

Wolf, Sheldon

From: Hogan, Kathy L.
Sent: Monday, January 16, 2023 3:18 PM
To: Wolf, Sheldon
Subject: FW: SB 2052

LSTC questions and response.

Kathy Hogan
Rep District 21, Central Fargo



From: Jenkins, Heather <hcjenkins@nd.gov>
Sent: Tuesday, January 10, 2023 2:37 PM
To: Hogan, Kathy L. <khogan@ndlegis.gov>
Cc: Lee, Judy E. <jlee@ndlegis.gov>
Subject: SB 2052

Senator Hogan,

Thank you for taking the time to review SB 2052. I have included responses to the questions you indicated below.

Page 1 lines 23 & 24 – Why is the LSTC and other disability institutions exempt from the 2-year tenure requirement? The Department proposal acknowledges that the LSTC superintendent role is best hired according to the departments practices depending on the skills and ability of the person in the position. If there are further questions in regards to this please visit with Chris Jones.

Page 3 lines 21 through 31 This section again gives the power for individualized treatment to the dept rather than the person-centered team. Does this conflict with the DD Bill of rights, ARC decision and Title 19 requirements? This section again gives the Superintendent decision making power about individual’s admission and treatment. Why not have an admissions committee with some “non LSTC representatives on it including parents and guardians? Our intention here is not changing anything about decision making powers. We are modernizing language related to the types of services provided.

Including “patient” to “Individual served” to make the language person centered. There is and always has been discretion by the Superintendent to admit people to LSTC. All of the planning continues with the team process, however, as noted in 25-01.2-02 all individuals with DD have the right to services provided in the least restrictive appropriate setting. Our Eligibility process ensures that people are appropriately placed at LSTC while complying with NDCC.

Page 4 Lines 9 through 16 Why is the LSTC not required to be licensed by the DD Division which makes them subject to ND state law in the care and treatment as well as the reporting for Abuse, Neglect and Exploitation like community providers? By law, LSTC is a mandated reporter as well as follows the 25-01.3-04. Reporting of abuse, neglect, or exploitation - Immunity for good-faith reports. 1. Every medical, mental health, or developmental disabilities

professional, educational professional, police or law enforcement officer, or caretaker having knowledge of or reasonable cause to suspect that an adult with developmental disabilities or mental illness coming before the individual providing services in that individual's official or professional capacity is abused, neglected, or exploited shall report the circumstances of that abuse, neglect, or exploitation to the project. For the purposes of this section: a. "Educational professional" means a professional providing educational services either at a school, academy, or other educational facility, or at a private facility or residence, as a teacher, professor, tutor, aide, administrator, or other education professional. b. "Medical, mental health, or developmental disabilities professional" means a professional providing health care or services to persons with developmental disabilities or mental illnesses, on a full-time or part-time basis, on an individual basis or at the request of a caretaker, and includes a physician, medical examiner, coroner, dentist, optometrist, chiropractor, nurse, physical therapist, mental health professional, hospital personnel, nursing home personnel, congregate care personnel, social worker, or any other person providing medical, mental health, or developmental disabilities services. 2. An individual not listed in subsection 1 having knowledge of or reasonable cause to suspect that an adult with developmental disabilities or mental illness is abused, neglected, or exploited may report those circumstances to the committee or the project. 3. An individual other than the alleged perpetrator participating in good faith in the making of a report, assisting an investigator, furnishing information to an advocate or other employee of the committee, or in providing protective services under this section, is immune from any liability, civil or criminal, that otherwise might result from the reporting of the alleged case of abuse, neglect, or exploitation.

Page 4 lines 23 through 29 Again, the Superintendent has all the decision-making powers. The school part is a bit concerning.. Schools still try to get students placed at LSTC by saying they cannot provide educational instruction. IDEA, the Federal law requires the schools to provide educational instruction in the Least Restrictive Environment and no student should ever be placed in an institution because a school is not following IDEA. Our intention here is not changing anything about decision making powers. We are modernizing language related to the types of services provided.

Page 5 Lines 13 through 15 This seems to put the department in charge of individual services rather than the team. Not person-centered planning as required by Title 19, DD Bill of Rights and ARC decision - Based on previous legislative action all people residing at LSTC were required to have DD program management open; all of the planning continues to follow the person-centered team process.

Pages 8 & 9 – This seems to give the Superintendent complete decision making about individuals and the power to deny visitation and communication with parents and guardians in the guise of running an orderly institution. LSTC is still required to follow all applicable NDCC laws as well as all federal laws. As noted in 25-01.2-04(3)-A public or private agency or organization not licensed by the department may establish in writing reasonable times and places for use of telephones and for visits, provided that an individual's ability to contact an attorney, guardian, or custodian, may not be restricted and provided that any rules or restrictions must be posted in each institution, facility, or individualized setting.

Page 10 Lines 21 through 31 This requires the Superintendent to make reasonable to consult with others and doesn't require team participation to make the initial decision regarding placement. The purpose of this section was to clean up the language and provide more person centered language. There is and always has been discretion by the Superintendent to admit people to LSTC. All of the planning continues with the team process, however, as noted in 25-01.2-02 all individuals with DD have the right to services provided in the least restrictive appropriate setting. Our Eligibility process ensures that people are appropriately placed at the LSTC while complying with NDCC.

Page 5 Lines 13 -15 This appears to be another example of when the department ensures active program management rather than the team- Based on previous legislative action all people residing at LSTC were required to have DD program management open; all of the planning continues to follow the person-centered team process.

Page 13 Lines 5 - 9 Is this a fee for service based on disability and/or degree of disability? Medical model??? Our intention here is not changing anything about decision making powers. We are modernizing language related to the types of services provided. Including “patient” to “Individual served” to make the language person centered.

Page 13 beginning with Line 21 Does this give the State the right to go after the estate and this can deter families from accessing care at LSTC- Our intention here is not changing anything about decision making powers. We are modernizing language related to the types of services provided. Including “patient” to “Individual served” to make the language person centered.

Beginning on Page 16 line 26 until end of Bill – Who makes up the Quality assurance committee are there external or family members? The Quality Assurance Committee is an Internal Committee at LSTC.

Please clarify what is the projected date for “long term” residents to leave LSTC and they begin this new “stabilization” plan? We continue to work with individual teams to discuss and transition all residing at LSTC.

Heather, I would love to hear how you feel your authority interact with the individual served with their family and their care teams.

Senator Hogan, the people we support are of the utmost importance to me and are at the forefront of all decisions made. I absolutely love my job and being involved in the DD field my whole life this is a wonderful opportunity to truly make a difference and assist people to be able to live the lives that they want to live in the most integrated settings of their choice.

I would love the opportunity to sit down and visit with you more about LSTC!

Respectfully,

Heather Jenkins

Superintendent of the Life Skills & Transition Center



701.352.4564 • 800.252.4911 (toll-free) • 816 W. Midway Dr. • Grafton, ND 58237-5206

-----Confidentiality Statement-----

This transmission is intended only for the use of the individual to whom it is addressed and may contain information that is made confidential by law. If you are not the intended recipient, you are hereby notified any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please respond immediately to the sender and then destroy the original transmission as well as any electronic or printed copies. Thank you.