ACUTE PSYCHIATRIC TREATMENT COMMITTEE

Thursday, July 29, 2021
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Jon O. Nelson, Chairman, called the meeting to order at 9:30 a.m.

Members present: Representatives Jon O. Nelson, Emily O'Brien, Randy A. Schobinger, Michelle Strinden; Senators Kyle Davison, Dick Dever, Kathy Hogan, Tim Mathern

Members absent: None

Others present: See Appendix A

ACUTE PSYCHIATRIC HOSPITALIZATION AND RESIDENTIAL CARE

Background

Mr. Levi Kinnischtzke, Senior Fiscal Analyst, Legislative Council, presented a memorandum entitled *Acute Psychiatric and Residential Care - Background Memorandum*. He reviewed the study requirements provided for in Section 5 of House Bill No. 1012 (2021) regarding acute psychiatric hospitalization and related step-down residential treatment and support needs of individuals with mental illness. He noted the study must review options for a long-term plan for acute psychiatric hospitalization and related step-down residential treatment and support needs in the state and short-term options during the next 2 bienniums to contract with private provider acute psychiatric care facilities to provide treatment services in four or more cities in the state, workforce needs of such specific locations, and options to replace the existing State Hospital facility with one or more treatment facilities focused on forensic psychiatric evaluation and treatment.

Mr. Kinnischtzke noted the committee, with the approval of the Legislative Management, may obtain consulting services to determine the total number of acute care beds needed in the state and to develop recommendations for private provider contracts; treatment requirements and outcome measures; locations in the state, including private and public facilities; and the future use of facilities at the State Hospital campus, including the LaHaug Building. The consulting services also may include the development of conceptual drawings for recommendations for a new State Hospital. The 2021 Legislative Assembly appropriated one-time funding of $500,000 from the general fund to the Legislative Council for consulting services of the study.

Mr. Kinnischtzke reviewed the history, services, facilities, and budget information of the State Hospital and human service centers; residential treatment facilities in the state; previous studies related to acute psychiatric hospitalization and residential care; and a proposed study plan for the committee to consider regarding the study.

Request for Proposal

Mr. Kinnischtzke presented a memorandum entitled *Request for Proposal Draft - Acute Psychiatric and Residential Care Study*. He provided information regarding items to include in a potential request for proposal to hire a consultant to provide information related to the Acute Psychiatric Treatment Committee's study of acute psychiatric and residential care needs in the state. The memorandum includes areas for the committee to consider--including in a potential request for proposal--including a long-term plan and a short-term plan regarding acute psychiatric hospitalization needs in the state and the development of options and a recommendation for the future use of facilities at the State Hospital, including the LaHaug Building. As an optional additional service, the committee may request the development of conceptual drawings for a new State Hospital based on the option selected by the committee. The resulting contract will require periodic reports to the committee on the status of the project and on tentative findings and recommendations with the final written report due by April 1, 2022.

Committee members expressed support for the committee's study to address acute psychiatric hospitalization and residential care needs of children, adolescences, and adults. Committee members expressed support for proceeding quickly with the request for proposal process to allow the successful vendor as much time as possible to complete the study by April 1, 2022.

It was moved by Senator Dever, seconded by Senator Mathern, and carried on a roll call vote to seek approval from the Chairman of the Legislative Management to hire a consultant to provide information and recommendations related to the Acute Psychiatric Treatment Committee's study of acute psychiatric and residential care needs in the state and to request the committee chairman and the Legislative Council to prepare and distribute a request for proposal if approval is received. Representatives Nelson, O'Brien, Schobinger, and Strinden and Senators Davison, Dever, Hogan, and Mathern voted "aye." No negative votes were cast.

Department of Human Services - Behavioral Health Division

Ms. Pamela Sagness, Director, Behavioral Health Division, Department of Human Services, presented information (Appendix B) regarding inpatient and outpatient private and public behavioral health services, including substance use disorder facilities in the state to prevent acute behavioral health hospitalization and to support patients following discharge from psychiatric hospitalization and related residential care and the department's progress in seeking Medicaid plan amendments or Medicaid waivers to allow federal funding reimbursement for services provided in institutions for mental diseases to Medicaid beneficiaries between the ages of 21 and 64.

Ms. Sagness reviewed North Dakota's behavioral health system, licensed substance abuse treatment program information, the eight human service centers and regions, the mental health program registry established pursuant to Senate Bill No. 2161 (2021), the Department of Human Services (DHS) budget for the 2021-23 biennium, and peer support employment information.

Ms. Sagness reviewed the substance use disorder (SUD) voucher system, which was approved during the 2015 legislative session and has served more than 4,200 individuals since 2016. She noted:

- As of July 2021, 23 providers are providing voucher services in the state.
- In House Bill No. 1402 (2021), the Legislative Assembly amended North Dakota Century Code Section 50-06-42 to provide an out-of-state licensed substance abuse treatment program located within a bordering state may participate in the voucher program to serve an underserved area of the state pursuant to the rules adopted by DHS.
- DHS is required to develop rules to include processes and requirements for an out-of-state provider to receive reimbursement only for outpatient and community-based services upon a provider completing an assessment of need and receiving approval from DHS.
- 45 percent of available funding will be dedicated to programs with more than 16 beds and 55 percent of funding will be available to programs with 16 or fewer beds.

Ms. Sagness presented information (Appendix C) regarding licensed substance abuse treatment programs in North Dakota and services provided at the eight human service centers located in Bismarck, Devils Lake, Dickinson, Fargo, Grand Forks, Jamestown, Minot, and Williston.

In response to a question from a committee member, Ms. Sagness noted as a result of Senate Bill No. 2161, a comprehensive list of licensed mental health treatment programs is being developed, similar to the list of licensed substance abuse treatment programs, which may be available for testing during the winter or spring 2022.

Ms. Sagness reviewed the community connect and free through recovery programs. She noted as of July 2021, the community connect and free through recovery programs are serving 708 and 1,100 participants, respectively.

In response to a question from a committee member, Ms. Sagness noted peer support and care coordination services, such as the community connect and free through recovery programs, have been more readily available in rural areas of the state compared to clinical services, which have been limited due to workforce restraints.

Department of Human Services - State Hospital

Dr. Rosalie Etherington, Chief Clinics Officer/State Hospital Superintendent, Department of Human Services, presented information (Appendix D) regarding inpatient and outpatient private and public behavioral health services, including substance use disorder facilities in the state to prevent acute behavioral health hospitalization and to support patients following discharge from psychiatric hospitalization and related residential care. She noted:

- Crisis services are available within 45 miles of the eight largest cities in North Dakota.
- There is a pilot project in place with a critical access hospital to provide crisis services remotely.
- If the pilot project is successful, each of the 32 critical access hospitals in the state could have a service area of 45 miles surrounding the hospital, resulting in more critical service coverage in the state.

In response to questions from committee members, Dr. Etherington noted:

- While crisis services are nearly fully staffed, certain human service centers have experienced difficulty recruiting physicians.
- While agreements may be possible with North Dakota hospital facilities and other state's hospital facilities, there may be licensing restraints for physicians attempting to practice outside of North Dakota.
- Crisis intervention services and services offered by human service centers are available to children, adolescences, and adults.

A committee member commented that if an individual needing crisis intervention services called 911, agreements may be necessary with public safety answering points to connect the individual to a 2-1-1 crisis intervention specialist.

Dr. Etherington reviewed contracted and residential behavioral health services provided at the eight human service centers; statewide crisis services; acute, subacute, and specialized residential services; and specialized outpatient services at the State Hospital.

Dr. Etherington noted North Dakota has 311 residential care beds, including 122 beds in 11 transitional living facilities, 84 beds in 7 substance use disorder facilities, and 105 beds in 8 crisis stabilization facilities. She noted there are 64 geropsychiatric support beds at 3 locations in the state.

In response to questions from committee members, Dr. Etherington noted:

- While there are standards available for acute psychiatric and residential care, the standards are not always applied consistently. Hospitals generally use the standards more consistently than residential treatment facilities.
- Services provided to individuals located in Stutsman County previously were paid through the human service center budget, but are now paid from the State Hospital budget.

Department of Human Services - Medical Services Division

Ms. Caprice Knapp, Director, Medical Services Division, Department of Human Services, presented information (Appendix E) regarding inpatient and outpatient private and public behavioral health services, including substance use disorder facilities in the state to prevent acute behavioral health hospitalization and to support patients following discharge from psychiatric hospitalization and related residential care and the department's progress in seeking Medicaid plan amendments or Medicaid waivers to allow federal funding reimbursement for services provided in institutions for mental diseases to Medicaid beneficiaries between the ages of 21 and 64.

Ms. Knapp reviewed information regarding institutions for mental diseases (IMD). The following facilities are classified as IMD's in North Dakota:

- The State Hospital - Jamestown - 140 beds
- Prairie St. John's - Fargo - 110 beds
- Sharehouse - Fargo - 87 beds
- Summit Prairie Recovery Center - Raleigh - 36 beds

Ms. Knapp reviewed information regarding Section 1115 of the Social Security Act, which gives the Secretary of the United States Department of Health and Human Services authority to approve experimental, pilot, or demonstration projects that promote the objectives of Medicaid and the children's health insurance program. She noted:

- Under this authority, the Secretary may waive certain provisions of Medicaid law to give states additional flexibility to design and improve programs.

- Some states have received approval from the Centers for Medicare and Medicaid Services for Section 1115 waivers related to SUD treatment services provided in IMDs.
- In November 2018, the Centers for Medicare and Medicaid Services clarified Section 1115 waivers may be approved for services provided in IMDs that focus primarily on treatment for individuals with serious mental illness or serious emotional disturbance.
- Based on conversations with other states, it may cost $3.5 million and require 5 full-time equivalent positions to complete the Section 1115 waiver process within the next 3 to 5 years. However, the cost may increase if additional system work is needed or rates need to be adjusted.

In response to a question from a committee member, Ms. Knapp estimated approximately 30 states have completed the Section 1115 waiver process.

Comments by Interested Persons

Mr. H. Patrick Weir, Billings County State's Attorney, provided comments regarding the committee's study of acute psychiatric hospitalization and residential care. He expressed concern regarding the availability of behavioral health facilities and services in Western North Dakota.

Mr. Josh Sayler, Prairie St. John's, Fargo, presented information (Appendix F) regarding the committee's study of acute psychiatric hospitalization and residential care. He noted Prairie St. John's Hospital in Fargo is a 110-bed acute psychiatric hospital and 48-bed residential treatment center that provides outpatient services to children, adolescents, and adults. He expressed concern of the availability in the state of acute hospital care services for individuals with mental illness and substance use disorders.

IMPLEMENTATION OF EXPANDED BEHAVIORAL HEALTH SERVICES

Background

Mr. Kinnischtzke presented a memorandum entitled *Expanded Behavioral Health Services - Background Memorandum*. He reviewed the study requirements provided for in Section 2 of Senate Bill No. 2161 management system, and implementation of the recommendations of the 2018 North Dakota behavioral health system study conducted by the Human Services Research Institute (HSRI).

Mr. Kinnischtzke reviewed recent legislative history regarding North Dakota's 1915(i) Medicaid state plan amendment; history, services, facilities, and budget information of the State Hospital; the behavioral health bed management system discussed in Senate Bill No. 2161 and House Bill No. 1012; previous studies related to the expansion of behavioral health services; and a proposed study plan for the committee to consider regarding the study.

Department of Human Services

Ms. Sagness presented an update (Appendix G) regarding the implementation of the recommendations from the HSRI report, the status of Section 1915(i) waiver implementation (Appendix H), and suggestions for the committee to consider for inclusion in the study.

Ms. Sagness reviewed the North Dakota plan for behavioral health project dashboard. She noted:

- The HSRI report provided for 13 areas of recommendations for improvements, or "aims."
- The Behavioral Health Planning Council received information from communities regarding priorities for system change and selected 28 goals related to the 13 aims. As of April 2021, the 13 aims ranged from 0 to 79 percent complete.
- An update on aim completion would be available after July 2021.

In response to a question from a committee member, Ms. Sagness noted DHS is responsible for the contract with HSRI to facilitate and implement the recommendations from the HSRI study, but many of the goals from the study are outside of the scope of DHS and related to other areas, such as corrections and rehabilitation and private provider topics. She noted the Behavioral Health Planning Council is responsible for monitoring and reviewing recommendation and goal completion.

Ms. Sagness reviewed Section 1915(i) services, eligibility requirements, and service processes. She noted:

- The Section 1915(i) plan amendment benefits consumers, behavioral health professionals, and private providers.

- Requirements to be eligible for Section 1915(i) services include the individual being enrolled in North Dakota Medicaid or Medicaid Expansion, having income at 150 percent or less than the federal poverty level, having a substance use, mental health, or brain injury diagnosis, and having a World Health Organization disability assessment schedule score of 50 or greater, and the individual resides in and will receive services in a setting meeting the federal home- and community-based setting requirements.
- The implementation of the Medicaid 1915(i) state plan amendment aligns with recommendations of the HSRI report.

In response to a question from a committee member, Ms. Krista Fremming, Health and Human Services Program Administrator, Medical Services Division, Department of Human Services, noted federal approval of a Medicaid state plan amendment can fluctuate in timing from months to more than a year, and there is no limit on the number of state plan amendments a state can request for approval.

BEHAVIORAL HEALTH NEEDS OF INCARCERATED ADULTS

Background

Mr. Kinnischtzke presented a memorandum entitled *Behavioral Health Needs of Incarcerated Adults - Background Memorandum*. He reviewed the study requirements provided for in House Bill No. 1470 (2021) regarding behavioral health needs of incarcerated adults. He noted the study must:

- Consider the behavioral health needs of incarcerated adults, including access, availability, and delivery of services.
- Include input from stakeholders, including representatives of law enforcement, social and clinical service providers, educators, medical providers, mental health advocacy organizations, emergency medical service providers, tribal government, state and local agencies and institutions, and family members.

Mr. Kinnischtzke reviewed divisions, facilities, and budget information of the Department of Corrections and Rehabilitation, the free through recovery program, 2019-21 and 2021-23 biennium estimated and actual inmate population data, previous studies related to behavioral health needs of incarcerated adults, and a proposed study plan for the committee to consider regarding the study.

Department of Corrections and Rehabilitation

Dr. Lisa Peterson, Clinical Director, Department of Corrections and Rehabilitation, presented information (Appendix I) regarding behavioral health services available to incarcerated adults, any additional services needed, and suggestions for the committee to consider for inclusion in the study. She reviewed prison-based behavioral health services, community support services, and jail-related services. She noted the Department of Corrections and Rehabilitation (DOCR) employs 43 addiction counselors, social workers, professional counselors, psychologists, and administrative personnel to address behavioral health needs of incarcerated adults.

Dr. Peterson reviewed individual prison-based services available to incarcerated adults, including crisis management, individual therapy, behavioral management, and medications for opioid use disorder. She noted:

- Group programs available to incarcerated adults include a new arrival group, cognitive-behavioral interventions for substance use, conflict resolution program, new pathways to health relationships, cognitive-behavioral interventions for sexual offenders, free your mind program, and gender-responsive groups.
- DOCR staff completed 1,876 crisis assessments with men in 2020.

Dr. Peterson reviewed the DOCR special assistance unit, which includes 22 beds and 4 observation cells. She noted crisis management; individual behavior plans; daily group programming; and prosocial, structured out-of-cell time are provided.

Dr. Peterson reviewed community-based behavioral health services, including the free through recovery program, substance use disorder treatment advanced practice and aftercare, and thinking for a change program. She noted jail-related behavioral health services includes screening, crisis management, withdrawal management, psychiatry services, limited group programs, and the Cass County community support initiative.

Dr. Peterson provided recommendations for the committee's study of behavioral health needs of incarcerated adults. Recommendations include reviewing data from each county jail system to capture statewide needs of incarcerated adults, seeking input from various corrections and rehabilitation stakeholders, and identifying information and data gaps and training needs. She noted stakeholders include human service center staff, private behavioral health providers, state's attorneys, defense attorneys, parole and probation personnel, incarcerated persons and family members, county administrators, jail staff, and local policy and sheriff's departments.

In response to a question from a committee member, Dr. Peterson noted DOCR facilities and county jails each have a constitutional duty to provide medical and mental health services to inmates, but what amount of care is sufficient is subject to interpretation. She noted these service programs typically are more accessible at DOCR facilities than at county jails.

Bismarck Transition Center

Mr. Kevin Arthaud, Administrator, Bismarck Transition Center, presented information (Appendix J) regarding the current and historical number of individuals served at the center, facility capacity, behavioral health services available, and any additional services needed. He reviewed the history of the Bismarck Transition Center, which began providing services for adults in August 2002. He noted:

- The Bismarck Transition Center has 145 male beds and 20 female beds and provides American Society of Addiction Medicine certified programs, the thinking for a change program, Alcoholics Anonymous and Narcotics Anonymous, and Bible study.
- Residents at the Bismarck Transition Center are placed in inmate, parole, or probation status.
- The Bismarck Transition Center does not provide medical and mental health services to residents, as residents are expected to access these services within the community.
- Residents' ability to access mental health services is limited due to frequent lack of insurance coverage or financial means.

Mr. Arthaud noted Community, Counseling, and Correctional Services, Inc., (CCCS) which owns the Bismarck Transition Center, is considering a pilot program for a 90- to 100-day dual diagnosis treatment center in Bismarck for individuals in need of mental health, drug or alcohol addiction, and criminal offense services. The company provides these services at locations in Butte, Warm Springs, Lewistown, and Glendive, Montana.

In response to a question from a committee member, Mr. Arthaud noted programs offered in Montana similar to the proposed pilot project have been Medicaid-eligible and CCCS bills the Montana state Medicaid program for services.

In response to a question from a committee member, Mr. Dave Krabbenhoft, Director, Department of Corrections and Rehabilitation, noted the dual diagnosis treatment programs in Montana avoided a Medicaid Institutions for Mental Disease exclusion designation due to a Medicaid waiver obtained by CCCS.

MENTAL AND BEHAVIORAL HEALTH SERVICES OF OCCUPATIONAL BOARDS

Mr. Kinnischtzke presented a memorandum entitled *Mental and Behavioral Health Services of Occupational Boards - Background Memorandum*. He reviewed the study requirements provided for in Senate Bill No. 2336 (2021) regarding occupational boards that address mental health and behavioral health issues, including the State Board of Psychologist Examiners, Board of Addiction Counseling Examiners, Board of Counselor Examiners, Education Standards and Practices Board, North Dakota Board of Social Work Examiners, and North Dakota Marriage and Family Therapy Licensure Board. He noted the study must include a review of the rules adopted by the boards and consideration of the frequency with which the rules are reviewed, whether there are barriers to practice and barriers to admission of foreign practitioners, and whether there is adequate training for board members and executive directors of these boards.

Mr. Kinnischtzke reviewed statutory provisions of each of the six occupational boards named in the study, previous studies related to mental and behavioral health services of occupational boards, and a proposed study plan for the committee to consider regarding the study. He noted administrative rules for each of the six occupational boards were most recently updated as follows:

- State Board of Psychologist Examiners — January 2020
- Board of Addiction Counseling Examiners — July 2018
- Board of Counselor Examiners — July 2018
- Education Standards and Practices Board — October 2020
- North Dakota Board of Social Work Examiners — April 2021
- North Dakota Marriage and Family Therapy Licensure Board — January 2018

Committee members expressed interest in requesting:

- Each of the six occupational boards to provide testimony to the committee to encourage discussion among the boards to address concerns regarding board licensure requirements, including reciprocity with surrounding states, foreign practitioner requirements, services provided, administrative rules, and collaboration between boards.
- The Attorney General to provide testimony to the committee regarding the role of the Attorney General's office related to each of the six occupational boards and their administrative rules.
- Representatives of the North Dakota University System to provide testimony to the committee regarding programs offered at North Dakota universities to address workforce needs in areas under the jurisdiction of the six occupational boards.

No further business appearing, Chairman Nelson adjourned the meeting at 3:11 p.m.

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Levi Kinnischtzke
Senior Fiscal Analyst

ATTACH:10