

TESTIMONY IN SUPPORT OF HB 1181

Defendant's Fitness to Proceed

House Judiciary Committee

Wednesday, January 20, 2021

Chairman Klemin and members of the House Judiciary Committee,

For the record, my name is Representative Kathy Skroch, District 26 of North Dakota. I appear before today to introduce House Bill 1181. I am not an attorney. There are others who will be testifying in support of the bill who will be able to provide testimony with an in-depth understating of this proposed legislation.

This proposed bill creates a new section in NDCC related to the fitness of an individual to proceed in court. The bill was crafted through a collaborative process working within the North Dakota Supreme Court Taskforce on Mental Illness, to which I have been appointed. This task force was called for, by then Chief Justice Gerald VandeWalle, to address the need for clear protocols and procedures currently lacking when persons suffering with mental illness come before the court. The bill also establishes timelines for processing an individual with suspected competency and mental illness concerns to avoid unnecessary delays. These suggested timelines were heavily debated among those who provided input. The task force members worked with lawyers, representatives from stakeholder groups and the professionals working in this field. Much research and effort were put into the bill draft prior to submitting it to the NDLC.

Those behind the bill in part are states attorneys, defense attorneys, judges, social service agencies and such, who have struggled with the lack of clarity in how to process and proceed in these cases dealing with persons who may have broken laws while mentally ill.

Section 5, page 5, lines 2 through 8, were discussed at length knowing these would likely be the most controversial and will therefore be debated in committee. This subsection addresses the option of a court to dismiss a proceeding with prejudice.

The primary objective of the bill is to ensure a proper and timely assessment is done to verify the cognitive condition of a defendant to ensure fitness to proceed. Part of the discussion must be about the devastating harm that occurs to persons suffering with mental illness when convicted for crimes for which there was lack of culpability due to mental illness. Options were considered to avoid criminality which may have devastating impacts when it comes to housing, credit, employment, college loans and so forth that result from criminal records. Additionally, this bill establishes more clearly define timelines and intent in the law.

With the recommended changes proposed in the bill, uniform procedures will be established to prevent uncertainty and establish best practices. The pros and cons of dismissal "with prejudice" will certainly be discussed. There are solid reasons for wanting this option, but it should not be presumed that every case would be dismissed depending on each individual situation. The definition for "clear and convincing evidence" was included to prevent ambiguity. I will stand for questions, however, I believe there are others testifying much more capable of answering your questions.

Representative Kathy Skroch
District 26
Human Services Committee and Interim
Ag Committee and Interim
ND Supreme Court Task Force on Mental Illness



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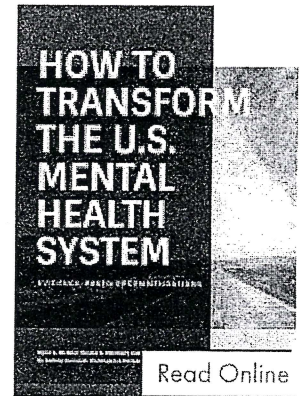
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How to Transform the U.S. Mental Health System

Evidence-Based Recommendations

by Ryan K. McBain, Nicole K. Eberhart, Joshua Breslau, Lori Frank, M. Audrey Burnam, Vishnupriya Karedy, Molly M. Simmons

Related Topics: Depression, Health Care Reform, Integrated Care, Medicaid, Mental Health Treatment, United States



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The United States is at a time of promise for historic transformation in mental health care. For decades, systemic problems have persisted — including high levels of unmet need, underdevelopment of community-based supports, and inequities in access and quality of care. In 2019, only 45 percent of people with a mental illness received any mental health treatment. This translates to unmet need for more than 30 million Americans. Additionally, despite similar levels of mental health care need, racial/ethnic minorities in the United States are about half as likely to use mental health care as non-Hispanic Whites. There are also striking geographic variations in availability of mental health specialty care, with rural areas particularly underserved.

Yet recent years have seen positive signs of change. Congress has passed key legislation — such as the 2008 Mental Health Parity and Addictions Equity Act — with overwhelmingly bipartisan support, states have endorsed an expanded role of Medicaid in providing coverage for individuals with serious

Research Questions

- 1 How can policy changes at all levels of government effect broad transformational change to improve the lives of millions of Americans living with mental illness?
- 2 What are the best practices and recent innovations in the mental health sector?
- 3 What opportunities for change in the mental health care system are supported by the research literature?

mental illness who are often lower income and struggling with employment, and researchers have identified new evidence-based treatment models that health systems can implement.

This report provides recommendations to promote transformational change to improve the lives of the millions of Americans living with mental illness. To identify these recommendations, the authors conducted a broad review of policy ideas related to goals for the mental health system. They conducted an extensive analysis of mental health systems processes, policies, and solutions supported by evidence and received input from experts around the country.

Key Findings

Decisive and transformative change to the U.S. mental health landscape is possible

- For change to occur, politicians, public administrators, advocates, and policy experts need to coalesce around a focused set of objectives.
- To this end, the authors provide analysis and recommendations in 15 areas where there is potential for transformative change that can improve the lives of the more than 60 million Americans affected by mental illness.

The analysis and findings are organized under three goals for mental health system transformation: promote pathways to care, improve access to care, and establish an evidence-based continuum of care so patients get the help they need

- Many Americans experience mental illness, but the majority of those in need of assistance go untreated. The authors identified three solutions to increase mental health service utilization by those in need: education initiatives, meeting individuals where they are, and supportive housing.
- Once people decide to seek care for a mental health problem, services that they value and want to access should be available to them in their community without undue financial burden. Services must be affordable, available, accessible, and acceptable.
- Communities should be equipped to provide a well-coordinated and evidence-based continuum of mental health services to meet the needs of people with mental illnesses. For the continuum to succeed, it is necessary to guide individuals to a level of care that corresponds to their level of need, promote effective channels of communication and coordination within the continuum, and establish a payment structure that rewards evidence-based practices within the care continuum.

Recommendations

- Promote systematic mental health education.
- Integrate behavioral health expertise into general health care settings.
- Link homeless individuals with mental illness to supportive housing.
- Develop a mental health diversion strategy centered on community behavioral health.
- Strengthen mental health parity regulation and enforcement.
- Reimburse evidence-based behavioral health treatments at their true cost.
- Establish an evidence-based mental health crisis response system.
- Establish a national strategy to finance and disseminate evidence-based early interventions for serious mental illness.
- Expand scholarships and loan repayment programs to stimulate workforce growth.
- Improve the availability and quality of peer-support services.
- Expand access to digital and telehealth services for mental health.
- Include patient-important outcomes in treatment planning and assessments of care quality.
- Define and institutionalize a continuum of care in states and communities.
- Launch a national care-coordination initiative.
- Form a learning collaborative for Medicaid behavioral health financing.

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Advisory Panel Members

Research conducted by

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