

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**HEALTH SERVICES COMMITTEE**

Wednesday, January 3, 2018  
Roughrider Room, State Capitol  
Bismarck, North Dakota

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

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

**Members absent:** Representative Gretchen Dobervich

**Others present:** Representative Kathy Hogan, Fargo, member of the Legislative Management; Senator Curt Kreun, Grand Forks

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

**It was moved by Senator Mathern, seconded by Senator Erbele, and carried on a voice vote that the minutes of the October 24, 2017, meeting be approved as distributed.**

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

#### **Early Intervention System Task Force**

At the request of Chairman Lee, Ms. Roxane Romanick, Executive Director, Designer Genes of North Dakota, presented information ([Appendix B](#)) regarding a status update on the activities of the early intervention system task force; and a report ([Appendix C](#)) from the November 29, 2017 task force summit entitled *ND Early Intervention Solutions Summit Report for the Health Services Interim Committee*. She said the summit focused its efforts in six areas of the early intervention system, including child find activities, service coordination, delivery of early intervention services, administration and performance monitoring, family engagement, and professional development and technical assistance. She said the summit identified areas to consider for opportunities. She said the task force anticipates presenting recommendations to the committee at the next meeting.

In response to a question from Representative McWilliams, Ms. Romanick said she will work with the Department of Human Services (DHS) to provide the committee, at its next meeting, the total amount of federal Part C program funding that was spent relating to families who qualified but did not seek eligibility for Medicaid.

#### **North Dakota Interagency Coordinating Council**

Chairman Lee called on Ms. Sarah Carlson, Chairman, North Dakota Interagency Coordinating Council, who presented information ([Appendix D](#)) regarding the purpose of the council, current initiatives of the council, and any recommendations for committee consideration. She said the federal government requires the Governor to appoint a group of stakeholders to advise and assist the lead agency of the federal Part C program, and the operation of those services. She said the mission of the council is to provide leadership for a coordinated statewide interagency system of comprehensive early intervention services and prevention awareness for children with disabilities and at-risk children. She said the main function of the council is to advise and assist in areas that impact children ages birth to age 3 who have or are at risk of developmental delays. She said this includes identifying sources of support for services, supporting child find activities, and having awareness and providing recommendations for children transitioning out of the program or reaching 36 months of age. She said the council also creates an annual report that measures 11 indicators focused on outcomes of the state's early intervention system. She said the council will provide the committee with possible recommendations after the council meets on January 25, 2018.

#### **County Social Services Medicaid Eligibility Application Process**

Chairman Lee called on Ms. Kim Jacobson, Director, Traill County Social Services and member, North Dakota County Director's Association, who presented information ([Appendix E](#)) regarding the Medicaid eligibility application process for individuals with developmental disabilities who are seeking early intervention services and supplemental information ([Appendix F](#)) regarding application forms used for determining eligibility. She said the

caregiver of a child seeking Medicaid eligibility must submit an economic assistance application and related information to the county social services office for eligibility determination. She said a child determined eligible is able to access a wide range of services through the home- and community-based services waived services program. She said the first step in the application process is a regional developmental disabilities case manager determining a certificate of need. She said this is based on the physical and behavioral needs of the child. She said an application for Medicaid is then submitted by the family to the county agency. She said there is an annual review requirement to redetermine eligibility once an application is approved. She said the case manager determines the needs of the child and the county agency determines the economic assistance programs available for the family. She said federal Part C program funds are utilized to pay for a child's early intervention services if the family declines the opportunity to apply for Medicaid waived services. She said the county agency is not involved in the process of the federal Part C program. She said DHS has identified 37 children that have chosen not to apply for Medicaid but instead accessed Part C funds.

Ms. Jacobson discussed the following barriers for individuals considering applying for the Medicaid home- and community-based services waiver program:

- The stigma with receiving Medicaid assistance;
- The perception of county social services and not wanting to share personal information with local officials;
- The caregiving parent not wanting a noncustodial biological parent to be contacted due to the mandatory child support referral;
- The impact on other benefits the family may be receiving, including TRICARE;
- Receiving improper direction from the developmental disabilities case manager or the county offices regarding information needed or how eligibility is determined;
- Limited amount of information available on the state website;
- Stress of dealing with the demands of having a special needs child;
- Relationship with the case manager or county offices, and the willingness to ask questions;
- Inconsistent training or practices of a case manager or county eligibility personnel; and
- Untimely entry of the developmental disability screen into the Medicaid Management Information System, which prevents the eligibility determination from being finalized.

Ms. Jacobson provided the following potential opportunities for improving access to the developmental disabilities waiver services:

- Reconsider the application form or adopt a screening form that better identifies the type and scope of services being requested;
- Enhance training for both case managers and county eligibility staff on roles, programs, timelines, and other factors that may influence eligibility and services;
- Improve public awareness, including identifying the home- and community-based services program as a Medicaid program, improving information available on the website and information in parent handbooks;
- Improve communication between DHS, county services, medical communities, and other key stakeholders; and
- Consider specialty units for determining eligibility for early intervention economic assistance applications.

In response to a question from Senator Mathern, Ms. Jacobson said the developmental disability case manager attaches a "yellow sheet" to an application form when the case manager determines there is a certificate of need for the child based on the child's development stage or when the behavioral needs of the child meet developmental disability program requirements. She said this process is used to inform the eligibility worker to apply the waived rules.

In response to a question from Representative Schneider, Ms. Jacobson said the eligibility process can be simplified if a family does not seek 3 months of retroactive benefits and benefits for the month of application. She said adding a screening tool to the application can help identify which applicants may use a simplified process. In addition, she said, the screening tool can also be used to identify a more robust process to help wrap services around a family when the needs are greater.

Chairman Lee suggested the county social services agencies and the regional human service centers meet to discuss how to enhance this process. She asked the committee be informed during the interim regarding any updates and whether any legislation is needed to enable the new enhancements.

Senator Poolman suggested Ms. Maggie D. Anderson, Director, Medical Services Division, Department of Human Services, present information to the committee at its next meeting relating to Medicaid eligibility requirements and the role of developmental disabilities case managers and county social services in determining eligibility.

Mr. Christopher D. Jones, Executive Director, Department of Human Services, commented regarding the social services redesign project pursuant to 2017 Senate Bill No. 2206. He said a key item discussed by Ms. Jacobson is the importance of creating a new structure and developing processes to wrap services around the family. He said the department is reviewing these processes as part of the social services redesign project.

### **Department of Public Instruction - Federal Part B Program - Child Find Activities**

Chairman Lee called on Ms. Valerie Bakken, Special Education Regional Coordinator and Special Education Preschool Coordinator, Department of Public Instruction, who presented information ([Appendix G](#)) regarding the efficiency and effectiveness of early intervention programs that prepare children reaching 3 years of age and transitioning out of the early intervention system, the Individuals with Disabilities Education Act child find mandate, and the possibility of implementing a coordinated child find system in the state. She said the Department of Public Instruction partners with DHS to transition children from federal Part C early intervention programs to federal Part B special education services. She said federal Part B eligibility requirements are different from requirements for the federal Part C early intervention programs. She said a child must be assessed by educational professionals for determination of eligibility for the federal Part B special education services based on 1 of 12 disabilities categories. The 12 categories include autistic, deaf-blind, hearing impaired, other health impaired, orthopedically impaired, speech-language impaired, visually impaired, traumatic brain injured, intellectual disability, emotional disturbance, specific learning disability, and noncategorical delay. She said that over the past 5 years 30 to 39 percent of children being referred from the federal Part C early intervention programs have gained and maintained the necessary skills to enter the educational system without a need for special education services.

Ms. Bakken said each state education agency and school district must implement policies and procedures to ensure that all children ages 3 and older with disabilities, who live in the state and who are in need of special education and related services, are located, identified, and evaluated regardless of the severity of their disability. She said there are 32 special education units in the state that typically hold preschool screenings several times throughout the year. She said this includes educational professionals screening children to determine if a full assessment is needed to determine special education eligibility. She said the screenings are advertised and shared with the public in the school district's area so that parents, public health nurses, and other agencies can share information with a parent or guardian of a child that may need a screening. She said other child find activities include disseminating brochures, information sharing at parent-teacher meetings, and presentations to professional organizations. She said the parents or guardians may also contact their local school district with concerns regarding a child.

Ms. Bakken said the department supports early intervention programs and would consider partnering to review all child find activities across the state.

In response to a question from Representative Hogan, Ms. Bakken said the federal Part C program emphasizes working with families in areas of the home environment. She said the federal Part B program emphasizes special education in areas of academic skills.

### **Department of Human Services - Federal Part C Program - Child Find Activities**

Chairman Lee called on Ms. Amanda Carlson, Federal Part C Coordinator and Administrator of Children and Family Services, Developmental Disabilities Division, Department of Human Services, who presented information ([Appendix H](#)) regarding child find regulations for infants and toddlers, and the possibility of implementing a coordinated child find system in the state. She said regulations for Part C of the federal Individuals with Disabilities Education Act require each state participating in the federal Part C program to have a comprehensive child find system. She said the system must include identifying, locating, and screening all infants and toddlers with disabilities birth through age 2 as early as possible. She said department activities that support these requirements include birth review postcards and the right track program. She said birth review postcards allow parents to have additional information sent to them or be connected to a local right track provider. She said the use of birth review post cards is a joint effort with DHS, the State Department of Health, and all birthing hospitals. She said right track providers conduct development screenings and observations to assist families in determining if a referral to the early intervention program is desired and appropriate. She said the right track program is a collaboration with the regional human service centers and private providers located throughout the state.

Ms. Carlson said that although Part B and Part C of the federal Individuals with Disabilities Education Act require child find activities, the program requirements differ for each part. She said all child find activities across the state will need to be identified to determine what activities can be combined and where collaboration can take place.

In response to a question from Representative Schneider, Ms. Carlson said she will seek information from the Individuals with Disabilities Education Act Infant and Toddler Coordinators Association to provide a report to the committee at its next meeting regarding a breakdown of the percentage of referrals, the sources of referrals, and a comparison to other states and nationally. Chairman Lee asked that this report be included on the next committee meeting agenda.

### **Comments by Interested Persons**

Mr. Christopher S. Pieske, Member and Parent Representative, Interagency Coordinating Council, provided comments regarding the study of early intervention for individuals with a developmental disability. He said a child's family and guardians are the experts regarding a child's needs. He said developmental disabilities managers are the experts with facilitating services to meet those needs. He suggested including families during the development process when redesigning services in addition to DHS, the human service centers, and the county social services offices. He also expressed support for simplifying the Medicaid eligibility application process.

Ms. Becky Matthews, Bismarck, provided comments regarding the possibility of conducting eligibility testing every year for individuals in the early intervention system. She said relapse or social/emotional issues may not be identified until a child is 2 or 3 years of age.

Mr. Carl Young, Bismarck, provided comments regarding case management services for individuals with a developmental disability. He said there is a team of individuals caring for his child, including a partnership care coordinator, developmental disability program manager, clinical case manager, social services representative, an advocate, mental health technician, and a psychiatrist. He expressed concerns regarding the coordination of services and the ability of all members to agree on a course of action for his child.

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

### **North Dakota Olmstead Commission**

Chairman Lee called on Ms. Pamela Sagness, Director, Behavioral Health Division, Department of Human Services, who presented information ([Appendix I](#)) regarding the current structure of the North Dakota Olmstead Commission and its process for monitoring services and conducting planning to ensure compliance with the 1999 United States Supreme Court case *Olmstead v. L.C.* 527 U.S. 581 (1999) (*Olmstead*). She said she is not a member of the commission, but is speaking on behalf of the commission. She said the commission met in November 2017 and identified the following recommendations:

- Replace DHS representative co-chair position with a citizen member;
- Include participation from other departments in addition to DHS; and
- Create a group to transition the commission to a new structure.

In response to a question from Representative Hogan, Mr. Jones said he will provide the committee with a 5-year history of claims filed with the North Dakota Olmstead Commission.

In response to a question from Representative Hogan, Ms. Sagness said the group created to identify a transition plan will review to determine if any legislative action is needed.

### **Community-Based Services - Projects To Transition Youth From Life Skills and Transition Center**

Mr. Mike Remboldt, Chief Executive Officer, HIT, Inc., presented information ([Appendix J](#)) regarding projects that transition youth from the Life Skills and Transition Center into the community, and the role of the Life Skills and Transition Center with community services. He said HIT, Inc., is a diverse nonprofit organization that serves people with intellectual disabilities or acquired brain injuries, children with developmental delays, and low-income children and families. He said the mission is to support people with disabilities through self-directed services that promote independence, dignity, and respect. He said services include vocational, residential, independent living, brain injury, Head Start, infant development, and qualified service provider services. He said the organization currently serves 294 adults and 379 children. He provided examples of how the Life Skills and Transition Center supports community providers. He said the Life Skills and Transition Center serves as the safety net when individuals require a level of care community providers cannot provide. He recommends the state continue to invest in local providers for as many services as possible in people's communities of choice, but he said HIT, Inc., also recognizes that a safety net of enhanced services in a therapeutic environment should be provided by a state agency or closely managed provider.

### **New Developmental Disabilities Services Payment System - Status Update**

Mr. Jon Larson, Executive Director, Enable Inc., and President, North Dakota Association of Community Providers, presented information ([Appendix K](#)) regarding an overview of the status of the developmental disabilities services system and comments regarding the new payment system. He said the 2009 Legislative Assembly required DHS to work with a consultant to study the effectiveness of the developmental disabilities reimbursement system to fairly and adequately meet the needs of people with the most severe medical and behavioral challenges. He said based on the recommendations of the study, the 2011 Legislative Assembly directed the department to work with a steering committee, including representatives from the provider community, to design a new payment system that allocates resources to individuals based on their needs as measured by a nationally-recognized assessment tool called the supports intensity scale. He said the final report of the steering committee outlined a process involving the use of scores from the scale. He said the process connects a range of scores to increments in authorized support hours and a unit rate matrix with standardized rates for defining services. He said the assessment tool will result in a unique annual individual budget allocation for every client. He said the new system was delayed in January 2015 because of concerns expressed by providers relating to large variances when compared to the current payment system. He said the North Dakota Association of Community Providers worked to find solutions to these remaining issues. In addition, he said, a separate assessment tool for children is being developed as well as a process for adequately addressing the needs of "outlier" groups. He said the system was again delayed in January 2017 because of concerns regarding the effect of implementation on some consumers, including possible loss of placement. He said providers have worked with the department to address these concerns. He said the new payment system is set to be implemented on April 1, 2018.

Mr. Larson said the new system is based on a needs assessment for each individual served and rates that are standardized across all providers. He said providers are committed to minimizing any negative effects that may result to consumers, but there may be some unintended consequences of implementing the new payment system. He said the delays have allowed providers more time to gain a better understanding of the effects of a new system and to prepare for implementation, but several questions remain. He said providers continue to work with the department to address concerns regarding additional staff hours for individuals in outlier groups and the level of administrative burdens to implement the new system, including a proposed statement of costs that will be required for providers of intensive care facility services.

In response to a question from Representative Schneider, Mr. Larson said the North Dakota Association of Community Providers supports implementing the new developmental disabilities services system.

### **Department of Human Services - Update of the Developmental Disabilities New Payment System**

Chairman Lee called on Ms. Tina Bay, Director, Developmental Disabilities, Department of Human Services, who presented information ([Appendix L](#)) regarding the status of the new reimbursement system for providers of services to individuals with developmental disabilities, the progress the department has made with a tentative implementation date of April 1, 2018, and remaining challenges. She said the department submitted and received approval from the Centers for Medicare and Medicaid Services for changes to the traditional waiver. She said the department began statewide training for providers and regional staff, and sent letters to all clients and guardians regarding the upcoming changes. In addition, she said, the providers, program managers, and regional staff began meeting with clients to discuss the upcoming changes and to make any necessary changes to the clients' person-centered service plans. She said the department held hearings to gather public comments regarding proposed North Dakota Administrative Code changes. She said the Administrative Rules Committee anticipates hearing the proposed changes in March 2018. She said items remaining include reviewing outliers, finalizing policies, and testing the web-based case management system. She said the steering committee will meet Tuesday, February 13, 2018, to finalize any remaining concerns.

### **Community-Based Services - Internship Program**

Chairman Lee said because representatives of the Vocational Training Center, Fargo, were unable to attend this meeting, the committee will receive a report from the center at a future meeting regarding a new internship program called C.R.E.A.T.E. Internships (Career, Readiness, Education, And, Training, Experience) program, for individuals with disabilities who want to work.

### **Department of Human Services - Behavioral Health Services Project Updates**

Chairman Lee called on Ms. Sagness, who presented information ([Appendix M](#)) regarding the behavioral health component of the Justice Reinvestment Initiative pursuant to Sections 4 and 5 of 2017 Senate Bill No. 2015, and other behavioral health-related initiatives.

Ms. Sagness provided an update regarding services contracted with the Human Services Research Institute, a nonprofit organization, to develop a behavioral health systems analysis workplan. She said the goal of the project is to support the state in ensuring a 21<sup>st</sup> Century behavioral health system driven by qualitative and scientific merit, efficient coordination of service provisions across agencies, and focused on outcomes that lead to recovery with minimal barriers to access. She said there are four areas of the analysis work, which includes conducting an in-depth review of the state's behavioral health system; analyzing current utilization and expenditure patterns by payer source; providing actionable recommendations for enhancing the comprehensiveness, integration, cost-effectiveness, and recovery orientation of the behavioral health system to effectively meet the needs of the community; and establishing strategies for implementing the recommendations. She said the final report is anticipated to be complete within the next 2 months. She said based on the recommendations, the first step will be to create an implementation team to address the findings. She said this plan will analyze both qualitative and quantitative data.

Chairman Lee suggested the Behavioral Health Stakeholders Group may be interested in receiving a copy of the final report.

In response to a question from Senator Mathern, Ms. Sagness said the department has been working to build capacity of the Behavioral Health Planning Council to be autonomous. She said the department supports and values the leadership of the Behavioral Health Planning Council. She said the department recently hired a facilitator to assist the council, the chairman, and the vice chairman, so that the council can work as a group outside of DHS.

In response to a question from Representative P. Anderson, Ms. Sagness said having access to effective community-based services is a statewide issue.

Ms. Sagness said the department has contracted with the University of North Dakota School of Medicine and Health Services - Center for Rural Health to develop a behavioral health development plan. She said the goals include creating a comprehensive plan and developing a peer support specialist certification. She said the comprehensive plan will be developed by June 2018. She said the department is planning to have reimbursements available by providing certifications. She said reimbursements will be provided through Medicaid or another payer group such as insurance companies.

Ms. Sagness provided an update regarding the Governor's behavioral health initiative. She said North Dakota was one of four states selected to participate in the National Governor's Association Learning Lab to identify improving outcomes and reducing costs for individuals with serious mental illness and substance use disorder. She said the first meeting is scheduled for next week in Arizona. In addition, she said, the department applied for the bringing recovery support services to scale technical assistance project. She said there will be 10 individuals from the state participating in the project. She said the project will focus on areas including recovery community organizations and peer supports.

Ms. Sagness said the behavioral health component of the Justice Reinvestment Initiative of Senate Bill No. 2015 has been called the free through recovery program. She said the mission of the free through recovery program is to improve health care outcomes and reduce recidivism by delivering high-quality community-based behavioral health services, linked with effective community supervision. She said the program will have an outcome-based payment model. She said providers of the program will be reimbursed based on outcomes. She said the four outcomes that are being measured include stable housing, stable employment, recovery, and reduced criminal justice involvement. She said there will be a monthly base rate and a 20 percent incentive if the individual participants meet three of the four identified outcomes. She said 4 of the 6 full-time equivalent positions have been hired. She said the department is currently recruiting the remaining 2 positions. She said the program has been a partnership between the Department of Corrections and Rehabilitation (DOCR) and DHS, and will begin February 1, 2018.

In response to a question from Representative Hanson, Ms. Sagness said the program will be using the DOCR Subject Tracking and Reporting System (DOCSTARS) to track and evaluate free through recovery program metrics. She said DOCSTARS will create a partnership between the DOCR and community programs to ensure probation officers are viewing the same program as the vendors.

Chairman Lee distributed a report ([Appendix N](#)) from the National Conference of State Legislatures entitled *The State of Occupational Licensing - Research, State Policies and Trends*.

### **Community-Based Services - Behavioral Health Services**

Mr. Kurt A. Snyder, Executive Director, Heartview Foundation, presented information ([Appendix O](#)) regarding the types of behavioral health services being provided by private providers; and supplemental information regarding an

overview of technology ([Appendix P](#)), and a directory of mental health services ([Appendix Q](#)). He said there are disparities in the level of services available throughout the state. He said no region has a complete continuum of care. He said common gaps that exist throughout the state include adolescent services, recovery support services, medication-assisted treatment, dual-diagnosis treatment, and withdrawal management. He said despite efforts to expand services to meet the growing needs, providers continue to struggle with:

- Lack of a quality workforce;
- Lack of adequate funding streams;
- Continued stigma; and
- Lack of integration with medical providers.

He provided the following recommendations:

- Provide startup grants for entrepreneurs to expand services;
- Provide funding for workforce developmental efforts;
- Direct DHS to request a state Medicaid waiver that will provide flexibility and targeted funding to address behavioral health disparities;
- Utilize third-party payers for medical necessity and length of stay criteria;
- Fully fund reimbursements of addiction medications through the state Medicaid program; and
- Support the use of technology.

In response to a question from Representative Hanson, Mr. Snyder said there are currently no behavioral health services for adolescents. He said some communities have low-level services, and some communities try to integrate adolescent services with adult services. In addition, he said, there is a lack of family services or family supports. He said families would be better equipped to support individuals with behavioral health issues if there were supports to assist the families.

In response to a question from Representative McWilliams, Mr. Snyder said medication and treatment together is effective for treating individuals with opioid addictions. He said medication-assisted treatment requires oversight from adequately trained staff. He said the retention rate is approximately 65 percent after 1 year compared to 8 percent for individuals that just go through treatment for an opioid addiction. He suggested finding ways to encourage the medical community to start serving individuals with the medications in combination or collaboratively with treatment providers.

In response to a question from Representative Rohr, Mr. Snyder said the DHS substance use disorder voucher program allows providers who are enrolled in the program to serve voucher participants who may not have adequate funding or insurance that does not cover the needed services.

### **Comments by Interested Persons**

Ms. Trina Gress, Vice President, Community Options, presented information ([Appendix R](#)) regarding suggestions for changes to treatment and recovery services. She said other treatment and recovery services in addition to the common resources include faith-based agencies, Native American and new American cultural centers, housing first and permanent supportive housing projects, and supported employment services. She suggested considering all forms of evidence-based treatment and recovery services for the full continuum of care and for reimbursement of behavioral health services. She provided the following recommendations:

- Maximize the Medicaid billable codes for treatment and recovery services for long-term community-based care; and
- Consider implementing a 1915(i) Medicaid waiver amendment to allow providers to access federal funding to bill for services.

Senator Kruen presented information ([Appendix S](#)) regarding alternative options for individuals with behavioral health issues. Senator Kruen is the Chairman of the Grand Forks Housing Authority Board of Directors. He said Housing First was created in 1992 by Dr. Sam Tsemberis as an approach to end homelessness by offering immediate housing without prerequisites. He said this allows individuals to stabilize and the opportunity to address underlying issues. He said the goal of this approach is harm reduction. He said permanent supportive housing is a model that provides safe, decent, affordable housing with onsite and offsite support services. He said the goal of permanent supportive housing is to allow residents to maintain tenancy while also helping to improve their quality of life. He suggested considering funding opportunities to provide comprehensive services for individuals with behavioral health needs.

In response to a question from Senator Campbell, Senator Krueen said the difference between the Housing First permanent supportive housing project called "LaGrave on First" compared to the rescue mission for the homeless is that the rescue mission for the homeless does not allow individuals who are inebriated. He said the mission is strictly a nonalcohol facility.

Ms. Katie Jo Armbrust, Outreach Coordinator, Grand Forks Housing Authority, presented information ([Appendix T](#)) regarding behavioral health services. She expressed support for providing funding opportunities for other recovery-oriented type services currently not offered in the state. She said the Grand Forks Housing Authority is constructing a four-story apartment complex in Grand Forks that will include 42 one-bed and one-bath apartments for the chronic homeless. She said the first floor will be designated for resident amenities including a community room, laundry, kitchen and dining, computer room, exercise room, administrative space, and for services that will be provided onsite. She said Valley Community Health Centers and the Northeast Human Service Center anticipate providing onsite services at the complex including nursing care and behavioral health care.

Mr. Jeff Hansen, Director, Government Relations, PATH North Dakota, Inc., and Nexus, presented information ([Appendix U](#)) regarding services provided by PATH North Dakota, Inc., and Nexus. He said PATH North Dakota, Inc., is a provider of treatment foster care and other behavioral health services. He said PATH North Dakota, Inc., became affiliated with Nexus in April 2017. He said services provided by PATH North Dakota, Inc., and Nexus include therapeutic foster care services, family support services, and services through the Chafee Independent Living program. He provided information regarding current initiatives of the organization, including a plan to open an outpatient behavioral health clinic in Fargo for children and families for addressing the impact of traumatic life experiences; and plans for implementing two pilot projects in Devils Lake and Bismarck to expand foster care beyond county-provided services. In addition, he said, the organization is working with DHS and the Protection and Advocacy Project to determine if PATH North Dakota, Inc., and Nexus can provide home-based care for individuals with intellectual disabilities to allow some individuals at the Life Skills and Transition Center to transition to a community setting.

Ms. Krisanna Peterson, Bismarck, provided information regarding the study of state and federal laws and regulations relating to the care and treatment of individuals with developmental disabilities or behavioral health needs. She expressed concerns regarding supports available for families of a child with behavioral health issues. She recommended the state add a Medicaid waiver for children with mental health issues. In addition, she suggested reviewing a possible voucher program for children with mental health issues that would be similar to the voucher program created for youth with autism.

### **Committee Discussion**

Chairman Lee said there have been Medicaid-related discussions during the committee meeting. She said DHS will be asked to address these questions at the next committee meeting.

Senator Mathern suggested requesting a representative of the Governor's office to provide information regarding the direction of the North Dakota Olmstead Commission. He said the committee needs to understand what plans are being made for the commission and how the proposed codirector structure will work. Chairman Lee said the Governor's office will be asked to present at the next meeting regarding the direction of the North Dakota Olmstead Commission.

Mr. Jones provided comments regarding the department's social services redesign project. He said the project will be based on social determinants of health. He said there are many great ideas and initiatives relating to behavioral health. He expressed concern regarding adding new programs without an understanding of how the new program will be administered. He said the goal is to simplify the system so that a client is not confused about how to access services.

## **OTHER COMMITTEE RESPONSIBILITIES**

### **Children's Behavioral Health Task Force**

Chairman Lee called on Mr. Jones, who presented information ([Appendix V](#)) regarding the status of the Children's Behavioral Health Task Force's activities pursuant to Section 4 of 2017 Senate Bill No. 2038. He said DHS is currently focused on other high-priority projects including the social services redesign project pursuant to 2017 Senate Bill No. 2206. He anticipates there will be up to eight task force meetings between February 1, 2018 and June 30, 2019. He said the task force plans to prepare an interim report with recommendations to the committee by June 15, 2018. He said the task force meetings will include reviewing education, juvenile justice, child welfare, community, and health-related topics.

### Professional and Occupational Licensure Restrictions

The Legislative Council staff presented a memorandum entitled [Professional and Occupational Licensure Restrictions](#). He said the memorandum provides statutory references relating to professional and occupational licensure boards' restrictions including those involving a criminal conviction. He said nearly all of the occupations and professions in North Dakota Century Code Title 43 either bar licensure for a criminal conviction, authorize the corresponding board to revoke an individual's licensure upon a criminal conviction, or allow for consideration of a criminal offense at the time of licensure or renewal.

Chairman Lee provided comments regarding counseling boards. She said the committee may review the feasibility and desirability of adding an "umbrella" board for all counseling boards and ways to modify educational curriculum to allow more classwork to transfer among the comparable fields. She said some professional boards have so few participants that they cannot support the overall administration of the board. She said some states have created an independent board to provide administrative services to a number of boards.

### Behavioral Health Professional Boards

Chairman Lee called on Ms. Heidi Nieuwsma, Chairman, North Dakota Board of Social Work Examiners, who presented information ([Appendix W](#)) regarding supervision and training requirement changes approved by the 65<sup>th</sup> Legislative Assembly pursuant to 2017 Senate Bill No. 2033, the status of implementing the changes, and actions to streamline licensing procedures; and the board's scope of practice and related efforts to have professionals other than licensed addiction counselors provide behavioral health assessments, diagnosis, level of care determination, treatment planning decisions, or treatment of addiction.

Ms. Nieuwsma said the board has determined that two main changes can be implemented without needing to modify any rules. She said Senate Bill No. 2033 modifies the standards under which applicants for clinical social work obtain the necessary 3,000 hours of supervised experience. She said the second 1,500 hours of the 3,000 hours can now be obtained under the supervision of licensed professionals other than a licensed independent clinical social worker if geographic or other factors make the modification reasonable. She said the bill also created an alternative way of receiving licensure by reciprocity. She said the board may now grant a license even if the laws of the two states are not substantially similar if the applicant is licensed in good standing under the laws of another jurisdiction and possesses qualifications or experience in the practice of social work which are substantially similar to the minimum requirements for licensure in this state. She said the board began the process to streamline licensing procedures. She said a license can now be issued in 2 to 4 weeks if an applicant submits all required information and meets all the criteria. She said the board members also authorized two members of the board to approve initial licenses and master of social work supervision plans if no further issues need to be discussed. Issues may include background checks, mental health history, whether applicant is in good standing, or if clinical work does not meet criteria.

Ms. Nieuwsma said the scope of practice for a licensed independent clinical social worker includes the assessment and diagnosis of addiction, and therefore, is permitted to the extent the licensee is competent to assess and diagnose addictions. She said a licensee should identify the types of education and experience that will assist with obtaining the necessary level of competency. She said the board does not have authority to set precise parameters that may result in competency for any aspect of the scope of practice for its licensees, but she said, the board is identifying resources that may assist a licensee with obtaining competency in the addiction-related tasks.

In response to a question from Chairman Lee, Ms. Nieuwsma said licensure of a social worker is different than licensure of a nurse. She said there is a standard national test for nurses. She said the challenge with social workers is that there are 50 different social worker titles throughout the United States and Canada and each title has different licensing requirements. She said changes in Senate Bill No. 2033 has allowed individuals from other states to be licensed in this state even if laws of the other state are not substantially similar to the laws of this state. She also said the North Dakota Board of Social Work Examiners is receiving national recognition for working towards mobility with social work licensure.

In response to a question from Senator Mathern, Ms. Nieuwsma said Senate Bill No. 2033 allows the board to review individuals seeking reciprocity on a case-by-case basis. She said the board has been in discussion with the Minnesota board to identify ways to improve reciprocity between the two states.

In response to a question from Representative Hogan, Ms. Nieuwsma said the National Council on Social Work Education is the accrediting body for undergraduate- and graduate-level social work degrees. She said the council has competencies that have to be followed, but each university determines how those competencies are met.

Chairman Lee called on Dr. Paul Kolstoe, Representative, State Board of Psychologist Examiners, who presented information ([Appendix X](#)) regarding licensure, supervision, and training requirements. He said the

mission of the State Board of Psychologist Examiners is to protect the health, safety, and welfare of the public through the regulation of the practice of psychology and behavior analysis within the state by licensing and registering practitioners, auditing continuing education activities, and enforcing legal and ethical requirements for the delivery of psychological and behavior analysis services. He said the board issues licenses for psychologists, industrial organizational psychologists, applied behavior analysts, and register applied behavior analysts. He said psychologist and behavior analyst training has three components to assure that the licensee is sufficiently skilled to independently practice for the public good. He said the three components include educational degree requirements that are nationally standardized and accredited, nationally standardized examinations, and supervised training experiences provided by well-qualified supervising professionals. He said the board is proposing the following Administrative Code changes to address the changes provided in 2017 Senate Bill No. 2141:

- Adding operational details to expedite licensure permitting the board to allow qualified applicants licensed or certified outside of the state to practice while waiting for completion of licensure in this state;
- Clarifying language to allow the Professional Responsibility Examination to be administered in written form;
- Easing the process to obtain approval for continuing education sponsors;
- Clarifying the relationship with the Educational Standards and Practices Board regarding school psychologists;
- Clarifying board membership requirements for nonpractitioner members and allowing applied behavior analysts to be eligible for serving on the board;
- Adding supervision changes that align qualifications of those receiving training with the work credentials of the mentor; and
- Simplifying and clarifying Administrative Code language.

Chairman Lee distributed testimony from Dr. Jocelyn Soderstrom ([Appendix Y](#)) regarding the State Board of Psychologist Examiners oral examination process for becoming a licensed psychologist. Dr. Soderstrom expressed concerns regarding a lack of objectivity in the process, and insufficient feedback from the board regarding how to improve.

In response to a question from Senator Poolman, Dr. Kolstoe said he is not aware of major complaints relating to the licensure process. Senator Poolman expressed concerns regarding the licensure process and said she has received several complaints regarding the application process in general. She said private providers are having difficulty recruiting applicants.

Chairman Lee called on Dr. Lisa Peterson, Clinical Director, Department of Corrections and Rehabilitation, who presented information ([Appendix Z](#)) regarding licensure concerns. She suggested the diagnosis of substance use disorders and provisions of treatment recommendations be determined explicitly within the scope of practice of a licensed independent clinical social worker. She said there were concerns among licensees that they could be subject to disciplinary actions for what they believe to be adequate training and supervision. She also suggested similar concerns be reviewed for licensed professional clinical counselors and licensed psychologists.

Dr. Peterson also expressed concern regarding reciprocity credits transferring from other states for required supervision hours and delays in the licensing process. She provided an example of challenges a recently hired DOOCR staff member is experiencing while seeking the required supervision hours.

Chairman Lee called on Mr. Steven Reiser, Director, Dakota Central Social Services, and Member, North Dakota County Social Service Director's Association, who presented information ([Appendix AA](#)) regarding the licensing of social workers and concerns with changes in statute or rules. He said the North Dakota County Director's Association supports the work of the North Dakota Board of Social Work Examiners, the laws and regulations that define social work practice, and the importance of social work; but, he said the association is concerned about potential changes that may impact the ability to serve clients throughout the state. He said 2017 Senate Bill No. 2293, which was defeated, was introduced at the request of the North Dakota Board of Social Work Examiners. He said the bill would have defined case management services. He said the bill would have expanded the board's regulatory responsibilities. He said other concerns proposed and discussed by the board include supervision requirements of social workers, and moving towards a "duty protection" versus "title protection" setting for regulating social workers. He expressed concerns that the changes may limit the responsibility, duty, and rights of an employer to supervise, direct, and oversee personnel.

Senator Mathern suggested the North Dakota County Social Service Director's Association and the North Dakota Board of Social Work Examiners work on preparing a bill draft to present to the committee.

Chairman Lee asked the North Dakota County Social Service Director's Association and the North Dakota Board of Social Work Examiners to address any issues and prepare a bill draft for consideration at a future committee meeting.

### **North Dakota University System - Commonalities of Educational Curriculum for Various Counseling-Related Professions**

Chairman Lee called on Dr. Richard M. Rothaus, Vice Chancellor of Academic and Student Affairs, North Dakota University System, who presented information ([Appendix BB](#)) regarding commonalities of educational curriculum among the various counseling-related professions and suggestions for changes that could allow for more flexibility for individuals transitioning between counseling professions. He said individuals who plan to enroll in a counseling profession within the North Dakota University System generally attend Minot State University, North Dakota State University, or the University of North Dakota. He said changing career paths for individuals in an undergraduate program is not difficult. He said there is flexibility in allowing curricular substitutions. He said the level of flexibility begins to decrease for individuals who begin a master's or doctoral degree because the requirements are more specific. He said substitutions are more difficult for students who have graduated and wish to return and choose a program. He said all programs have a level of latitude for allowing substitutions of required courses, but there are accreditation and licensing limits regarding how much can be done. He said substitutions are being dealt with on a case-by-case basis.

In response to a question from Representative Hogan, Dr. Rothaus said he will provide the committee with additional information regarding the tracks within each counseling program.

In response to a question from Representative P. Anderson, Dr. Rothaus said he will also provide the committee with additional information regarding the percentage of students who begin a counseling program but do not complete the program.

Chairman Lee said the committee will request the additional information be presented at the next committee meeting.

### **Comments by Interested Persons**

Ms. Tara Geigle presented information ([Appendix CC](#)) regarding challenges of becoming licensed as a psychologist or counselor in the state. She expressed concern that individuals seeking licensure as a psychologist fail for various reasons, including graduating from a non-American Psychological Association (APA) program, being unable to provide services as a postdoctoral clinician due to not qualifying for licensure or because of insurance payment issues, and not being able to gain reciprocity for a license. She provided the following suggestions:

- Allow individuals to apply for a psychology license if they have graduated from an APA program or equivalent;
- Allow licensure reciprocity with other states;
- Consider grandfathering individuals who were seeking licensure before current rules were changed;
- Consider partnering with the University of North Dakota to create a path for individuals needing only a few additional classes to gain support from an APA accredited program;
- Consider adding a Masters in Psychology license; and
- Allow individuals graduating with a psychology or counseling degree to apply for a Masters in Counseling license.

Mr. Snyder, Board Member, Board of Addiction Counseling Examiners, testified regarding an update on the board's progress with implementing supervision and training requirement changes approved by the 65<sup>th</sup> Legislative Assembly pursuant to 2017 Senate Bill No. 2033, the status of implementing the changes, and actions to streamline licensing procedures. He said the board is finalizing Administrative Rule changes. He said changes include allowing a national certified addiction counselor Level II certification or a master addiction counselor certification to become licensed and accepted immediately without an academic or clinical training review. In addition, he said, any applicant with a verifiable license or certification in good standing from another jurisdiction may be accepted immediately as an intern until the academic and clinical training reviews or any other outstanding items are complete. He said this will allow the applicant to enter the workforce immediately. He said any advanced practice professionals established in 2017 Senate Bill No. 2042, including medical doctors, psychologists, advanced practice registered nurses, and physician assistants, will not have the academic requirements, but may have minimal clinical training requirements to become licensed. He said other advanced practice professionals including licensed independent clinical social workers, licensed professional clinical counselors, and licensed marriage and family counselors can be licensed with minimal training requirements and any outstanding academic issues.

Dr. Manisha Sawhney, Bismarck, testified regarding challenges for international students applying for licensure to practice as a psychologist in the state. She said she received her psychology doctorate in India. She moved from India and applied to the State Board of Psychologist Examiners in 2008. She said the application was declined because her education was not a doctoral degree in psychology from an ACA or a Canadian Psychological Association approved program. She said some licensing jurisdictions include a process to determine whether a foreign applicant's education is academically equal. She said the National Association of Credential Evaluation Services identifies a number of foreign programs that are academically equal. She said the association identified the program she attended in India as academically equal. She said, in reviewing Canada's and Minnesota's requirements, she would be eligible for licensure. She expressed concern regarding the process of applying for licensure in North Dakota.

In response to a question from Representative Karls, Ms. Sawhney said she currently works as a faculty member at the University of Mary in Bismarck teaching psychology, conducting research in psychology, and publishing.

Representative Schneider suggested the State Board of Psychologist Examiners address concerns expressed during the meeting at a future committee meeting.

### **Committee Discussion**

In response to a question from Chairman Lee, Dr. Rosalie Etherington, Superintendent, State Hospital and Chief Clinics Officer, Regional Human Service Centers, Department of Human Services, said the department has implemented biopsychosocial assessments in three of the eight human service centers. She said 200 assessments to date have been completed by licensed independent clinical social workers. She said the three human service centers include Minot, Grand Forks, and Bismarck.

Representative Skroch submitted a report from the Conference of State Court Administrators ([Appendix DD](#)) entitled *2016-2017 Policy Paper - Decriminalization of Mental Illness: Fixing a Broken System*.

Chairman Lee said she anticipates the next meeting will be held on Tuesday, April 10, 2018, in Bismarck.

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

No further business appearing, Chairman Lee adjourned the meeting at 5:00 p.m.

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Michael C. Johnson  
Fiscal Analyst

ATTACH:30