larsen, Judy Lee

**Members absent:** Representative Kylie Oversen; Senator Tim Mathern

**Others present:** Allen H. Knudson, Legislative Budget Analyst and Auditor, and Jennifer S. N. Clark, Legislative Council, Bismarck

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

**It was moved by Senator Larson, seconded by Senator Dever, and carried on a voice vote that the minutes of the May 10-11, 2016, meeting be approved as distributed.**

Chairman Hogan welcomed newly appointed Representative Greg Westlind, District 15, to the committee.

A memorandum entitled [Survey of Agency Alcohol, Drug, Tobacco, and Risk-Associated Behavior Prevention and Treatment Program](#) presented to the interim Health Services Committee in April 2016 which includes information relating to behavioral health services was distributed to the interim Human Services Committee

### **STUDY OF FAMILY CAREGIVER SUPPORTS AND SERVICES** **Hospital Discharge Policies**

Ms. Jennifer S. N. Clark, Counsel, Legislative Council, presented information regarding bill draft [\[17.0124.02000\]](#) relating to hospital discharge policies. She said there was a request at the last meeting to review the effect of reference in the bill draft to a patient's residence. She said the language in the bill draft does not preclude anyone from providing aftercare services without charge, regardless of where the patient stays following a discharge.

#### **Memorandum of Recommendations From the Study of Family Caregiver Supports and Services**

The Legislative Council staff presented a memorandum entitled [Recommendations From the Study of Family Caregiver Supports and Services](#). He said the memorandum provides information regarding actions that may be needed to address recommendations provided to the committee relating to family caregiver supports and services.

#### **Suggested Prioritizing of Recommendations**

Dr. Jane Strommen, Extension Gerontology Specialist, North Dakota State University Extension Service, presented information ([Appendix B](#)) regarding the study of family caregiver supports and services and a suggested prioritization of recommendations. She said North Dakota State University (NDSU) Extension Service evaluated recommendations to determine each recommendations long-term impact; the practicality; and whether additional resources would be needed, including funding and staff time. She said the sustainability of a recommendation is also important. She said NDSU Extension Service suggests the following recommendations as priorities:

- Apply for the federal Lifespan Respite Care Program grant to receive funding and technical resources to address gaps in respite services;
- Create a statewide family caregiver task force that will focus on service gaps in rural areas, including funding for pilot projects developed by the task force;
- Establish a caregiver resource center within the Aging and Disability Resource-LINK to increase access to existing programs and services; and to provide resources, training, supports, respite, and planning tools;

- Support training programs, including caregiver basics, managing care of others, financial and legal issues, caregiver well-being, physical tasks, and end-of-life issues; and
- Maintain funding for homemaker services and update the fee schedule for the service payments for the elderly and disabled (SPED) program.

In response to a question from Representative Fehr, Dr. Strommen said the federal grant for the Lifespan Respite Care Program is approximately \$200,000. She said the grant may require in kind matching funds.

In response to a question from Senator Lee, Dr. Strommen said the Community of Care Program began as a pilot project because of the federal Supreme Court ruling in the 1999 *Olmstead v. L.C.* case. She said the program was designed to provide services and supports to older adults and family members that are disabled. She said the program is provided to rural communities in Cass County. She said the rural communities created a steering committee which identified a need for a volunteer program. She said a volunteer program was then developed from "seed" money from the Robert Wood Johnson Foundation's Faith in Action program.

In response to a question from Representative Mooney, Dr. Strommen said the caregiver resource center may be housed within the Aging and Disability Resource-LINK or contracted through a different organization. She suggested including the center as part of the aging services division to increase awareness of the Aging and Disability Resource-LINK, and because the division has already gathered much of the information needed for a caregiver resource center.

In response to a question from Representative Fehr, Dr. Strommen said a training program should include all areas of caregiving.

Ms. Nancy Nikolas-Maier, Director, Aging Services Division, Department of Human Services, presented information ([Appendix C](#)) regarding the study of family caregiver supports and services and a suggested prioritization of recommendations. She said improving awareness of available options will help increase the use of current resources and help caregivers identify the support they need. She said the department suggests the following recommendations as priorities:

- Promote awareness of the Family Caregiver Support Program and other services that provide respite options for family caregivers to ensure it is fully utilized across the state; and
- Identify marketing and communication strategies to promote awareness and benefits of the Aging and Disability Resource-LINK and statewide options counseling system.

Ms. Nikolas-Maier said the study also identified a need for additional options for individuals that may not qualify for services because they do not meet eligibility criteria. She said the United States Administration for Community Living provides competitive grants to state agencies to establish additional respite options for individuals that do not qualify for existing services, and enhanced respite options for individuals in rural areas. She said the department suggests the following recommendation as a priority:

- Review the feasibility of applying for the federal Lifespan Respite Care Program grant.

In response to a question from Representative Mooney, Ms. Nikolas-Maier said a grant from the Lifespan Respite Care Program could be used for marketing and outreach efforts. She said the grant is \$200,000 over a 3-year period.

Ms. Nikolas-Maier said an adequate number of providers and volunteers are needed to support the actual needs of family caregivers. She said material has been developed through the federal Money Follows the Person Demonstration Grant - Direct Care Workforce Initiative to inform college students about caregiving professions. She said the department will continue to partner with public and private agencies, associations, and individuals to implement a strategy and to encourage students and volunteers to provide services to family caregivers. She said the department suggests the following recommendations as priorities:

- Support the statewide direct care workforce initiative to increase the number of individuals seeking a caregiving profession, including rural areas; and
- Increase available respite care services by training college students and volunteers.

In response to a question from Chairman Hogan regarding the current family caregiver supports and services program administered by the department, Ms. Nikolas-Maier said there are currently no waiting lists for services; however, she said the program may be underutilized because many individuals are not aware, or do not know how to access the services.

Mr. Josh Askvig, Advocacy Director, AARP North Dakota, presented information ([Appendix D](#)) regarding the study of family caregiver supports and services and a suggested prioritization of recommendations. He said many recommendations may need to be implemented over a number of bienniums. He said AARP suggests the following recommendations as priorities:

- Direct the Department of Human Services (DHS) to apply for the federal Lifespan Respite Care Program grant;
- Improve services that assist caregivers with navigating available resources, including marketing and communication strategies to promote the Aging and Disability Resource-LINK, creating a caregiver resource center within the Aging and Disability Resource-LINK to increase access to existing programs and services, and creating a comprehensive guide to caregiving;
- Update the SPED fee schedule and provide for automatic inflationary increases;
- Restore funding for homemaker services reduced to the February 2016 4.05 percent general fund budget allotment;
- Approve the Caregiver Advise, Record, Enable Act to address supports for family caregivers during a patient's transition from a hospital.

In response to a question from Senator Lee regarding workforce challenges, Mr. Askvig said resources should be allocated to provide more opportunities to address challenges in rural areas.

### **Comments by Interested Persons**

Mr. Dan Hannaher, Legislative Affairs Director, Sanford Health, and Executive Director, Health Policy Consortium, presented information regarding the study of family caregiver supports and services and a suggested prioritization of recommendations. He said the Health Policy Consortium opposes the proposed Caregiver Advise, Record, Enable Act. He said hospitals already have discharge policies that are governed by internal policies, the State Department of Health, the federal Joint Commission, and the Centers for Medicare and Medicaid Services.

In response to a question from Senator Lee, Mr. Hannaher said there are complexities with health care and some people get confused with the discharge process, but adding another layer of regulation will not solve the issue. He said the solution is to provide the best possible instructions, internal policies, and a mission of providing exceptional care.

In response to a question from Representative Mooney, Mr. Hannaher said the bill draft [[17.0124.02000](#)] relating to hospital discharge policies, is stating what hospitals already do, and therefore, unnecessary.

Mr. Jerry E. Jurena, President, North Dakota Hospital Association, presented information regarding the study of family caregiver supports and services and a suggested prioritization of recommendations. He supports the views of the Health Policy Consortium relating to the Caregiver Advise, Record, Enable Act. In addition, he expressed support for the study of family caregiver supports and services conducted by NDSU Extension Service. He said limited resources are available within the state, including the labor workforce. He said provider reimbursements have been and continue to be an issue.

### **Committee Discussion**

Chairman Hogan provided comments regarding potential bill drafts for the family caregiver supports and services study. She said the committee will begin to develop a bill draft relating to the other areas of family caregiver supports and services in addition to the bill draft [[17.0124.02000](#)] relating to hospital discharge policies. She said Mr. Patrick Traynor, President, Dakota Medical Foundation, anticipates facilitating the establishment of a statewide collaborative family caregiver task force similar to the behavioral health stakeholders group that was created 3 years ago.

In response to a question from Senator Lee regarding the process to approve DHS applying for the federal Lifespan Respite Care Program grant, the Legislative Budget Analyst and Auditor said the committee could include a section in a bill draft and appropriate funding for the grant. He said the department could seek Emergency Commission approval for additional spending authority if the amount of the grant was greater than the spending authority provided in the bill. He said this section would provide the legislative intent that the department is to apply for a Lifespan Respite Care Program grant.

In response to a question from Senator Axness, Ms. Nikolas-Maier said the department would anticipate some website development costs to add a caregiver resource center website within the Aging and Disability Resource-LINK at [www.carechoice.nd.gov](http://www.carechoice.nd.gov). She said the department would like to add another button to the main page of the website to access the information.

Chairman Hogan suggested including a pilot project to support training programs for family caregiver training needs. She suggested providing a training initiative in one or two areas of aging and family caregiver services for education or Extension Service agents.

Dr. Strommen said the Extension Service has family consumer science agents that address aging-related and various other related programs within the state. She said there are 44 agents in the state. She said a number of them are receiving training with an evidence-based training program called Powerful Tools for Caregivers. She said the program's focus is on caregiver well-being, including how to communicate, deal with stress, and find resources in the community.

Representative D. Anderson provided comments regarding the role of county extension service agents. He said the agent's role has been to provide information and knowledge of agronomy. He said many chemical and fertilizer companies now have their own agronomists. He said the role of the agents will need to change if they are to remain active within the counties. He said there may be opportunity to shift some of the funding to provide other services. Dr. Strommen said the National Extension Association identifies health extension as a new focus for extension services. She said the association projects health extension to be as important over the next 100 years as agriculture has been the previous 100 years. She said health extension includes health promotion, disease prevention, and other areas important for keeping individuals in the community.

In response to a question from Senator Larsen, Dr. Strommen said the Extension Service partners with the public health units.

Chairman Hogan said the SPED program began receiving Medicaid funding in 2009. As a result, she said, some individuals must pay a recipient liability. She said the recipient liability amount has been increasing each year and some individuals are not seeking SPED services because the recipient liability amount is too much for them to pay.

Senator Lee suggested the Legislative Council staff prepare a memorandum regarding history and funding guidelines for community-based services, including home- and community-based services, SPED, expanded SPED, and Medicaid waivers. She said the information could include a review of the fee schedule for the SPED program since 2009 and how it would change if cost inflators were added. Chairman Hogan asked the Legislative Council staff to prepare this information.

Senator Lee said in addition to public marketing efforts, the committee should consider partnerships with AARP, senior centers, and the regional human service centers to provide awareness of the Aging and Disability Resource-LINK and the statewide options counseling system.

Representative Seibel expressed concerns regarding adding funding to a bill draft for homemaker or other home- and community-based services. He said the services will be discussed next session even if the committee does not recommend a bill draft.

Senator Dever suggested adding legislative intent that the department seek ways to better balance the amount of funding spent on home- and community-based services compared to long-term care services.

**It was moved by Representative Mooney, seconded by Representative Fehr, and carried on a voice vote that the Legislative Council staff be asked to prepare a bill draft relating to the study of family caregiver supports and services, to:**

- **Appropriate \$200,000 of federal funds to DHS for a 3-year Lifespan Respite Care Program grant. The use of funding is for marketing and outreach programs;**
- **Appropriate one-time funding to the Department of Human Services - Aging Services Division to establish and market a caregiver resource center website within the Aging and Disability Resource-LINK to increase access to existing programs and services, and to house or connect family caregivers with relevant online resources, training, supports, respite, and planning tools;**
- **Provide \$100,000 from the general fund to North Dakota State University Extension Service for a pilot project to expand its local training programs to include family caregiver training, including supportive training programs for family caregivers, including caregiving basics, managing care of others, financial and legal issues, caregiver well-being, physical tasks, and end-of-life issues;**
- **Add legislative intent for DHS to seek ways to better balance the amount of funding spent on home- and community-based services compared to long-term care services; and**
- **Appropriate funding to increase the SPED sliding fee scale.**

## STUDY OF BEHAVIORAL HEALTH NEEDS

### Behavioral Health and the Criminal Justice System and Recommendations

Chairman Hogan called on Dr. Lisa Peterson, Clinical Director, Department of Corrections and Rehabilitation, and Ms. Pamela Sagness, Director, Behavioral Health Services Division, Department of Human Services, to present information ([Appendix E](#)) regarding a summary of information provided by the Council of State Governments relating to the intersection between behavioral health and the criminal justice system, and recommendations.

Dr. Peterson said the Department of Corrections and Rehabilitation created a correctional behavioral health workgroup that includes the Department of Corrections and Rehabilitation, DHS, probation and parole officers, and jail administrators. She said the workgroup plans to make recommendations to the 65<sup>th</sup> Legislative Assembly regarding the improvement of access to behavioral health care for individuals involved with the state's criminal justice system. She said correctional agencies have recognized gaps in behavioral health services for individuals in the criminal justice system. She said some individuals are incarcerated because of these gaps. She said a community-based service may provide more cost-effective results for these individuals.

Ms. Sagness said a Justice Center report from the Council of State Governments has identified that 70 percent of judges in North Dakota have sentenced an individual to prison to access behavioral health services. She said chronic disease management, continuum of care, and best practices must be considered when improving access to care for individuals in the correctional system with behavioral health needs.

Dr. Peterson reviewed the following recommendations of the workgroup:

- Support training for emergency care workers responding to individuals in behavioral health crisis and those that are under the influence of a substance, including training for safe and ethical use of restraints;
- Examine the criminal code to determine other felony level infractions that lead to criminal justice involvement for individuals with behavioral health needs to determine if there may be reductions without significant impact on public safety;
- Support training law enforcement personnel to recognize individuals in behavioral health crisis;
- Expand capacity for local professionals to assist in the provision of mental health commitment evaluations;
- Increase capacity for detoxification and intoxication management services;
- Provide supportive housing for individuals participating in substance abuse treatment to increase access to crisis mental health beds that already exist;
- Invest in effective, community-based substance abuse treatment services, including medication-assisted treatment options;
- Support the development of a pretrial services division to offer assessment, referral for appropriate interventions based on criminogenic and other needs, and supervision to assist people in getting the treatment they need prior to adjudication;
- Provide funding to support recommendations from DHS behavioral health needs assessment;
- Support behavioral health needs assessment in jails;
- Utilize a chronic care model as an alternative to incarceration and reintegration strategies to provide for more cost-effective, community-based resources, including sober living environments, supported employment, peer support, and a full continuum of behavioral health services;
- Provide for additional community-based residential substance abuse treatment services to reduce the need to address gaps with prison-based treatment; and
- Increase access to effective, long-term aftercare programs that use best practice models to support recovery.

In response to a question from Representative D. Anderson, Dr. Peterson said crisis intervention training is an effective program. She said the program is supported by the National Institute of Corrections.

### Department of Human Services - Certificate of Need Process

Ms. Tammy Zachmeier, Medical Services Division, Department of Human Services, presented information ([Appendix F](#)) regarding the certificate of need process for Medicaid and related challenges. In addition, she provided supplemental information ([Appendix G](#)) regarding statistical data for fiscal years 2014, 2015, and 2016

relating to certificate of need reviews. She said the certificate of need is a regulatory review process that requires specific health care providers to obtain prior authorization for provision of services for Medicaid eligible recipients. She said a certificate of need is required for all recipients seeking care in a psychiatric hospital, acute inpatient psychiatric program within a hospital, or a psychiatric facility. She said the certificate of need process evaluates the recipients capacity to benefit from proposed services, the efficacy of the proposed services, and consideration of the availability of less restrictive services to meet the individual's needs. She said the two types of admission reviews that require a certificate of need include admission to an acute inpatient facility or to a psychiatric residential treatment facility. She said the admissions may be considered either emergent or elective.

In response to a question from Chairman Hogan, Ms. Debbie Baier, Medical Services Division, Department of Human Services, said she will provide the committee with data on the number of emergent and elective admissions for a psychiatric residential treatment facility.

### **Department of Human Services - Rules Adopted to Establish and Administer the Voucher System**

Ms. Sagness presented information ([Appendix H](#)) regarding rules adopted to establish and administer the voucher system to assist in the payment of addiction treatment services provided by private licensed substance abuse treatment programs pursuant to Section 4 of 2015 Senate Bill No. 2048. She said 20 individuals attended the substance use disorder training in June 2016. She said the Administrative Rules Committee hearing was held in June 2016. She said the substance use disorder voucher was implemented and guidance provided to all treatment providers in July 2016. She said the voucher will cover screenings, assessments, individual therapy, group therapy, family therapy, room and board, recovery coaching, urine analysis, and transportation. She said the department will continue to review additional services.

In response to a question from Representative Westlind, Ms. Sagness said the voucher system will allow individuals to seek services locally within their community.

### **Department of Human Services - Behavioral Health Needs Assessment**

Ms. Sagness presented information ([Appendix I](#)) regarding a report on the behavioral health needs assessment. She said the assessment included a review of epidemiological data, a review of the full continuum of care, and a review of global systems and infrastructure. She said epidemiological data includes a review of the youth risk behavior survey, the behavioral risk surveillance system, and the national survey on drug use and health. She said the goal of the continuum of care model is to ensure access is available to a full range of high-quality services to meet the various needs of an individual. She said funding and reimbursements, infrastructure, and best practices were considered for each area of the continuum of care model. She said the continuum of care services include:

- **Promotion and prevention** - Prevention is a cost-effective way to avoid issues relating to behavioral health disorders. Identified service gaps include limited resources for mental health promotion and mental illness prevention efforts, workforce issues, lack of credentialing for prevention-related professionals, and a lack of understanding of the value of promotion and prevention efforts.
- **Intervention** - Research has identified that early intervention services may contribute to reduced health care costs and assist with improved health and well-being of individuals. In addition, early intervention strategies assist individuals recognize if they are at-risk for behavioral health disorders and may need assistance to identify and change high-risk behaviors into healthy patterns. Identified service gaps include lack of integrated education systems, workforce limitations, inconsistent universal screenings, lack of funding for screenings, inefficient process for conducting assessments and referring for further assessment and treatment services.
- **Treatment** - Treatment is the use of any planned, intentional intervention in the health, behavioral, and personal life of an individual suffering from a behavioral health disorder designed to enable the affected individual to achieve and maintain physical and mental health, and maximum functional ability. Identified service gaps include criminalization of behavioral health disorders, limited community-based services available to allow individuals choice of services in the least restrictive environment, lack of integrated services and data exchange, limited communication of available services, workforce limitations, and the need for clarification of the role of public and private systems.
- **Recovery** - Recovery is the process of change for individuals to improve their health and wellness, live a self-directed life, and strive to reach their full potential. Identified service gaps include workforce limitations, limited evidence-based services, lack of infrastructure to support available services in the state, and limited payments to support evidence-based recovery services.

Ms. Sagness said recommendations include:

- Increase the use of data collection and analysis of behavioral health systems;

- Support substance use disorder early intervention services;
- Establish a children's behavioral health leadership group;
- Promote mental health and early identification of mental illness;
- Continue to support public service delivery system changes relating to core services and population; and
- Recognize behavioral health conditions as a chronic disease.

In response to a question from Chairman Hogan, Ms. Sagness said the department anticipates receiving proposals from consulting firms to create a matrix that will help the department identify best practices for behavioral health areas, including adult mental health, adult substance abuse, and children's behavioral health. She said current information can help identify gaps, but does not identify the services needed. She said the information will assist the department to identify additional waivers and grants that may be available to the state.

### Comments by Interested Persons

Mr. Jim Vetter, Vice President of Partner and Community Relations, Dakota Boys and Girls Ranch, presented information regarding psychiatric residential treatment facility admissions. He said the application process for a certificate of need for admission to a psychiatric residential treatment facility is complex. He said the process may take 1 or 2 weeks to gather information for a psychological evaluation, or even longer if there is no psychological evaluation. He said there is difficulty gathering hospital information because of requirements relating to release of information, and because information is generally required from many different entities. In addition, he said the application process itself is difficult to complete without assistance. He said an applicant is generally not approved unless the individual has first exhausted all community resources. He said some communities may not have available community resources so the individual may be placed on a waiting list. He recommended a process be created for acute emergency admissions.

Ms. Christine Hogan, Attorney, Protection and Advocacy Project, presented information regarding the certificate of need process. She discussed a situation relating to a child's experience with a severe behavioral health issue. She said individuals with severe behavioral health issues may experience problems when the continuum of care is not available for that individual.

Mr. Carl Young, Mental Health Advocate, presented information ([Appendix J](#)) regarding an update of his child's experiences with mental health issues. He said his child has been diagnosed with Fetal Alcohol Spectrum Disorder since presenting testimony to the committee in January 2016. He said the diagnosis has provided additional challenges for his child to receive needed services.

Ms. Jessica Thomasson, Chief Executive Officer, Lutheran Social Services of North Dakota, presented information regarding the balance of services, including prevention, treatment, and intervention. She said there is a direct correlation between a child's first out-of-school suspension and the likelihood of someday being involved with the juvenile justice system. She said 85 percent of children with four adverse childhood experiences receive their first out-of-school suspension by second grade. She said child care providers experience those behaviors even earlier than grade school. She said there are effective primary prevention tools available.

Ms. Thomasson also provided comments regarding recommendations relating to the study of family caregiver supports and services. She suggested an online training system for child care providers administered by Child Care Aware of North Dakota could be replicated to provide an online training system for caregivers. She said the system could involve partnership with the NDSU Extension Service and hospitals to provide a cost-effective way to address the lack of training for caregivers.

The committee recessed at 4:00 p.m. on Monday, July 25, 2016, and reconvened at 8:30 a.m. on Tuesday, July 26, 2016.

## OTHER COMMITTEE REPORTS

### Department of Human Services - Expanded Brain Injury Services

Chairman Hogan called on Ms. Stacie Dailey, Behavioral Health Administrator, Behavioral Health Division, Department of Human Services, to present information ([Appendix K](#)) regarding a report on expanded brain injury services and the use of funds appropriated under Section 1 of 2015 House Bill No. 1046. She said the department contracted with Community Options, Inc., to provide a minimum of 6 hours of services to 50 individuals per month through June 30, 2017. She said the pre-vocational skills program is designed to improve "soft" skills through community integration and volunteer experience to prepare individuals for employment. She said "soft" skills include memory training, navigating public transit, communicating with others, and time management. She said 40 individuals were involved in the program during June 2016. She said the average length of time an individual is in the program before entering the return to work program is 85 days.

Ms. Dailey said the return to work program is based on an evidence-based return to work model that seeks to achieve competitive employment through placement and long-term followup services within the individual's community. She said the program was modeled after a program from the state of Ohio. She said 25 individuals were involved in the return to work program during June 2016. She said hours of employment are based on an individuals ability, needs, and impact of the brain injury.

In response to a question from Chairman Hogan, Ms. Dailey said the brain injury program targets individuals that have a brain injury, including traumatic brain injury, aneurism, stroke, and trauma during birth. She said the program is contracted with the North Dakota Brain Injury Network.

**Department of Human Services - Outcome From a Study of  
Statutory References for Mental Health Professionals**

Chairman Hogan called on Dr. Andy McLean, Medical Director, Department of Human Services, to present information ([Appendix L](#)) regarding a report on the outcomes of a study relating to the statutory references for mental health professionals and whether changes in the law may help to more fully utilize professionals within the scope of practice pursuant to Section 1 of 2015 Senate Bill No. 2049; and supplemental information ([Appendix M](#)) regarding various behavioral health professions, including education and training requirements and scope of practice. Dr. McLean said stakeholders that participated with the project include the State Department of Health, DHS, the Board of Counselor Examiners, the Board of Addiction Counseling Examiners, the Marriage and Family Therapy Licensure Board, the North Dakota Board of Medicine, the North Dakota Board of Nursing, the State Board of Psychologist Examiners, the North Dakota Hospital Association, the Long Term Care Association, the North Dakota Life and Health Insurance Guaranty Association, the Protection and Advocacy Project, and the State Board of Higher Education. He said the challenge of defining behavioral health professions is determining whether the focus should be on training and education or the scope of practice and responsibility. He said the stakeholder group developed a the following tiered model identifying various roles of mental health professionals:

Tier	Description
1	Greatest degree of broad-based comprehensive training in multiple areas of psychiatric illness, including capacity to practice autonomously in those areas; manage the highest level of responsibility and risk; and professionals include psychiatrists, psychologists, and primary care providers.  a. Specific area of expertise - Include medical doctors, osteopathic physicians, and doctoral-level licensed psychologists.  b. Breadth of training allows for oversight of care delivery within those fields - Includes medical doctors, osteopathic physicians, advanced practice registered nurses, and physician assistants.
2	Ability to direct care independently or delineate between various broad-based comprehensive training in diagnosis and modalities of treatment for behavioral health conditions:  a. Specific area of expertise - Include licensed independent clinical social workers and licensed professional clinical counselors.  b. Breadth of training allows oversight of care delivery within those fields - Include licensed marriage and family counselors, licensed addiction counselors, and registered nurses.
3	Behavioral health therapy; clinical direction under supervision; or enacting a treatment plan with comprehensive training in specific dimensions of behavioral health; include licensed associate professional counselors, licensed certified social workers, licensed professional counselors, licensed associate marriage and family therapists, occupational therapists, vocational rehabilitation counselors, school psychologists, and human relation counselors.
4	Supporting clinical services; paraprofessional service workers with some level of behavioral health training, but without formal licensing; or carryout treatment under the guidance of a licensed professional; include direct care associates and technicians.

Dr. McLean said 2015 Senate Bill No. 2047 eliminates the definition for qualified mental health professional. In addition, he said, the bill requires the department to adopt rules defining which professionals may require clinical supervision, reviews, and which professionals may develop, update, and sign an individual treatment plan within a psychiatric residential treatment facility for children. He said that although eliminating the definition of qualified mental health professional has allowed the department to determine who can actually provide the supervision, various definitions remain relating to mental health professionals provided in North Dakota Century Code. Dr. McLean provided recommendations for statutory changes relating to mental health professionals to more fully utilize mental health professionals within their scope of practice.

### Department of Human Services - Medicaid Expansion Cost-Sharing Provisions

Chairman Hogan called on Mr. Erik Elkins, Assistant Director, Medical Services Division, Department of Human Services, to present information ([Appendix N](#)) regarding a report on the outcomes of the Medicaid and Medicaid Expansion cost-sharing provisions study and the associated legislative recommendations and related draft legislation pursuant to Section 1 of 2015 House Bill No. 1037. He said Medicaid cost-sharing provisions may include copayments and premiums; they may be imposed on outpatient services, inpatient services, nonemergency use of emergency room services, and prescription drugs. He said they may be imposed on individuals in eligibility groups that include single adults, parents, aged, blind, and disabled. He said the department is required to reduce the provider payment by the amount of the copayment obligation, regardless of whether the copayment is collected by the provider. He said services that are exempt from cost-sharing include emergency services, family planning services, preventative services provided to children, pregnancy-related services, and services resulting from provider preventable services. He said individuals that are exempt from cost-sharing include children under 18 years old, pregnant women, individuals living in an institution that are required to contribute most of their income to the cost of care, and individuals receiving hospice services. He said Medicaid premiums and copayments are limited to an aggregate of 5 percent of a household income. He said the department must monitor a beneficiary's premiums and copayments.

Mr. Elkins said premiums under a state plan may not be imposed on individuals with incomes below 150 percent of the federal poverty level. He said premiums under a state plan may be imposed on individuals with incomes above the 150 percent federal poverty level, but those premiums are limited by the aggregate 5 percent of household income maximum. He said cost-sharing waivers may be imposed under a 1115 Waiver - Demonstration Project. He presented supplemental information ([Appendix O](#)) regarding various examples of premium waivers approved by the federal Centers for Medicare and Medicaid Services.

Mr. Elkins said the department must inform each beneficiary of their cumulative cost-sharing maximum, and be able to monitor all cost-sharing based on both individual and household income. He presented supplemental information ([Appendix P](#)) regarding the federal Centers for Medicare and Medicaid Services training provided to state Medicaid agencies. He said the Medicaid management information system project and the Self-Service Portal and Consolidated Eligibility System did not anticipate Centers for Medicare and Medicaid Services requirements relating to calculating and monitoring cost-sharing. He said the department is currently reviewing changes with vendors to determine a timeline for integrating the systems with Centers for Medicare and Medicaid Services requirements.

Mr. Elkins presented supplemental information ([Appendix Q](#)) regarding reports and studies on Medicaid cost-sharing.

Mr. Elkins presented supplemental information ([Appendix R](#)) regarding input from the Medicaid Medical Advisory Committee relating to the possibility of increasing copayments, and the possibility of adding a premium for the Medicaid Expansion population.

Mr. Elkins presented supplemental information ([Appendix S](#)) regarding Montana's efforts to include premiums for its Medicaid Expansion population. He said early results from Montana identify that premiums may have an impact on disenrollment of some individuals for failure to pay the premium. He said the Legislative Management interim Health Care Reform Review Committee is currently discussing the future of Medicaid Expansion in North Dakota.

Mr. Elkins said the department does not recommend increasing copayments or adding premiums.

### Comments by Interested Persons

Mr. Bryan Wetch, President, Community Options, Inc., submitted testimony ([Appendix T](#)) provided by Ms. Trina Gress, Vice President, Employment Services, Community Options, Inc., regarding traumatic brain injury programs. Ms. Gress's testimony provided additional information regarding the Skill Smart Program and the Work Start Program.

Mr. Bryan Wetch, President, Community Options, Inc., submitted testimony ([Appendix U](#)) provided by Mr. Nathan Schatz. Mr. Schatz's testimony provided information regarding his personal experience with a traumatic brain injury. He expressed support for services provided by Community Options, Inc.

Ms. Linda Reineke, presented information regarding her son's traumatic brain injury. She expressed support for services provided by Community Options, Inc.

## **STUDY OF BEHAVIORAL HEALTH NEEDS - BILL DRAFTS**

### **Bill Draft - Statutory References for Mental Health Professionals**

Representative Silbernagel suggested the committee request a bill draft relating to the statutory references for mental health professionals as referenced by Dr. McLean. He said the changes should improve behavioral health services.

Chairman Hogan expressed support for preparing a bill draft. She said the committee will consider the implications of changing the system to a tiered system at the next committee meeting.

**It was moved by Representative Silbernagel, seconded by Senator Dever, and carried on a voice vote that the Legislative Council staff prepare a bill draft relating to the statutory references for mental health professionals as referenced in testimony provided by Dr. McLean.**

### **Bill Draft - Elimination of Medicaid Copayments**

Senator Lee suggested the committee request a bill draft to eliminate Medicaid copayment requirements as referenced in testimony from Mr. Elkins.

Senator Dever said the committee should consider how eliminating the Medicaid copayments will affect demand for services.

**It was moved by Senator Lee, seconded by Representative Mooney, and carried on a voice vote that the Legislative Council staff prepare a bill draft to eliminate Medicaid copayment requirements.**

### **Certification of Behavioral Addiction Counselors**

Ms. Clark presented a bill draft [[17.0036.02000](#)] relating to the practice and regulation of addiction counseling and adding a definition for behavioral addiction counseling. She said the bill draft was prepared for committee discussion. She said the purpose of the bill draft is to change the definition of addiction counseling to include assessments of persons for the use or abuse of gambling as part of a licensee's scope of practice.

Ms. Clark said there are areas to consider when changing the scope of licensed addiction counselors and how those changes may affect other professions. She said the committee should also consider whether changes are needed for educational requirements, whether the licensee's training is currently appropriate for treatment of gambling, and whether changes will create any unintentional barriers for professionals.

Ms. Clark said the bill draft attempts to address the lack of regulation in Century Code for other addiction training relating to behavioral health, the lack of gambling within the scope of practice for licensed addiction counselors, and the effects on other professions if gambling is added to the scope for a licensed addiction counselor.

Ms. Clark said other professions that currently provide gambling treatment may be prevented from practicing if gambling is added to the scope of practice for licensed addiction counselors. She said the bill draft attempts to address this by requiring the Board of Addiction Counseling Examiners to add a certification process for a behavioral addiction counselor to treat behavioral addictions, including gambling. She said this change will allow both a licensed addiction counselor and a person of a different profession with appropriate training to be certified.

Representative Fehr expressed concern regarding the addition of a behavioral addiction counselor certification that would be regulated by the Board of Addiction Counseling Examiners. He said the change will require other professionals that currently treat gambling addiction, including psychologists and social workers, to be subject to the Board of Addiction Counseling Examiners.

In response to a question from Representative Fehr, Ms. Clark said the changes will not apply to any professionals already providing treatment within their scope of practice. Representative Fehr expressed concerns regarding behavioral addiction counseling. He said a professional group would need to add behavioral addiction counseling to their scope of practice if they wanted to continue providing gambling treatment and not be subject to requirements under the Board of Addiction Counseling Examiners. He said that when a practice is already included in a professional group's scope of practice, they often oppose when another profession attempts to add the same practice to their scope.

Chairman Hogan provided comments regarding professional licensure requirements. She said the committee may wish to consider a certification process for recovery coaches.

In response to a question from Senator Lee, Ms. Sagness said the concern regarding gambling addiction services was identified because licensed addiction counselors providing treatment for gambling addiction were informed by the Board of Addiction Counseling Examiners that they were performing services outside their scope of practice. She said the board determined the scope of a licensed addiction counselor is limited to alcohol or a controlled substance pursuant to Section 43-45-01. She said some of the licensed addiction counselors providing treatment for gambling are nationally certified.

In response to a question from Senator Axness, Ms. Clark said a requirement to be nationally certified could be included in statute to allow a person that is not a licensed addiction counselor to provide gambling treatment. She said the certificate could be administered by a board or state agency through a registry instead of a licensure or certification process.

Representative Silbernagel suggested the licensure boards provide information regarding the inclusion of behavioral health services in the scope of practice.

Chairman Hogan asked the Legislative Council staff to amend bill draft [17.0036.02000] relating to the definition of addiction counseling, to include gambling as part of a licensee's scope of practice pursuant to Section 43-45-01 for the committee's consideration at the next meeting.

### **Recommendations Provided to the Interim Human Services Committee**

The Legislative Council staff presented a memorandum entitled [Recommendations Provided to the Interim Human Services Committee](#). He said the memorandum summarizes the recommendations provided to the committee relating to its assigned studies. He said the memorandum has been updated to include recommendations provided to the committee at its May 10-11, 2016, meeting.

### **Categories of Recommendations Provided to the Interim Human Services Committee - Behavioral Health Needs Study**

The Legislative Council staff presented a memorandum entitled [Categories of Recommendations Provided to the Interim Human Services Committee - Behavioral Health Needs Study](#). He said the memorandum sorts recommendations provided to the committee into categories, including policy issues, program expansion with costs, workforce issues, DHS's roles and responsibilities, and administrative and coordination. He said the memorandum assigns recommendations into specific categories and subcategories, and identifies whether additional funding may be required. He said the memorandum has been updated to include recommendations provided to the committee at its May 10-11, 2016, meeting.

### **Role and Function of the Department of Human Services**

The Legislative Council staff presented a bill draft [17.0204.01000] relating to the role and function of DHS. The bill draft was prepared for committee discussion. The bill draft includes changes related to:

- Definitions for behavioral health;
- Administration of behavioral health programs;
- The licensure process for regional human service centers;
- Crisis services;
- Advisory groups for human service centers;
- Medical assistance; and
- Housing options and peer and recovery support.

Chairman Hogan said the purpose of amending the role of the human service center's regional advisory board is to allow the boards to be more focused on outcomes. She said the current role of the boards is advisory.

**It was moved by Representative Silbernagel, seconded by Representative Seibel, and carried on a voice vote that the bill draft [17.0204.01000] relating to the role and function of DHS be considered further at the next committee meeting.**

### **Policy Changes That Do Not Require Additional Funding**

The Legislative Council staff presented a bill draft [17.0182.01000] relating to policy changes that do not require additional funding. The bill draft was prepared for committee discussion. The bill draft includes changes relating to:

- Youth mental health training requirements;

- Emergency procedures to allow 72 hours after admission for examination of an individual with a serious physical condition or illness; and
- Behavioral health training for early childhood service providers.

Ms. Valerie Fischer, Director, Safe and Healthy Schools/Adult Education Division, Department of Public Instruction, presented information ([Appendix V](#)) regarding recommendations to Section 1 of the bill draft. She said provisions of 2015 Senate Bill No. 2048 require each school district to provide 8 hours of training each biennium on youth mental health to elementary, middle, and high school teachers and administrators. She said provisions of 2015 Senate Bill No. 2209 require each school district to provide 2 hours of professional development each year relating to youth suicide risk indicators, appropriate responses, and referral sources to middle and high school instructional staff, teachers, and administrators. She said the Department of Public Instruction received input from superintendents and educators throughout the state. She provided the following recommendations:

- Require each school district to provide a minimum of 8 hours of professional development on youth mental health each biennium to pre-kindergarten, elementary, middle, and high school teachers, paraprofessionals, administrators, and encourage ancillary and support staff to participate;
- Require at least 2 of the 8 hours to be used to address a school district's needs assessment results, which includes social and emotional learning, including resiliency, suicide prevention, bullying, and trauma; and
- Require each school district to report professional development hours to the Department of Public Instruction.

Chairman Hogan suggested changing Section 1 of the bill draft to provide 8 hours of training on youth behavioral health to elementary, middle, and high school teachers and administrators.

In response to a question from Representative Silbernagel, Ms. Fischer said school districts are required to report their training to the department by June of each year.

**It was moved by Senator Lee, seconded by Representative Mooney, and carried on a voice vote to amend bill draft [17.0182.01000] as suggested by the Department of Public Instruction to require each school district to provide a minimum of 8 hours of professional development on youth mental health each biennium to pre-kindergarten, elementary, middle, and high school teachers, paraprofessionals, administrators, and encourage ancillary and support staff to participate; require at least 2 of the 8 hours to be used to address a school district's needs assessment results, which includes social and emotional learning, including resiliency, suicide prevention, bullying, and trauma; require each school district to report professional development hours to the Department of Public Instruction; and to change reference in the bill draft from "mental health" to "behavioral health;" and that the amended bill draft be considered further at the next committee meeting.**

### **Program Expansion Including Additional Funding Requirements**

The Legislative Council staff presented a bill draft [[17.0183.01000](#)] relating to program expansion, including additional funding requirements. The bill draft was prepared for committee discussion. The bill draft:

- Provides for an evidenced-based alcohol and drug education program to be administered by DHS;
- Provides funding for startup costs for an evidenced-based alcohol and drug education program;
- Provides \$978,000 from the general fund for children's prevention and early intervention behavioral health services;
- Provides \$70,000 from the general fund for a behavioral health database;
- Provides \$960,000 from the general fund for peer-to-peer and family-to-family support services; and
- Provides funding for private provider case management services.

Ms. Sagness commented regarding an evidence-based alcohol and drug education program. She said DHS would anticipate administering the evidence-based model for early intervention and alcohol called the Prime for Life Model. She said the program is currently provided throughout the state for driving under the influence programs. She said there is a minor-in-possession course that would be available for this program. She said the department trains providers throughout the state to offer the service. She said the provider would charge an individual a fee for the program. She suggested the bill draft be amended to provide for the program to charge a fee to a participant in the program. She said there may be initial startup costs for training, but she anticipates the program to be self-sustaining.

Chairman Hogan commented regarding the bill draft. She suggested adding \$10,000 from the general fund for startup costs of the education program.

Representative Fehr suggested amending the bill draft to remove references regarding toxic stress.

Chairman Hogan suggested amending the bill draft to remove references regarding peer support organizations.

Ms. Sagness provided an update regarding the behavioral health database. She said the Heartview Foundation has created a database with a grant from the federal Substance Abuse and Mental Health Services Administration. She said the database includes all mental health providers in the state. She said the database is available electronically. She said the Heartview Foundation has contacted 2-1-1 to assist with maintaining the database.

In response to a question from Representative Silbernagel, Ms. Sagness said the database includes all private and not-for-profit mental health organizations.

**It was moved by Representative Fehr, seconded by Representative Mooney, and carried on a voice vote to amend bill draft [17.0183.01000] to provide for the program to charge a fee to a participant of the program; to provide \$10,000 from the general fund for one-time startup costs for DHS to administer an evidence-based alcohol and drug education program; to remove reference to toxic stress; and to remove reference to peer support organizations relating to the children's prevention and early intervention behavioral health services.**

Senator Mathern provided a resolution draft [[17.3010.01000](#)] relating to the State Hospital. Senator Axness said the resolution draft was submitted for committee discussion by Senator Mathern.

Representative Silbernagel suggested the committee delay discussion of the resolution draft until the next committee meeting to allow Senator Mathern to provide comments.

Chairman Hogan said the resolution draft relating to the State Hospital will be discussed at the next committee meeting.

### **Committee Discussion and Staff Directives**

Chairman Hogan said the next meeting is tentatively scheduled for Tuesday, September 20, 2016, in Bismarck.

No further business appearing, Chairman Hogan adjourned the meeting at 1:45 p.m.

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Michael C. Johnson  
Fiscal Analyst

ATTACH:22