

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

HEALTH SERVICES COMMITTEE

Wednesday, September 21, 2016
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Judy Lee, Chairman, called the meeting to order at 8:00 a.m.

Members present: Senators Judy Lee, Howard C. Anderson, Jr., Joan Heckaman, Dave Oehlke; Representatives Rich S. Becker, Alan Fehr, Gary Paur, Todd Porter, Karen M. Rohr, Jay Seibel

Members absent: Senators Tyler Axness, John M. Warner; Representatives Dwight Kiefert, Gail Mooney, Marie Strinden

Others present: See [Appendix A](#)

It was moved by Senator Anderson, seconded by Representative Seibel, and carried on a voice vote that the minutes of the July 27, 2016, meeting be approved as distributed.

COST-BENEFIT ANALYSES OF HEALTH INSURANCE MANDATES

Ms. Rebecca Ternes, Deputy Commissioner, Insurance Department, provided information ([Appendix B](#)) regarding the Insurance Commissioner's recommendation for a private entity to contract with to perform cost-benefit analyses of health insurance mandates during the 2017 legislative session. She said the Insurance Department solicited proposals through an informal solicitation from 165 potential vendors for the cost of performing health insurance mandate cost-benefit analyses. She said proposals, received from Milliman, Inc. and Acumen Actuarial LLC, were evaluated 60 percent on bidder qualifications and 40 percent on cost. She said Acumen Actuarial LLC scored 82.5 points and Milliman, Inc. scored 79.28 points. She said while Milliman, Inc. scored slightly higher in the bidder qualification analysis, Acumen Actuarial LLC, with lower hourly rates, scored much higher in the cost analysis. She said the Insurance Commissioner recommends the Legislative Council contract with Acumen Actuarial LLC to perform the cost-benefit analyses during the 65th Legislative Assembly.

Ms. Ternes reviewed a history of funding provided for cost-benefit analyses, contract price, and actual expenditures for analyses for each legislative session since 2003. She suggested the vendor contract include a provision to require the vendor to provide an estimate of the total fees for each study. She said occasionally the vendor has spent up to or exceeded the budget for analyses, without regard to the number of studies performed.

In response to a question from Senator Anderson, Ms. Ternes said no formal study has been done regarding how accurate actuarial estimates have been. She said the Public Employee Retirement System (PERS) contracts with an actuarial consultant to study mandates to be implemented for the PERS population. She said often companies operating in the state have reviewed the mandates and are aware of their cost and impact on insurance rates.

Representative Becker said there seems to be redundancy in the state's review of the impact of insurance mandates. He suggested the committee consider a bill draft to simplify the process of reviewing the cost benefit of insurance mandates.

Representative Porter said an independent actuarial analysis provides information that is independent of state agencies and insurance vendors. He said it may be appropriate to review the process in light of federal mandates; however, it may be too late in the interim process for the committee to consider a bill draft.

Representatives Becker and Seibel and Senator Oehlke volunteered to consider potential changes to North Dakota Century Code Section 54-03-28 relating to the cost-benefit analysis of insurance mandates and, if appropriate, prepare a bill draft for introduction to the 65th Legislative Assembly.

It was moved by Senator Oehlke, seconded by Senator Heckaman, and carried on a roll call vote to accept the Insurance Commissioner's recommendation of Acumen Actuarial LLC, as the entity to contract with for cost-benefit analyses on health insurance mandates during the 2017 legislative session. Senators Lee, Anderson, Heckaman, and Oehlke and Representatives Becker, Fehr, Paur, Porter, Rohr, and Seibel voted "aye." No negative votes were cast.

DENTAL SERVICES STUDY

At the request of Chairman Lee, the Legislative Council staff presented a bill draft [[17.0283.01000](#)] to amend the dental loan repayment program to provide for a prorated payback of loan repayment funds if a dentist breaches the loan repayment contract. She said, if approved, the bill draft will repeal Section 43-28.1-06 relating to damages to be repaid to the state in the event of a breach of loan repayment contract. She said the bill draft will allow the State Health Council to make a prorated payment to dentists that leave the loan repayment program before completing 5 years of service. She said the bill draft also allows the State Health Council to amend the terms of existing contracts to allow for prorated payments.

Senator Anderson said the changes will align the dental loan repayment program with other loan repayment programs administered by the State Health Council and will encourage dentists to take advantage of the program without fear of penalty.

It was moved by Senator Anderson, seconded by Representative Fehr, and carried on a roll call vote that the bill draft [[17.0283.01000](#)] to amend the dental loan repayment program be approved and recommended to the Legislative Management. Senators Lee, Anderson, Heckaman, and Oehlke and Representatives Becker, Fehr, Paur, Porter, Rohr, and Seibel voted "aye." No negative votes were cast.

Ms. Jodi Hulm, Health Tracks and Healthy Steps Program Administrator, Department of Human Services, provided information ([Appendix C](#)) regarding dentists accepting Medicaid and children's health insurance program patients, including the number of clients served by those benefiting from the dental loan repayment program; comparisons of the state's Medicaid reimbursement rates to the reimbursement rates in surrounding states; billing and reimbursement for services provided by expanded function dental assistants and dental hygienists; and the cost of adding dental services to expanded Medicaid. She said Medicaid has 340 dental providers enrolled in the North Dakota Health Enterprise Medicaid management information system (MMIS). She said the North Dakota Healthy Steps Program currently has 452 participating dentists, including bordering dentists in Minnesota, in the North Dakota Premier Network, which may be used by Healthy Steps members at 593 different locations. She said a participating dentist may be seen at more than one location. She said last year, dental loan repayment was granted to six dentists, of which five are currently enrolled with Medicaid. She said one has recently asked to be disenrolled. She said five of the dentists in the dental loan repayment program are also Healthy Steps providers.

Ms. Hulm provided a summary of Medicaid reimbursement rates for commonly utilized dental services in North Dakota, South Dakota, Montana, Minnesota, and Wyoming. She said the department does not enroll dental assistants and dental hygienists, but they may provide services based on their scope of practice, including fluoride varnish, prophylaxis, and bitewings. She said services are billed under a dentist's provider number, not directly by the dental assistant or dental hygienist, and the dentist is reimbursed for the services. She said according to analysis done by the department's contracted actuary, it is estimated to cost between \$32.51 and \$40.50 per member per month to add dental services to the Medicaid Expansion benefit plan. She said the analysis used a similar administrative percentage that Sanford Health Plan receives for expansion. She said if the plan were administered as a separate dental plan, the administrative percentage would be higher.

In response to a question from Chairman Lee, Ms. Hulm said the information provided regarding Medicaid dental rates reflect post-allotment reimbursement rates.

In response to a question from Senator Anderson, Ms. Hulm said approximately 20,000 individuals (ages 19 through 64) are now covered under Medicaid Expansion in the state.

At the request of Chairman Lee, Mr. Mark Schoenbaum, Director, Office of Rural Health and Primary Care, Minnesota Department of Health, presented a report ([Appendix D](#)) regarding the impact of dental therapists in Minnesota. He said Minnesota employs both dental therapists and advanced dental therapists. He said a dental therapist with a master's degree and 2,000 hours of supervised experience is eligible for certification as an advanced dental therapist. He said a report on the early impact of dental therapists, provided to the Minnesota Legislature in 2014, indicated dental therapists appeared to be practicing safely in clinics and serving low-income, uninsured, and underserved patients. He said reimbursement rates for dental therapists in Minnesota are the same as if the dentist would have performed the procedures. He said this allows dental clinics to charge the same fee for an employee that is paid less than a dentist. He said because the reimbursement rates are the same for dentists

and dental therapists, there were no immediate savings to the state from the dental therapy model. However, he said, dental therapists have made it possible to expand capacity and have the potential to reduce unnecessary emergency room visits. He said the Office of Rural Health and Primary Care routinely surveys various health care providers in the state, including dental therapists.

Mr. Schoenbaum reviewed the results of a dental therapist survey performed in November and December of 2015. He said, based on 51 actively licensed dental therapists, the survey had a 83 percent response rate. He said in August 2016 there were 64 dental therapists in Minnesota, of which 26 were advanced dental therapists. He said most of the dental therapists were employed in private practice, however nearly as many were employed in community clinics. He said regardless of where they practice, dental therapists are required by law to serve at least 50 percent low-income, uninsured, and underserved patients. He said the distribution of dental therapists across the state is similar to the distribution of the state's population.

Mr. Schoenbaum provided a summary of the results of a survey of those employing dental therapists. He said the survey indicated an economic benefit to employing dental therapists. He said dental therapists perform basic procedures allowing dentists to perform the more complex procedures. He said the initial training period of a dental therapist compared to a new dentist found the dental therapists to be equally as productive as a dentist doing the same procedures. He said dental therapists are licensed and regulated by the Board of Dentistry in Minnesota. He said the Minnesota Health Department provides support and is responsible for routine data collection and analysis. He said dental therapists are eligible for loan forgiveness in Minnesota, similar to other health care professionals.

In response to a question from Representative Fehr, Mr. Schoenbaum said dental therapists and advanced dental therapists work under a collaborative agreement with a dentist. He said the dentist determines the level of supervision and procedures the dental therapist is allowed to perform. He said information on procedures performed by dental therapists is not complete because initially dental therapists were billing under dentists' Medicaid billing numbers. He said now dental therapists routinely have their own Medicaid billing numbers.

At the request of Chairman Lee, Ms. Sarah Wovcha, Executive Director, Children's Dental Services, Minnesota, provided information ([Appendix E](#)) regarding an update on the integration of dental therapists within community dental clinics and for providing dental services in schools. She said Children's Dental Services (CDS) provides services to low-income children, pregnant women, and other special needs groups. She said CDS provides onsite dental care in Minnesota schools and Head Start centers. She said 82 percent of their patients receive medical assistance, 17 percent are uninsured or on a sliding fee scale, and less than 1 percent have private insurance. She said low reimbursement rates in Minnesota make it difficult to hire and retain dentists. She said the provider shortage and an increasing demand for services, including high numbers of untreated immigrants and refugees, resulted in 37 percent of Minnesota children enrolled in Medicaid receiving dental services in 2013. She said solutions identified by CDS include: providing portable, site-based care; using telehealth, which is now a billable service in Minnesota; integrating culturally targeted practices; supporting dental clinicians to practice at the top of their licenses; and utilizing mid-level providers, such as dental therapists. She said dental therapists employed at CDS practice under a collaborative agreement with a dentist and billing is done through the dentist. She said Minnesota statute requires all dental therapists to engage in a collaborative management agreement with a dentist and no more than five dental therapists can enter into an agreement with one dentist. She said collaborative management agreements must include practice settings and populations served; limitations on services to be provided; age and procedure specific protocols; plans for medical emergencies and quality assurance; and protocols for dental records, medications, complex patients, and referrals. She said since December 2011 CDS advanced dental therapists have provided care to over 14,000 patients without a complaint of poor quality. She said 97 percent of survey respondents have indicated they are satisfied or very satisfied with the quality of care received by an advanced dental therapist.

Ms. Wovcha said average compensation is \$75 per hour for a dentist, \$39 per hour for a dental therapist still under direct supervision of a dentist, and \$45 per hour for an advance dental therapist who is allowed to practice more independently. She said employing dental therapists has increased the average production of the dental team and lowers the cost of providing services. She said the savings has allowed CDS to employ more providers and increase access.

In response to a question from Representative Rohr, Ms. Wovcha said dental therapists administer medication under the dentist's United States Drug Enforcement Administration number.

In response to a question from Representative Becker, Ms. Wovcha said a higher percentage of dental therapists serve in rural areas of the state. She said 30 percent of dentists in Minnesota are located in rural areas of the state, compared to 47 percent of dental therapists.

In response to a question from Representative Becker, Ms. Wovcha said because of the difficulty in meeting the supervision requirements of graduates of the 2-year dental therapist program in communities with a shortage of dentists, the program was discontinued. She said there are currently two levels of education, bachelor's degree or master's degree. She said graduates are considered dental therapists while they practice under the supervision of a dentist in the same facility for the required 2,000 hours. She said after completing the 2,000 hours of supervised practice, dental therapists with a master's degree may take an examination to become certified as advanced dental therapists. Advanced dental therapists can practice without the dentist onsite, but must still practice under a collaborative management agreement with a dentist.

In response to a question from Senator Anderson, Ms. Wovcha said a registered dental hygienist must practice in the same location as the dentist, unless there is a collaborative management agreement that allows the dental hygienist to perform certain functions outside of the dental office without the dentist onsite.

In response to a question from Representative Fehr, Ms. Wovcha said federal and state programs support innovative workforce models and provide funding for the clinical training of dental students, assistants, hygienists, and therapists. She said federal support is not responsible for the profitability of the dental therapist model. She said many dental therapists are employed in private practices that are not eligible to receive the federal support.

In response to a question from Chairman Lee, Ms. Wovcha said CDS was contracted to provide dental services in Fargo public schools for 1 school year, but was informed that the contract would not be continued because dental services would be provided another way.

In response to a question from Senator Heckaman, Ms. Wovcha said CDS has formal relationships with some of the tribes in Minnesota. She said CDS enters a memorandum of understanding with the tribe which allows CDS to bring their equipment into the tribe's facility.

In response to a question from Chairman Lee regarding access to dental services for elderly patients, Mr. Schoenbaum said the infrastructure to provide services to the elderly include private practices in the state. He said dental therapists working in private practices across the state treat all ages.

Mr. Rod St. Aubyn, representing the North Dakota Dental Hygienists' Association, provided information ([Appendix F](#)) regarding the ability of dental hygienists to perform outreach services and refer patients to a dental home without a dentist onsite and recommended legislation to allow for outreach services and case management. He said current laws and regulations allow dental hygienists to provide outreach services, including dental cleanings, sealants, and oral cancer screenings, offsite--in schools and nursing homes--under a standing order from a dentist. He said while the State Department of Health and some of the safety net clinics have been successful in working with dentists to write standing orders to allow their employed hygienists to provide outreach services, many hygienists working in private dental offices have been unable to get the support of their supervising dentist. He said the association does not have a recommendation for legislation.

In response to a question from Chairman Lee, Ms. Maggie D. Anderson, Executive Director, Department of Human Services, said there is no billing code for teledentistry; however, the department is reviewing current telemedicine policies to determine if teledentistry could be included.

Ms. Rita Sommers, Executive Director, State Board of Dental Examiners, provided information ([Appendix G](#)) regarding the ability of dental hygienists to perform outreach services and refer patients to a dental home without a dentist onsite and recommended legislation to allow for outreach services and case management. She said in 2009 the board amended the dental hygienist's scope of practice and broadened the definition of general supervision. She said since then dental hygienists have been allowed to provide many services authorized in advance in nontraditional locations under general supervision. She said local anesthesia is the only item in the scope of practice of a dental hygienist that requires a dentist onsite for direct supervision. She said the State Department of Health Oral Health Program and a safety net clinic have utilized these provisions to provide services in schools and nursing homes. She said in 2014 the board also expanded the scope of practice of dental assistants and provided a broader range of supervision requirements. She said dental assistants also are qualified and currently authorized to conduct case management duties, including clinical preventative services under general supervision of a dentist and providing community-based outreach services.

Ms. Sommers provided a copy of the *North Dakota Oral Health Coalition Collaborative Practice Task Force Summary Report* ([Appendix G](#)) for the committee's review. She said the task force supports existing regulations relating to collaborative practice and suggested members and their respective organizations make it a priority to educate dental professionals about opportunities that currently exist to bring dental care to schools and nursing homes. She said the State Board of Dental Examiners did not meet in time to provide recommendations, but she provided recommendations of her own.

Ms. Sommers recommended medical providers, who likely see elderly patients more often, be allowed to provide medical clearance for dental hygiene services in an alternate health setting, as long as a dentist provides a followup visit. She suggested the State Department of Health work with providers to make available portable dental equipment. She said administrative rules could be amended to define alternate health setting. She said as of September 2016 the state licensed 458 dentists, 821 dental hygienists, and 721 dental assistants. She said there also are 51 inactive dentists and 77 inactive registered dental hygienists.

Chairman Lee encouraged Ms. Sommers to bring her recommendations to the State Board of Dental Examiners and to collaborate with the North Dakota Board of Medicine and State Board of Nursing.

Chairman Lee said chair-side trained dental assistants cause concern when the State Board of Dental Examiners is allowing advanced practice dental assistants. She encouraged the board to consider an educational component to the licensure of dental assistants. She said current chair-side trained dental assistants could be grandfathered in at the same level of practice or pursue the educational component.

Ms. Sommers said the State Board of Dental Examiners will have an opportunity to gather information regarding the number of chair-side trained dental assistants in the state when registrations are renewed.

Dr. Caron L. Berg, President-Elect, North Dakota Dental Association, provided information ([Appendix H](#)) regarding an update on Medicaid outreach efforts and plans to provide emergency services. She said, as long as dental Medicaid reimbursement is less than the cost of providing care, it will be difficult for states to maintain an adequate provider network. She said, in Fargo, visits by low-income patients to an urgent care clinic, staffed by volunteer dentists, are one-half of what they were a year ago. She said, given their full staffing and expanded facilities, discussions are underway for the Family HealthCare clinic to offer that service. She said in Bismarck a network of 20 to 25 local dentists have indicated a willingness to provide referral care for emergency room dental referrals and a referral system is being developed.

Dr. Berg provided information regarding dentist migration across state lines and a summary of oral health programs in the state. She said despite positive trends in workforce and programs that have reduced barriers, the high overhead cost of delivering dental services and the rural nature of the state still pose challenges. She said rather than untested dental therapist models, the best solutions utilize the current 1,450 dental hygienists and assistants in the expansion of community-based outreach and case management to populations of need. She said because many high-risk patients do not access care in traditional dental offices for a variety of reasons, portable care should be brought to those patients and connect them to a dental home. She recommended the committee direct the Department of Human Services to establish Medicaid reimbursement for new case management billing codes that were recently established nationally and clarify language in current statute and rules that would specifically allow teledentistry and the virtual dental home in outreach settings and allow third-party reimbursement for these services. She said directives in the association's action plan include:

- Improving dental Medicaid with adequate funding, reduced administrative burden, and vigorous dentist recruitment;
- Maximizing the current dental hygiene and assistant workforce through expanded training programs, community outreach, and case management to connect more high-risk patients to a dental home;
- Expanding and supporting nonprofit safety net clinics through public-private grant partnerships and dentist loan repayment programs; and
- Engaging with tribal communities to improve Indian Health Service dentistry, maximize prevention, reduce credentialing barriers, and facilitate contracting with the local dental community.

In response to a question from Representative Fehr, Dr. Berg said dental practices have high overhead costs related to equipment.

Chairman Lee said that while the state's Medicaid payment rates may not cover the cost of all procedures, the percentage of cost provided by dental payments exceeds the percentage of costs covered for many other Medicaid providers. She expressed concern that, given the state's current budget situation, significant increases in Medicaid payment rates are not likely. She said mid-level practitioners could reduce the cost per unit of dental procedures and increase the Medicaid payment rate percentage of cost.

Dr. Anthony Hilleren, Dentist, Minnesota, provided information ([Appendix I](#)) regarding the impact of dental therapists on his practice. He said he hired a dental therapist for his practice in west central Minnesota in 2013. He said the dental therapist's limited training meant more supervision and on-the-job training. He said the additional attention he needed to provide to the dental therapist left him unable to care for as many patients. He said he

struggled to find enough work for the dental therapist due to the narrow scope of procedures the dental therapist was capable of performing. He said the dental therapist spent most of his time providing cleanings, which are within the scope of training for registered dental assistants. He said the original goal of increasing the number of underserved patients was not achieved. He said dental therapists are not having the desired effect because many underserved patients have complex dental and medical needs and require the skills of a fully trained dentist. He expressed concern regarding Minnesota's survey results and suggested North Dakota monitor the dental therapy program in Minnesota as it evolves.

Dr. Hilleren included the written testimony of Dr. Marissa Goplen, a 2015 graduate of the University of Minnesota School of Dentistry, who trained with dental therapists. Her testimony indicated because comprehensive examinations are outside the scope of practice for a dental therapist, dental therapy students are not assigned patients and must request that dental students share patient procedures available to gain experience. Her testimony indicated the reluctance of dental students to share work experience makes it difficult for dental therapists to complete the prerequisites for graduation and results in limited clinical experience.

OTHER COMMITTEE RESPONSIBILITIES

At the request of Chairman Lee, the Legislative Council staff presented a bill draft [[17.0281.01000](#)] to provide for an income tax credit for advanced practice registered nurse preceptors. She said the bill draft authorizes an individual income tax credit for advanced practice registered nurses serving as preceptors for students enrolled in an advanced practice registered nurse program. She said advanced practice registered nurse preceptors may earn a credit against the tax imposed under Section 57-38-30.3 equal to \$1,000 for each clinical rotation preceptorship of at least 160 hours. She said the maximum credit that may be claimed by a taxpayer over any combination of taxable years is \$10,000 and any credit amount exceeding a taxpayer's liability may be carried forward to each of 3 succeeding taxable years. She said, if approved, the income tax credit would be effective for taxable years beginning after December 31, 2016.

Representative Porter said preceptorships are one of the duties of being a professional. He said other medical professionals require clinical internships and preceptors.

In response to a question from Representative Rohr, the Legislative Council staff said there are currently no similar income tax credits for preceptors. She said there are income tax credits for internships or workforce recruitment that benefit employers.

At the request of Chairman Lee, the Legislative Council staff presented a bill draft [[17.0282.01000](#)] to remove the matching funds requirement for behavioral health professionals in the loan repayment program and establish a loan forgiveness program for nursing faculty. She said Sections 1 and 2 of the bill draft amend Sections 43-12.3-03 and 43-12.3-06 to remove the 10 percent matching funds requirement for behavioral health professionals in the loan repayment program. She said Section 3 of the bill draft creates Chapter 43-12.4 to provide for a nursing faculty student loan repayment program. She said the bill draft requires the State Health Council to administer a student loan repayment program for nursing faculty who advance their education through a master's degree or doctorate degree. She said the loan repayment, subject to legislative appropriations, may not exceed the lesser of \$10,000 or the total sum of educational loans incurred to pursue the advanced degree. She said the applicant must be employed full time as a nursing program faculty member at an institution of higher education in the state and agree to continue full-time employment as a nursing program faculty member at an institution of higher education in the state for 4 years following completion of the advanced degree. She said if a qualified applicant, receiving payments under the student loan repayment program contract, fails to meet the requirements of the contract, the applicant is liable for the full amount of any loan repayment funds received.

Representative Fehr said there is a distribution issue with behavioral health professionals and the removal of matching funds would be appropriate to encourage professionals to locate in small communities, but it is not needed in larger cities.

Representative Porter said community size is addressed when the State Health Council considers where services are provided and how the professional will improve access to health care services.

It was moved by Representative Porter, seconded by Representative Seibel, and carried on a voice vote that the bill draft [[17.0282.01000](#)] to remove the matching funds requirement for behavioral health professionals in the loan repayment program and establish a loan forgiveness program for nursing faculty be amended to remove Sections 1 and 2 related to removing the matching funds requirement for behavioral health professionals in the loan repayment program.

In response to a question from Senator Heckaman, Dr. Carla Gross, Associate Dean, North Dakota State University School of Nursing, said the loan repayment program would pay back the loans incurred to receive a master's or doctorate degree.

In response to a question from Representative Fehr, Dr. Gross said, in some programs, universities may hire faculty without the required degree, but that are enrolled in a program to earn the degree. She said nursing programs are only allowed a small percentage of these unqualified faculty. She suggested the loan repayment program benefit both unqualified faculty pursuing a higher degree and those individuals that have outstanding student loans related to a master's or doctorate degree. She said the loan repayment program would serve as a recruiting tool.

In response to a question from Chairman Lee, Dr. Patricia Moulton, Executive Director, North Dakota Center for Nursing, said the loan repayment program would support both master's and doctorate degrees. She said nursing programs are under increasing pressure from accreditation agencies to increase the number of instructors with master's and doctorate degrees. She said faculty chairs and deans are required to have doctorate degrees.

It was moved by Senator Anderson, seconded by Representative Rohr, and carried on a roll call vote that the bill draft [17.0282.01000], as amended, to establish a loan forgiveness program for nursing faculty be approved and recommended to the Legislative Management. Senators Lee, Anderson, Heckaman, and Oehlke and Representatives Becker, Fehr, Rohr, and Seibel voted "aye." Representatives Paur and Porter voted "nay."

At the request of Chairman Lee, Dr. Gross provided information ([Appendix J](#)) regarding the findings of a nursing shortage task force. She said the North Dakota Hospital Association convened a health care workforce task force in May 2016. She said the task force formed three focus groups--delivery and innovation, training and education, and regulatory.

Dr. Gross said she served as part of the training and education focus group which explored the possibility of targeting new Americans to fill workforce needs in health care. She said the group concluded that language was a barrier and strategies should be developed to enhance collaboration between the Adult Learning Centers and health care facilities to better meet unfilled employment needs. She said the group explored strategies to recruit health care providers in rural communities by providing more internship and preceptorship opportunities in rural health care facilities. She said the group explored the possibility of establishing a centralized clearinghouse for clinical placements, such as internships, preceptorships, and job openings, where rural facilities could post available positions and universities and colleges could post clinical placement requests. She said student housing in the rural communities is an important barrier to overcome. She said the group recommends more collaboration to fill all of the slots available in nursing programs across the state and to provide nonaccepted applicants guidance in developing a health care career path.

At the request of Chairman Lee, Mr. Jeffrey Huber, State Fire Marshal, provided a report ([Appendix K](#)) regarding findings and recommendations for legislation to improve the effectiveness of the statute on reduced ignition propensity standards for cigarettes. He provided a summary of test methods, performance standards, and certification results. He said according to the data collected from North Dakota's National Fire Incident Reporting System from January 2014 to September 2016, 147 fires within the state were caused by smokers, placing smoking as the sixth leading cause of fires in the state. He said there were 1,659 man hours invested in extinguishing these fires. He said North Dakota significantly improved its ranking among states for the number of fire deaths. He said, from 2004 to 2013, North Dakota reduced its ranking from 6th to 26th for the greatest number of fire deaths. He said there are 27 different manufacturers that certify cigarettes and 14 different laboratories that test these cigarettes. He said as of January 1, 2016, there have been 692 cigarettes certified which raised \$173,000.

At the request of Chairman Lee, Mr. John Vastag, Chief Executive Officer, North Dakota Interagency Program for Assistive Technology, provided a report ([Appendix L](#)) regarding assistive technology and telehealth. He said North Dakota Interagency Program for Assistive Technology (IPAT) serves all ages and all types of disabilities. He said IPAT administers an Assistive Technology Act contract. He said the biennial budget for the program is approximately \$1.3 million, including \$700,000 from federal funds and \$580,000 from the general fund. He said the program provides assistive technology equipment demonstrations, training, public awareness events, equipment loans, alternative financing programs, and an equipment reuse program. He said other services include: assistive safety device distribution; telecommunications equipment distribution; deaf-blind program; assistive technology financial loan program; Sprint telecommunications demonstrations; vocational rehabilitation transition program; and other services, such as assessments, consultations, and training.

Mr. Tyler Merkel and Ms. Tami Ternes, Assistive Technology Consultants, North Dakota Interagency Program for Assistive Technology, demonstrated assistive technology available through IPAT.

In response to a question from Chairman Lee, Mr. Vastag said assessments are made in schools, homes, health care facilities, work environments, and nursing homes.

In response to a question from Senator Anderson, Mr. Vastag said IPAT has contracted with an information technology company to develop an encrypted email system that will allow individuals to communicate electronically with medical providers.

At the request of Chairman Lee, Mr. Tim Cox, President, Northland Healthcare Alliance, provided a report ([Appendix M](#)) regarding the program of all-inclusive care for the elderly (PACE). He said Northland Healthcare Alliance began the PACE program in North Dakota in 2008, opening sites in Bismarck and Dickinson and since has added a site in Minot in July 2015. He said Northland PACE has served approximately 300 people since 2008. He said to be eligible for PACE, participants must: be at least 55 years old; qualify for nursing home level of care; be able to live safely in your own home; and live within an area served by PACE. He said all PACE participants meet the standard minimum criteria for admission to a skilled nursing facility, but intervention allows them to maintain a better quality of life by remaining in their own homes for a longer period of time. He said PACE employs a range of services to manage healthcare outcomes, thereby reducing hospitalizations, physician office visits, and the overall cost of long-term care. He said payment rates for PACE are less than skilled nursing facility care payments, resulting in Medicaid savings to the state. He recommended the moratorium placed on the expansion of PACE enacted during the last legislative session be removed and that the Legislative Assembly support the expansion and funding of PACE in additional communities.

In response to a question from Chairman Lee, Mr. Cox said the PACE program also receives funding from Medicare as well as Medicaid and private pay.

In response to a question from Representative Fehr, Mr. Cox said he anticipates regulatory changes in the program will make it possible to expand into communities that previously couldn't support the program.

In response to a question from Representative Paur, Mr. Cox said the North Dakota Long Term Care Association is supportive of the PACE model.

In response to a question from Representative Porter, Mr. Cox said most of those enrolled in PACE are dual eligible, while about 5 percent are private pay or Medicare only. He said private pay individuals pay the same rate as those eligible for Medicaid.

DEATH INVESTIGATION AND FORENSIC PATHOLOGY CENTER STUDY

Chairman Lee invited Dr. Joshua Wynne, Dean, University of North Dakota School of Medicine and Health Sciences, to provide a University of North Dakota School of Medicine and Health Sciences Advisory Council report ([Appendix N](#)) regarding its review of options to improve the gathering and use of data from death certificates to enhance the population health of the state. He said the report was prepared at the request of the Health Services Committee. He said the advisory council assigned a subcommittee to study the request and report their findings to the advisory council. He said the report contained a number of suggestions, but the most significant was that further study of the topic is necessary. He said the complexity of death investigation and reporting, including the presence of two major units that oversee death investigations and provide forensic services, made it apparent that specific recommendations would be premature. He said leadership of the State Department of Health and the School of Medicine and Health Sciences (SMHS) agreed further study is needed so the operations of the two forensic units in the state could be better coordinated. He said the advisory council recommends the State Department of Health and SMHS conduct, before the start of the legislative session, a more complete study of death investigation and forensic services in the state and provide recommendations to the 65th Legislative Assembly.

In response to a question from Representative Fehr, Dr. Wynne said the Health Services Committee request related to death certificates and reporting. He said, as the subcommittee review progressed, it was apparent there were multiple levels of death investigation and reporting.

Dr. Wynne said, speaking on his own behalf, to optimize the system, the two facilities could collaborate more. He said there is enthusiasm by both the State Department of Health and SMHS to optimize the level of coordination.

In response to a question from Chairman Lee, Dr. Wynne said he doesn't anticipate a need for legislation at this time.

Dr. Tracy Miller, State Epidemiologist, State Department of Health, provided information ([Appendix O](#)) regarding data collected on drug and alcohol overdoses in the state. She said the department has not yet completed an analysis of hospital discharge data. She said the department is working with the North Dakota Hospital Association to form a workgroup to provide guidance and oversight for the use of the data. She said code has been written to combine files from multiple years, but the data must be adjusted so that individuals are not counted more than once. She said department personnel are meeting via webinar and teleconference with other hospital discharge analysts to receive training.

In response to a question from Representative Rohr, Dr. Miller said some data may be available in January 2017.

Dr. William Massello, State Forensic Examiner, State Department of Health, provided information ([Appendix P](#)) regarding recommendations to improve death investigation in the state. He said the State Department of Health provides services in 32 western and central counties and SMHS serves 21 eastern counties. He said, from January through June of 2016, the case load has been nearly equal in the two facilities. He said both facilities performed fewer autopsies than the same period last year. He said if the number of autopsies performed continues to decline, the department has the capacity to perform additional autopsies. He said, while the department has one pathologist, the current 4,837 square foot facility is able to accommodate two forensic pathologists. He said the department accepts bodies for autopsy 24 hours per day, 7 days a week, and autopsies are generally conducted the next business day. He said the department has received few complaints with regard to timeliness of autopsies and death certificate completion.

Dr. Massello said the State Department of Health performs autopsies on approximately 75 percent of all deaths reported by local coroners, or 5.79 autopsies per 10,000 population in 2012. He said the department believes all of the autopsies that need to be done, with rare exceptions, are currently being done. He said a workgroup assembled in 2014 met in August 2016. He said most of the workgroup's recommendations focus on continuing education for local coroners and law enforcement officials regarding death investigation. He said the workgroup made the following recommendations:

1. Maintain a manageable workload at the Office of the Forensic Examiner in Bismarck by continuing the contractual agreement between the department and SMHS.
2. Increase and improve the knowledge and skills of coroners, death investigators and others who may conduct death investigations or assist in death investigations and increase the number of people in the state who have training in death scene investigation by:
 - a) Providing funding for travel costs for coroners or designee to attend annual training offered by the State Forensic Examiner, (\$29,375);
 - b) Encouraging medical personnel, law enforcement, and first responders to attend death scene investigation training; and
 - c) Providing scholarships to offset travel costs for five county coroners per year or the coroner's designee to attend training provided by the Hennepin County Coroner in Minnesota on death investigation (\$10,000).
3. Develop the capacity of the State Crime Laboratory to produce quantitative toxicology results.
4. Allow for electronic review of death records by the State Forensic Examiner and SMHS, including the ability of both agencies to send electronic records to other medical providers for further review or correction. The Division of Vital Records would work with the Information Technology Department to modify the Electronic Vital Event Registration System to accommodate this change. The estimated cost for these modifications is between \$10,000 and \$20,000. The Division of Vital Records, working with the forensic examiner, has recently added a pop-up menu to the online death certificate to prevent attending health care providers from certifying non-natural deaths without reporting them to the local coroner or the State Forensic Examiner. The State Forensic Examiner is partnering with the Division of Vital Records to correct and amend death certificates that have been improperly certified. The department is considering additional online tutorials to assist attending health care providers in the proper completion of death certificates.

Dr. Massello said there have been additional suggestions for improvement; however, the workgroup has not reached a consensus on them at this time. He said, due to budget restrictions, suggestions requiring significant additional resources will be analyzed with regard to cost versus benefit and prioritized. He said the present system of death investigation is strong and there is no need for major structural revisions at this time. He said most members of the workgroup believe the current system of county coroners works well, given the rural nature of the state.

In response to a question from Senator Anderson, Dr. Massello said the State Department of Health's autopsy report format is dictated and is not the same as SMHS. He said the report is saved electronically.

In response to a question from Senator Anderson, Dr. Massello said there would not be differences in the autopsy reporting; however, the information maintained in each agency database may differ.

In response to a question from Representative Becker, Mr. Corey Saylor, Office Administrator, State Forensic Examiner's office, State Department of Health, said the State Department of Health employs one full-time forensic examiner, one full-time forensic administrator, one full-time forensic technician, and five temporary autopsy assistants. He said the forensic administrator and forensic technician also are death investigators.

In response to a question from Representative Seibel, Dr. Massello said law enforcement officers receive death investigation instruction as part of their training. He said approximately one-half of the county coroners have attended the 1-day annual seminar provided by the State Forensic Examiner.

In response to a question from Representative Rohr, Dr. Massello said if drug overdose is suspected, specimens are immediately sent out of state for qualitative and quantitative analysis. He said if there is no suspicion, the State Crime Laboratory will perform a screening. He said if the screening indicates additional testing is necessary, the specimen is sent out of state for quantitative analysis. He said State Crime Laboratory screenings take approximately 3 weeks and, if needed, the out-of-state laboratories require an additional 4 to 6 weeks. He said 10 to 15 percent of cases are drug overdoses.

Dr. Massello said if the State Crime Laboratory were to do quantitative analysis, the department would save approximately \$20,000 per year in fees, but he is unsure whether there would be a time savings.

Dr. Wynne provided information ([Appendix Q](#)) regarding lease terms and rental costs of the Forensic Pathology Center and recommendations to improve death investigation in the state. He said the Department of Pathology provides death investigation and forensic services in a leased facility operated by SMHS in south Grand Forks. He said SMHS leases 7,167 square feet for a forensic laboratory and 1,870 square feet for office and storage needs. He said the leases for both facilities were executed through the University of North Dakota in accordance with State Board of Higher Education policy and annual lease and utility costs for the two facilities totaled \$135,501 in fiscal year 2016. He said the forensic facility lease payments total \$94,536 annually and the term is 25 years, from January 2011 through December 2035. He said during years 11 through 25 of the lease, the lease price will be adjusted by the local consumer price index. He said SMHS is responsible for utilities, maintenance, repairs, fire insurance, and a prorated share of special assessments and the landlord's insurance. He said office and storage space lease payments total \$24,000 annually and the term is 3 years, expiring January 31, 2019. He said neither lease contains a "buy-out" option. He said SMHS will join the State Department of Health in a study to develop recommendations to improve death investigation in the state and until those recommendations are formalized, it is not possible to estimate funding needs.

In response to a question from Chairman Lee, Dr. Wynne said because the space is specialized, lease cost comparisons in Grand Forks are not possible.

STUDY OF EMPLOYMENT RESTRICTIONS IN PUBLIC ASSISTANCE PROGRAMS

Ms. Carol Cartledge, Director, Economic Assistance Division, Department of Human Services, provided information ([Appendix R](#)) regarding an update on final federal regulations for the child care and development block grant and recommendations related to the committee's study of employment restrictions in public assistance programs. She said final regulations for the child care development block grant have not been finalized, but are expected before the end of the year. She said the department does not have recommendations related to restrictions in public assistance programs.

In response to a question from Chairman Lee, Ms. Cartledge said three of the public assistance programs have a work requirement, child care assistance--temporary assistance for needy families and the supplemental nutrition assistance program. She said the remaining programs do not have a work requirement.

BEHAVIORAL HEALTH WORKFORCE REPORTS

At the request of Chairman Lee, the Legislative Council staff presented a bill draft [[17.0284.01000](#)] to provide for clinical supervision of behavioral health professionals by behavioral health professionals outside of their respective professions. She said the bill draft amends sections related to the licensure of clinical social workers, licensure of addiction counselors, the licensure of licensed professional counselors, and the licensure of marriage and family therapists. The bill draft also provides for a report to Legislative Management during the 2017-18 biennium on the

implementation of supervision and training requirements. She said for clinical training or accumulated experience required for initial licensure, the bill draft allows 50 percent of required supervision to be with other professionals designated by the supervising professional and competent in the area of practice being supervised.

Representative Fehr said there is still supervision by professionals in the same profession, but the changes will allow for a portion of the supervision to be provided by other behavioral health professionals, similar to the flexibility in the clinical supervision of psychologists.

Dr. Julijana Nevland, Graduate Counseling Program Chair, University of Mary, provided information ([Appendix S](#)) regarding an update on the supervision of recent clinical counseling graduates. She reviewed the clinical supervision requirements of the three levels of licensure available through the North Dakota Board of Counselor Examiners (NDBCE). She said a licensed associate professional counselor (LAPC) must have a master's degree in counseling, pass a national counseling examination, and provide a plan of supervision to NDBCE. She said a licensed professional counselor (LPC) must have 2 years of counseling experience and receive a minimum of 100 hours of supervision by only an LPC or licensed professional clinical counselor (LPCC). She said an LPCC must have 2 years of counseling experience, complete 60 credits of additional coursework, pass a clinical mental health counseling examination, and receive a minimum of 100 hours of supervision by only an LPCC. She said if LPCs or LPCCs are not available to supervise LAPCs and LPCs, licensees are unable to advance their credentials. She said only individuals with an LPCC licensure are reimbursable by virtually all third-party insurers. She said North Dakota is 1 of 13 states which either require a professional counselor, pursuing licensure, to obtain supervision by a more advanced professional counselor or do not explicitly state supervisor requirements. She said the remaining states allow affiliated licensed mental health professionals to provide supervision to novice counselors, seeking more advanced licensure. She said potential supervisors include psychologists, psychiatrists, addiction counselors, social workers, and marriage and family therapists. She said there are 18 LPCs and 65 LPCCs in the state. She said most novice counselors seek supervision from LPCCs because it will shorten the licensure process. She said an LAPC who obtains a counseling position at an agency, which does not employ an LPC or LPCC supervisor is left to secure third-party supervision at an additional cost of \$5,000 to \$10,000.

Dr. Nevland said temporarily, NDBCE could approve, in extenuating circumstances, a supervision waiver to allow LAPC licensees to obtain supervision by an affiliated mental health professional, who is a registered supervisor by their respective board. She said the preferred solution would be for NDBCE to amend its rules to allow affiliated mental health professionals, who are registered as clinical supervisors by their respective boards, to provide supervision to LAPC counselors who are working toward an LPC or LPCC license. She said this change would align North Dakota requirements to at least 37 other states. She said novice counselors would seek employment in agencies that could provide supervision by an affiliated mental health professional, reducing the need to pay for supervision. She said some of these agencies could be in rural communities.

In response to a question from Senator Anderson, Dr. Nevland said in the bill draft, one-half of the supervision would be required under a supervising LPCC and the supervising LPCC would have to approve the other professional providing the remaining supervision. She said, while this change is helpful, it is not ideal because requiring LPCC supervision is still a barrier. She said ideally, affiliated mental health professionals, who are registered as clinical supervisors by their respective boards, could provide all of the supervision for LAPCs.

Representative Fehr said the bill draft was modeled after the supervision requirements of psychologists, but he does not object to allowing all of the clinical supervision to be provided by affiliated mental health professionals, who are registered as clinical supervisors by their respective boards.

It was moved by Representative Fehr, seconded by Representative Seibel, and carried on a voice vote that the bill draft [17.0284.01000] to provide for clinical supervision of behavioral health professionals by behavioral health professionals outside of their respective professions be amended to remove "or its equivalent" on page 3, lines 18 and 19.

In response to a question from Chairman Lee, Dr. Nevland said currently, professionals, even those with a higher license, who do not have a counseling license are not allowed to provide clinical supervision. She said she is confident other mental health professionals could provide competent clinical supervision.

It was moved by Senator Anderson, seconded by Representative Fehr, and carried on a roll call vote that the bill draft [17.0284.01000], as amended, to provide for clinical supervision of behavioral health professionals by behavioral health professionals outside of their respective professions be approved and recommended to the Legislative Management. Senators Lee, Anderson, and Oehlke and Representatives Becker, Fehr, Paur, Rohr, and Seibel voted "aye." No negative votes were cast.

Dr. Richard M. Rothaus, Interim Vice Chancellor, Academic and Student Affairs, North Dakota University System, provided information regarding plans to update a 2007 report entitled [The Behavioral Health Workforce in North Dakota: A Status Report](#). He said the report was prepared by the Western Interstate Commission for Higher Education Mental Health Program for the Division of Mental Health and Substance Abuse Services. He said the report is data driven and updated information is available. He said while it is the responsibility of the North Dakota University System to meet the workforce needs of the state, the University System is also responsible for the needs of students in the University System. He said there is a need for mental health professionals to provide services on campuses.

Mr. Stephen Illing, Retired Licensed Addiction Counselor, Fargo, provided information ([Appendix T](#)) regarding dual-licensure requirements for addiction counselors. He said Century Code requires any person practicing addiction counseling in the state to be licensed by the North Dakota Board of Addiction Counseling Examiners as a licensed addiction counselor (LAC). He said LACs providing addiction counseling or addiction treatment services also are required to have a program license issued by the Department of Human Services. He said this dual licensure is a burden to the counselors and agencies and has made addiction counseling less attractive as a profession. He said there are situations where assistance and input from an LAC can be helpful to other professionals or clients. He said the LAC can review cases with staff and offer information or advice, but if the LAC visits with a client or patient of an agency, the LAC must be licensed as a program or working for another licensed program. He said the program license makes providing ongoing and flexible service that matches the nature of the illness and recovery difficult. He said the Department of Human Services operates licensed treatment programs, licenses programs, audits programs, and has the power to suspend or revoke program licenses. He said service duties should be separate from licensing duties. He said professionals have established standards of practice and are able to police their membership.

Chairman Lee said a consultant's report received by Legislative Management during the previous interim recommended separating service duties from licensing duties. Mr. Illing said the Department of Human Services collects important data and it may require additional study before a change can be made.

Ms. Carlotta McCleary, Executive Director, Mental Health America of North Dakota, provided information ([Appendix U](#)) regarding a Substance Abuse and Mental Health Services Administration grant to train peer-support counselors. She said the Mental Health America of North Dakota (MHAND) recently received a targeted technical assistance grant to develop peer-support specialist training curriculum and standards of practice for peer-support specialists. She said Dr. Karen Kangus, Recovery University, Connecticut, provided training and technical assistance to MHAND staff in North Dakota. She said the curriculum used at Recovery University in Connecticut, currently the certification process for the state of Connecticut, is considered one of the best in the country. She said Recovery University students must attend an 80-hour course and pass a final examination to receive certification. She said MHAND is currently working on an agreement to use the curriculum.

Ms. McCleary provided information ([Appendix V](#)) regarding the research of the curriculum author, Dr. Chyrell Bellamy, Ph.D., MSW, Yale School of Medicine.

In response to a question from Chairman Lee, Ms. McCleary said MHAND anticipates training those with opportunity for employment statewide.

In response to a question from Representative Fehr, Ms. McCleary said the program is designed for individuals with similar experiences. She said peer-support services are paid positions and they are reimbursed.

Mr. Kurt Snyder, Executive Director, Heartview Foundation, provided information ([Appendix W](#)) regarding updates on a Substance Abuse and Mental Health Services Administration regional behavioral health workforce summit. He said the summit focused on identifying core concepts and models of strategic planning, national and local initiatives to collect behavioral health workforce data, and establishing state and regional workforce action items. He said the North Dakota team developed the following possible action items:

- Integrate peer-support specialists into the workforce;
- Collect and use data to inform local communities and policymakers about needs and gaps in behavioral health services;
- Provide tools and resources to local communities to "grow their own" workforce;
- Identify all federal programs supporting workforce in order to maximize opportunities;
- Leverage state, county, and local funding to support behavioral health internships and loan forgiveness programs;

- Connect evidence-based program care models to academic curriculum;
- Request employers to use survey tools to evaluate workforce readiness information and connect this information to academia;
- Prepare "Grand Rounds" education modules to engage health care into behavioral health issues;
- Identify gaps in behavioral health leadership and promote and support leadership training initiatives; and
- Work with regulatory boards, trade associations, and other stakeholders to promote flexibility and cooperation with regard to license portability, reciprocity, and dual licensure.

Mr. Doug Herzog, Heartview Foundation, provided information ([Appendix X](#)) regarding a grant to screen individuals entering detention for mental health issues. He said the project, funded by the Bureau of Justice, is one of six planning programs in the country. He said behavioral health screening is not common for many special at-risk populations, including those in jails, the homeless, and domestic violence victims. He said while screening, planning, and referral tools exist, agencies serving these populations are often understaffed. He said recently these tools were organized using technology to make routine screening less time consuming and more cost effective. He said Heartview Foundation's screening, planning, and referral portal is among a number of web-based tools known as clinical extenders. He said clinical extenders provide agencies with tools that are quick, effective, and less time consuming. He said the Justice and Mental Health Collaboration project includes online access to these screening, service planning, and referral tools. He said the screening can be conducted in less than 20 minutes with findings and recommendations available instantly to clients and sponsoring corrections agencies. He said the referral to treatment component matches behavioral health needs with services available. He said to improve the referral process, a behavioral health locator is being developed that will include public and private agencies and licensed practitioners. He said the behavioral health services locator is an online service provided by Heartview Foundation. He said searches are free and can be conducted by provider, practitioner, service, and geographic areas. He said the locator will also be used to identify service and workforce shortages in various geographic areas.

Ms. Marge Ellefson, Executive Secretary, North Dakota Board of Counselor Examiners, provided information ([Appendix Y](#)) regarding licensing requirements and reciprocity. She said the NDBCE contacted 49 states regarding reciprocity agreements. She said 25 percent of those contacted responded and none were willing to enter into a reciprocity agreement with North Dakota. She said some state's requirements were more strict and others were not, but none were willing to alter their requirements for reciprocity. She said nationwide, education standards have been increasing. She said the postgraduate supervised experience is a vital training tool and supervision by a licensed counselor will provide the most complete supervision experience. She said the NDBCE is open to collaborating with other boards and considering a more streamlined process.

Chairman Lee suggested the counseling boards collaborate with each other and the University System to review curriculum and professional requirements in an effort to provide more flexibility for counseling professionals and for professionals moving here from out of state.

It was moved by Representative Seibel, seconded by Representative Becker, and carried on a voice vote that the Chairman and the Legislative Council staff be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Management.

It was moved by Representative Rohr, seconded by Representative Fehr, and carried on a voice vote that the committee be adjourned sine die.

No further business appearing, Chairman Lee adjourned the meeting sine die at 4:06 p.m.

Sheila M. Sandness
Senior Fiscal Analyst

ATTACH:25