

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**HUMAN SERVICES COMMITTEE**

Wednesday, October 8, 2014  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Chuck Damschen, Chairman, called the meeting to order at 9:05 a.m.

**Members present:** Representatives Chuck Damschen, Curt Hofstad, Kathy Hogan, Alex Looyen, Gail Mooney, Naomi Muscha; Senators Dick Dever, Robert Erbele, Judy Lee, Tim Mathern

**Members absent:** Representatives Dick Anderson, Dwight Kiefert, Diane Larson, Alon Wieland; Senators Tyler Axness, Nicole Poolman, John M. Warner

**Others present:** Alan Fehr, State Representative, Dickinson  
Peter F. Silbernagel, State Representative, Casselton  
See [Appendix A](#) for additional persons present.

**It was moved by Representative Hogan, seconded by Senator Dever, and carried on a voice vote that the minutes of the August 28, 2014, meeting be approved as distributed.**

**STUDY OF BEHAVIORAL HEALTH NEEDS OF YOUTH AND ADULTS**

The Legislative Council staff presented a memorandum entitled [Actions to Implement Behavioral Health Recommendations](#). The memorandum provides information regarding the actions taken or proposed to address recommendations for the 2015 Legislative Assembly included in the report presented by the Behavioral Health Stakeholders Group at the committee's July 22, 2014, meeting and in the consultant's final report for the study of behavioral health needs of youth and adults in North Dakota. The memorandum identifies the provisions of six bill drafts and a resolution draft prepared for the Human Services Committee and a bill draft [\[15.0079.02000\]](#) prepared for the Health Care Reform Review Committee. The memorandum also identifies revisions suggested by the Behavioral Health Stakeholders Group to bills previously presented to the committee, including amendments to bill drafts [\[15.0230.02000\]](#), [\[15.0231.01000\]](#), and [\[15.0232.02000\]](#).

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

The Legislative Council staff presented a bill draft [\[15.0232.02000\]](#) to amend the definition of qualified mental health professional in North Dakota Century Code to more closely reflect the definition identified in Iowa state code. The definition is identified in Chapter 25-03.2 relating to residential treatment centers for children. The bill draft was drafted to address a recommendation in the consultant's final report for the study of behavioral health needs of youth and adults in North Dakota.

The Legislative Council staff presented a bill draft [\[15.0285.01000\]](#) to amend the definitions of mental health professional and mental health personnel in Century Code to include licensed marriage and family therapists. The definition of mental health professional is identified in Chapter 25-03.1 relating to commitment procedures and the definition of mental health personnel is identified in Chapter 32-03 relating to the judicial remedies of damages and compensatory relief. The bill draft was drafted to address a recommendation of the Behavioral Health Stakeholders Group.

The Legislative Council staff presented a bill draft [15.0230.02000] to provide appropriations of \$3 million for adult and youth substance abuse services, \$175,000 for e-psychiatry equipment, \$175,000 for telemedicine equipment, and \$25,000 for mental health first-aid training for law enforcement personnel. The bill draft directs the Department of Human Services (DHS) to develop an outcomes-based data system. The bill draft also directs the Legislative Management to consider studying the structure of DHS and judicial issues relating to behavioral health during the 2015-16 interim. The bill draft was drafted to address recommendations in the consultant's final report for the study of behavioral health needs of youth and adults in North Dakota.

The Legislative Council staff presented a bill draft [15.0277.01000] to provide appropriations of \$6 million for an adult and youth mental health assessment network, \$175,000 for a pilot project to develop discharge planning protocols, and \$50,000 for mental health first-aid training for teachers and child care providers. The bill draft also directs the Legislative Management to consider studying a screening and assessment process for children ages two through four and to continue the study of behavioral health needs of youth and adults during the 2015-16 interim. The bill draft was drafted to address recommendations in the report completed by the Behavioral Health Stakeholders Group.

The Legislative Council staff presented a bill draft [15.0278.01000] to establish a licensed addiction counselor forgivable loan program; establish a mental health professional loan repayment assistance program; and provide appropriations of \$1 million for a licensed addiction counselor forgivable loan program, \$200,000 for licensed addiction counselor training slot grants, and \$180,000 for a mental health professional loan repayment assistance program. The bill draft was drafted to address recommendations in the report completed by the Behavioral Health Stakeholders Group.

Representative Peter F. Silbernagel, Steering Committee, Behavioral Health Stakeholders Group, presented testimony (Appendix B) regarding the bill drafts and actions to implement recommendations to improve behavioral health services. Representative Silbernagel said the reports prepared by the consultant and the Behavioral Health Stakeholders Group identify a successful course of action to create an effective behavioral health system in North Dakota. He said the bill drafts will address issues related to access and service shortages, workforce, agency structures, communications, and data collection and research to monitor progress of the changes made and determine evidence-based performance.

In response to a question from Senator Mathern, Representative Silbernagel said the Behavioral Health Stakeholders Group recommends the committee amend and approve the bill drafts, as identified in the memorandum presented by the Legislative Council staff.

Ms. Maggie D. Anderson, Executive Director, Department of Human Services, commented regarding the bill drafts and actions to implement recommendations to improve behavioral health services. She said an addiction counselor has committed to provide services in the northwest region and day treatment will be provided in the northwest region by an individual from Devils Lake. She said the northwest region's mental health services program is fully staffed, but addiction services staffing needs still exist. She suggested bill draft [15.0232.02000] relating to the definition of qualified mental health professional be amended to require physician assistants to have a mental health certification. She suggested bill draft [15.0285.01000] relating to inclusion of licensed marriage and family therapists in the definition of mental health professional as it relates to commitment procedures be amended to include physician assistants with a mental health certification. She suggested Section 1 of bill draft [15.0278.01000] relating to loans and grants for certain behavioral health professionals be amended to include physician assistants with a mental health certification as individuals eligible for student loan repayment grants. She also suggested Section 1 of bill draft [15.0278.01000] be amended to remove the commas in Subsection 2. She suggested Section 2 of bill draft [15.0278.01000] be amended to identify substance abuse treatment rather than addiction treatment. She suggested Section 5 of bill draft [15.0278.01000] be amended to clarify the amount of training necessary to receive a grant.

In response to a question from Senator Lee, Ms. Anderson said DHS has not reviewed the scope of practice and training requirements of licensed marriage and family therapists.

In response to a question from Representative Hogan, Ms. Anderson said the Williston and Dickinson hospitals do not provide inpatient psychiatric services and patients requiring treatment are transported to either Minot or Bismarck.

In response to a question from Senator Lee, Ms. Anderson said an appropriation to increase the number of available crisis beds was reduced by the 2013 Legislative Assembly.

Reverend Larry J. Giese, Board Administrator, North Dakota Marriage and Family Therapy Licensure Board, presented information ([Appendix C](#)) regarding education and training of licensed marriage and family therapists. He said an individual must have a master's degree or higher and must pass a national examination to become a licensed marriage and family therapist. He said applicants are approved for licensure upon accruing 2,000 hours of practicum and postgraduate supervised experience and 30 hours of continuing education per licensure period are required to maintain competency. He expressed support for the bill drafts to include licensed marriage and family therapists in the definitions of qualified mental health professional, mental health professional, and mental health personnel. He also expressed support for the bill draft directing DHS to adopt rules entitling licensed marriage and family therapists to payment for behavioral health services provided to recipients of medical assistance.

In response to a question from Representative Hogan, Reverend Giese said there are 42 licensed marriage and family therapists in North Dakota. He said licensed marriage and family therapists are eligible for Medicaid reimbursement in Minnesota.

In response to a question from Senator Dever, Reverend Giese said he is the only licensed marriage and family therapist in Bismarck. He said there are four licensed marriage and family therapists in Minot, one in Beach, and three in Grand Forks, with the remainder in Fargo.

In response to a question from Senator Lee, Reverend Giese said courses necessary to become a licensed marriage and family therapist are not available online.

In response to a question from Representative Fehr, Reverend Giese said typical licensed marriage and family therapist educational programs include couples and family therapy, family theory, counseling, group psychotherapy, child and family assessment interventions, addiction therapy, and others.

Ms. Carlee McLeod, North Dakota Marriage and Family Therapy Licensure Board, presented information ([Appendix D](#)) regarding education and training of licensed marriage and family therapists, including a comparison to education and training required for other licensed therapists and counselors. She said the comparison identifies the scope of practice, minimum education, experience, examination, supervision, and continuing education necessary for licensed marriage and family therapists, licensed professional clinical counselors, and licensed independent clinical social workers in North Dakota. She said the requirements are mostly similar for the various licensees.

Ms. Emily Coler Hanson, Licensed Marriage and Family Therapist, Prairie St. John's, Fargo, presented information ([Appendix E](#)) regarding qualifications of licensed marriage and family therapists. She expressed support for the bill drafts presented to the committee.

In response to a question from Senator Mathern, Ms. Coler Hanson said the Medicaid reimbursement issue affects where professionals are located in North Dakota.

Ms. Lisa Bjergaard, Director, Division of Juvenile Services, Department of Corrections and Rehabilitation, presented information ([Appendix F](#)) regarding day treatment programs for youth with behavioral health needs in North Dakota, including funding, locations, client data, and outcomes. She said day treatment is an effective prevention and early intervention program that has served at-risk youth in several public school settings across North Dakota for nearly 25 years. She said staff for each day treatment unit includes a teacher, a social worker, and a paraprofessional. She said class size is to include 8 to 15 students per unit. She said the Division of Juvenile Services administers youth day treatment programs in Bismarck, Dickinson, Jamestown, Grand Forks, and Dunseith.

In response to a question from Representative Hofstad, Ms. Bjergaard said she is not aware of another day treatment model for youth in North Dakota. She suggested the program be expanded.

In response to a question from Senator Lee, Ms. Bjergaard said funding for the program is limited and therefore, is not being provided in Cass County. She said the Department of Public Instruction is applying for a federal grant that may be used to expand the program.

In response to a question from Representative Fehr, Ms. Bjergaard said the individuals in the program are referred by the courts and other areas. She said data relating to the number of youth who would have improved without the day treatment program is not available at this time.

In response to a question from Senator Erbele, Ms. Bjergaard said the program's cost-effectiveness is difficult to identify because data is not available on how many youth would have been sentenced to the youth corrections

system had they not been in the day treatment program. She said the Department of Corrections and Rehabilitation provides \$43,000 to \$48,000 for each site and the local school districts provide nearly 60 percent of funding for the program. She said local partners need to be committed to the program in order to increase availability of the program in other locations of the state.

Mr. Dave Marion, Coalition of Residential Providers, presented testimony ([Appendix G](#)) in support of improving behavioral health services in North Dakota. He expressed concern regarding bill draft [[15.0231.01000](#)] relating to State Department of Health oversight and administration of the development of uniform licensing and reciprocity standards for licensees of the Board of Addiction Counseling Examiners, Board of Counselor Examiners, North Dakota Board of Social Work Examiners, State Board of Psychologist Examiners, State Board of Medical Examiners, and North Dakota Marriage and Family Therapy Licensure Board. He expressed support for the other bill drafts presented by the Legislative Council staff.

Ms. Lisa Peterson, Clinical Director, Department of Corrections and Rehabilitation, commented regarding behavioral health needs in North Dakota and the potential to study the day treatment program discussed by Ms. Bjergaard. She suggested Century Code not be amended to identify licensed marriage and family therapists in the definition of mental health professional as it relates to commitment procedures. She expressed support for expanding the professions allowed to provide substance abuse evaluation and treatment.

In response to a question from Representative Silbernagel, Ms. Leann K. Bertsch, Director, Department of Corrections and Rehabilitation, said a typical caseload for a probation officer is 65 parolees, but some officers have caseloads in excess of 100.

Ms. Joy Ryan, Executive Vice President, The Village Family Service Center, commented regarding workforce issues for behavioral health services in North Dakota. She expressed support for the loan repayment assistance program and other programs to increase the behavioral health services workforce in North Dakota.

In response to a question from Senator Lee, Ms. Ryan said the differentiation between practices of different professions leads to difficulty in providing supervision for individuals training to become licensed as behavioral health professionals.

Mr. Bruce Carlson, Licensed Addiction Counselor, Heartview Foundation, commented in support of the bill drafts presented to the committee.

Ms. Karen East, Licensed Marriage and Family Therapist, Spirit Lake Nation, commented regarding the need for Medicaid reimbursement of licensed marriage and family therapists. She also expressed support for expansion of behavioral health services on the Spirit Lake Reservation. She said a major issue is substance abuse among pregnant women and suggested intervention begin prior to birth.

**It was moved by Senator Mathern, seconded by Senator Lee, and carried on a voice vote that bill drafts [[15.0230.02000](#)], [[15.0231.01000](#)], and [[15.0232.02000](#)] be amended to incorporate the suggestions of the Behavioral Health Stakeholders Group, as identified on page 3 of the Legislative Council memorandum entitled [Actions to Implement Behavioral Health Recommendations](#).**

The Legislative Council staff distributed a resolution draft [[15.3026.01000](#)] to direct the Legislative Management to consider studying judicial issues relating to behavioral health, including 24-hour hold, termination of parental rights, and court committals, during the 2015-16 interim.

**It was moved by Senator Mathern, seconded by Senator Lee, and carried on a voice vote that bill draft [[15.0232.02000](#)] be amended to identify physician assistants with a mental health certification.**

**It was moved by Senator Mathern, seconded by Senator Lee, and carried on a voice vote that bill draft [[15.0278.01000](#)] be amended to clarify eligibility and include a physician assistant with a mental health certification in Section 1 and revise language referring to a licensed addiction treatment facility in Section 2.**

**It was moved by Senator Mathern, seconded by Representative Hogan, and carried on a voice vote that bill draft [[15.0278.01000](#)] be amended to clarify grant eligibility to include a time requirement in Section 5.**

**It was moved by Representative Hogan, seconded by Senator Dever, and carried on a roll call vote that bill draft [[15.0278.01000](#)], as amended, be approved and recommended to the Legislative Management.**

Representatives Damschen, Hofstad, Hogan, Looyesen, Mooney, and Muscha and Senators Dever, Erbele, Lee, and Mathern voted "aye." No negative votes were cast.

**It was moved by Senator Mathern, seconded by Senator Lee, and carried on a roll call vote that bill drafts [15.0277.01000] and [15.0285.01000], resolution draft [15.3026.01000], and bill drafts [15.0230.02000], [15.0231.01000], and [15.0232.02000], as amended, be approved and recommended to the Legislative Management.** Representatives Damschen, Hofstad, Hogan, Looyesen, Mooney, and Muscha and Senators Dever, Erbele, Lee, and Mathern voted "aye." No negative votes were cast.

The committee recessed for lunch at 12:15 p.m. and reconvened at 1:05 p.m.

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

The Legislative Council staff presented a concurrent resolution draft [15.3016.01000] to direct the Legislative Management to consider continuing the study of a comprehensive system of care for individuals with brain injury during the 2015-16 interim.

The Legislative Council staff presented a bill draft [15.0311.01000] to amend Section 34-13-01(4) to exempt providers of employment services who are licensed or certified by DHS to provide employment-related services.

Mr. Troy T. Seibel, Labor Commissioner, Department of Labor and Human Rights, commented regarding the bill draft to exempt employment agencies licensed or certified by DHS from having to register with the Department of Labor and Human Rights. He said the Department of Labor and Human Rights does not have any concerns regarding the bill draft.

Mr. Russell Cusack, Director, Division of Vocational Rehabilitation, Department of Human Services, commented regarding the bill draft to exempt employment agencies licensed or certified by DHS from having to register with the Department of Labor and Human Rights. He said DHS does not have any concerns regarding the bill draft.

In response to a question from Representative Mooney, Mr. Cusack said the Division of Vocational Rehabilitation must develop a plan to provide vocational services within 90 days of application. He said there is not a wait list for vocational services, but there is a wait list for extended services for individuals with traumatic brain injury. He said there are under five individuals with traumatic brain injury on the wait list.

Ms. Trina Gress, Vice President of Employment Services, Community Options, Inc., presented testimony ([Appendix H](#)) regarding vocational services and expressed support for the bill and resolution drafts. She suggested the committee also provide support for an additional 100 extended services slots in North Dakota.

In response to a question from Senator Lee, Ms. Gress said a large percentage of individuals requiring extended services would be eligible for Medicaid.

In response to a question from Representative Mooney, Ms. Gress said there are six extended services slots available in North Dakota and all are filled. She said the committee has not provided for an expansion of extended services.

In response to a question from Representative Hogan, Mr. Cusack said the vocational rehabilitation program receives 23 percent of its funding from the state and 77 percent from the federal government. He said extended services are 100 percent state funded. He said the state has had the same number of extended services slots for the past two bienniums.

In response to a question from Senator Dever, Mr. Cusack said the Division of Vocational Rehabilitation works closely with the federal Department of Veterans' Affairs. He said he does not believe the federal government pays for extended services for veterans.

In response to a question from Representative Fehr, Mr. Cusack said extended services may include job coaching, discussions of stress and other personal difficulties, additional vocational training, contacting employers to ensure satisfactory work, developing personal budgets, and other services.

Ms. Elaine Grasl, Bismarck, commented in support of a comprehensive system of care for individuals with brain injury.

It was moved by Representative Mooney and seconded by Senator Mathern that the committee reconsider bill draft [\[15.0180.01000\]](#) approved during the committee's July meeting.

Mr. Cusack said extended services are approximately \$9,000 per individual for a biennium. Ms. Gress said 10 new slots per year would be a good starting point. Senator Dever said bill draft [\[15.0180.01000\]](#) was amended at a previous meeting to include \$650,000 for brain injury services, including return to work programming.

Representative Mooney withdrew the motion to reconsider bill draft [\[15.0180.01000\]](#) and Senator Mathern agreed.

It was moved by Senator Mathern, seconded by Representative Mooney, and carried on a roll call vote that bill draft [\[15.0311.01000\]](#) and resolution draft [\[15.3016.01000\]](#) be approved and recommended to the Legislative Management. Representatives Damschen, Hofstad, Hogan, Looyesen, Mooney, and Muscha and Senators Dever, Erbele, Lee, and Mathern voted "aye." No negative votes were cast.

## STUDY OF HOME AND COMMUNITY-BASED SERVICES

The Legislative Council staff presented a bill draft [\[15.0261.01000\]](#) to provide an appropriation of \$350,225 for a sponsoring organization to provide grants and technical assistance to community-based organizations to provide volunteer-based services for elderly and disabled persons.

Ms. Myrna Hanson, Executive Director, Community of Care, presented testimony ([Appendix I](#)) regarding the bill draft and services for elderly and disabled persons in rural communities. She said Community of Care began as a pilot project of the Good Samaritan Society in 2003. She said she believes state funding for programs similar to Community of Care would provide a cost-savings to the state by keeping people in their homes, rather than in a nursing home. She suggested DHS contract with a community organizer to work with local communities to develop programs similar to Community of Care. She suggested DHS begin by providing grants to two or three community organizations to start operations, with an additional two or three organizations receiving grants in the second year. She suggested funding be continued for those organizations during the 2017-19 biennium, with additional funding available to expand the number of organizations. She also suggested DHS contract with a grant writer to assist the organizations in applying for grant funding.

Ms. Margaret Mowery, Vice President, Board of Directors, Community of Care, commented regarding the location of services for elderly and disabled persons. She distributed maps ([Appendix J](#)) identifying the locations of critical access hospitals, referral centers, nursing facilities, basic care facilities, and assisted living facilities in North Dakota.

In response to a question from Senator Lee, Ms. Hanson said approximately 30 percent of funding for Community of Care is from DHS. She said other funding is from fundraising and private grants.

Senator Lee expressed concern with providing funding for an oversight organization. Ms. Hanson said a consultant could be hired to provide the leadership and guidance of the proposed sponsoring organization. Ms. Anderson said DHS is not opposed to hiring a consultant, but there could be issues with contract renewal if the program is expected to exist for several bienniums.

In response to a question from Representative Hogan regarding turnover in consultants and the need for continuity, Ms. Hanson said she agrees continuity is important. She said the program needs to be done as cost-effectively as possible and she would prefer not to add another layer of reporting and requirements.

In response to a question from Senator Lee, Ms. Hanson said Community of Care is willing to share information with others seeking to start community organizations providing volunteer-based services for elderly and disabled persons.

Senator Mathern expressed support for bill draft [\[15.0261.01000\]](#).

Senator Lee said she preferred the bill draft [\[15.0182.02000\]](#) approved in the committee's July meeting rather than bill draft [\[15.0261.01000\]](#). Senator Lee suggested adding an FTE position to DHS to assist in establishing the community programs.

Representative Muscha expressed support for bill draft [\[15.0261.01000\]](#). She said the community organizations need direction to get started.

It was moved by Senator Lee, seconded by Senator Mathern, and carried on a voice vote to reconsider bill draft [[15.0182.02000](#)].

It was moved by Senator Lee, seconded by Senator Mathern, and carried on a voice vote to amend bill draft [[15.0182.02000](#)] to include an appropriation of \$100,000 and authorize DHS to either hire a consultant or an FTE employee to provide mentoring services to assist the community organizations establish volunteer-based programs.

It was moved by Senator Lee, seconded by Representative Hogan, and carried on a roll call vote that bill draft [[15.0182.02000](#)], as amended, be approved and recommended to the Legislative Management. Representatives Damschen, Hofstad, Hogan, Looyesen, Mooney, and Muscha and Senators Dever, Erbele, Lee, and Mathern voted "aye." No negative votes were cast.

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

It was moved by Senator Mathern, seconded by Senator Dever, and carried on a voice vote that the committee be adjourned sine die.

No further business appearing, Chairman Damschen adjourned the meeting sine die at 2:50 p.m.

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Alex J. Cronquist  
Fiscal Analyst

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Allen H. Knudson  
Legislative Budget Analyst and Auditor

ATTACH:10