

Testimony
Senate Bill No. 2113
Senate Human Services Committee
Senator Lee, Chairman
January 8, 2025

Chairman Lee, and members of the Senate Human Services Committee, I am Jonathan Alm, Chief Legal Officer with the Department of Health and Human Services (Department). I appear before you in support of Senate Bill No. 2113, which was introduced at the request of the Department.

Most of the changes in Senate Bill No. 2113 change the title of regional human service centers to state-operated behavioral health clinics to better align to services provided and to reduce confusion between the regional human service centers and human service zones. The terminology changes are being made in Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 20, 24, 26, 27, 31, 33 (also formatting changes), 34, and 35.

The Department does have an amendment to propose for two sections. I will address those amendments when we approach those two sections. I have handed out the amendment along with my testimony. I will now discuss the other specific changes in Senate Bill No. 2113:

Section 11:

The proposed changes in Section 11 of this Bill amend subdivision b of subsection 1 of section 44-04-18.30 of the North Dakota Century Code updates the language regarding state-operated behavioral health clinics and human service zones.

Section 12:

The proposed changes in Section 12 of this Bill amends section 50-06-01 of the North Dakota Century Code to add a definition of “certified community behavioral health clinic” and “state-operated behavioral health clinic”. The definition of “certified community behavioral health clinic” may apply to a private or public behavioral health clinic or a state-operated behavioral health clinic. The definition of “state-operated behavioral health clinic” aligns to services provided and reduces confusion between the regional human service centers and human service zones.

Section 13:

The proposed changes in Section 13 of this Bill amends section 50-06-01.4 of the North Dakota Century Code to update the language regarding state-operated behavioral health clinics and to remove the past dates as to when the Department was to establish or develop a template or process regarding the human service zones.

Section 14:

The proposed changes in Section 14 of this Bill amends section 50-06-01.7 of the North Dakota Century Code to remove outdated information regarding restructuring the behavioral health division and to update the language regarding state-operated behavioral health clinics.

Section 15:

The proposed changes in Section 15 of this Bill amends section 50-06-05.1 of the North Dakota Century Code to:

- Update the language regarding state-operated behavioral health clinics;
- To clarify in subsections 14 and 15 that court orders regarding treatment and services at the North Dakota State Hospital and Life Skills and Transition Center shall comply

- with the laws passed by the Legislative Branch that apply to the treatment and services that can be offered by the North Dakota State Hospital and Life Skills and Transition Center;
- To remove an exemption in subsection 28 regarding contracting with an online virtual mental health and suicide prevention simulation-based training program as the vendor is no longer offering that service;
 - To add a provision in subsection 33 to allow the Department to pay a stipend to a recipient or a provider to allow the recipient or provider to serve on a council or board. This will increase the number of participants willing to serve on a council or board and will provide for consistency among the Department's various councils and boards;
 - To add a provision in subsection 34 to allow the Department to appeal a court order that orders the Department to perform or provide a function, service, or duty. The Department regularly receives court orders that it is not a party to the court action that requires the Department to perform a function, service, or duty. Since the Department is not a party to the court action, it is not able to directly appeal the order that requires the Department to perform a function, service, or duty; and
 - To add a provision in subsection 35 to require providers that receive funding from the Department to submit process and outcome measures. This has previously been included in the Department's budget bill for several sessions and this change just codifies the requirement.

Section 16:

The proposed changes in Section 16 of this Bill amends section 50-06-05.2 of the North Dakota Century Code to:

- Update the language regarding state-operated behavioral health clinics;
- Clarify that the state-operated behavioral health clinics provide community-based behavioral health services;
- Update language for the Department to request appropriations and resources sufficient for certification as a certified community behavioral health clinic, in addition to accreditation;
- Update language as the current accreditation vendor updated its name from council on accreditation to social current; and
- Update language regarding the state-operated behavioral health clinics being subject to licensing to being subject to licensing or certification.

The Department is requesting an amendment to subsection 2 of section 50-06-05.2 to reinsert language regarding the Department adopting rules for the operation of the state-operated behavioral health clinics. The amendment proposes to change the mandatory requirement to adopt rules to a may to reflect the future state of the state-operated behavioral health clinics becoming certified community behavioral health clinics.

Section 17:

The proposed changes in Section 17 of this Bill amends section 50-06-05.3 of the North Dakota Century Code to amend the powers and duties of the regional human service centers. This Section:

- Updates the language regarding state-operated behavioral health clinics;

- Updates language regarding the services and assistance that is currently provided;
- Replaces “human services advisory group” and “advisory group” with “behavioral health clinic advisory group”; and
- Removes services, developmental disabilities, and social services that are no longer provided by the human service centers but are provided by the Human Service Division of the Department.

Section 18:

The proposed changes in Section 18 of this Bill amends section 50-06-05.4 of the North Dakota Century Code to replace “human services advisory group” with “behavioral health clinic advisory group”; replace “regional human service center” with “state-operated behavioral health clinics”; and to update language to reflect the services provided are behavioral health services.

Section 19:

The proposed changes in Section 19 of this Bill amends section 50-06-05.5 of the North Dakota Century Code to replace “regional human service center” and “center” with “state-operated behavioral health clinic”; replace “regional director” with “state-operated behavioral health clinic director”; and to remove the requirement that the state-operated behavioral health clinic director be appointed by the Commissioner of the Department to reflect the current hiring process of a behavioral health clinic director.

Section 21:

The proposed changes in Section 21 of this Bill amends section 50-06-06.5 of the North Dakota Century Code to replace “regional human service centers” with “state-operated behavioral health clinics” and to

remove language that access to the continuum must be through regional human service centers as the current language is contradictory, seems to assume all services must be accessed through the regional human service center which could be a barrier for private providers, and the certified community behavioral health clinic certification will create minimum standards for care.

Section 22:

The proposed changes in Section 22 of this Bill amends section 50-06-06.13 of the North Dakota Century Code pertains to the Department program to provide out-of-home treatment services for a Medicaid-eligible child with a serious emotional disorder to add the ability of a legal guardian to obtain treatment services for a child in the guardian's custody.

Section 23:

The proposed changes in Section 23 of this Bill amends section 50-06-15 of the North Dakota Century Code to allow the Department to internally share information to assist with or to provide assistance or services as long as the disclosure is in compliance with federal laws and regulations and to update the definition of "individually identifiable information" pertaining to the Department's records.

Section 25:

The proposed changes in Section 25 of this Bill amends section 50-06-41.3 of the North Dakota Century Code to add "unless other specified" to the behavioral health bed management system based on feedback from providers.

Section 28:

The proposed changes in Section 28 of this Bill amends section 50-06-46 of the North Dakota Century Code to remove the expiration date for the

cross-disability advisory council as work is continuing with the council and to expand who can serve on the council.

Section 29:

The proposed changes in Section 29 of this Bill creates a new section to chapter 50-06 of the North Dakota Century Code to establish the process to become a certified community behavioral health clinic, including requiring the Department to adopt rules, and the Department's ability to deny a request. The Department is requesting an amendment to subsection 1 to insert "certified" before community behavioral health clinic to clarify that the Department does not intend to create additional requirements for private community behavioral health clinics.

Section 30:

The proposed changes in Section 30 of this Bill creates a new section to chapter 50-06 of the North Dakota Century Code to reinsert and update language to reflect current process of a previous section of chapter 50-06 that was repealed at the request of the Department.

Section 32:

The proposed changes in Section 32 of this Bill amends section 50-06.2-02 of the North Dakota Century Code to remove the definition of "human service center" and to add a definition of "state-operated behavioral health clinic".

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2113

SECTION 16. AMENDMENT. Section 50-06-05.2 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.2. ~~Regional human service centers~~State-operated behavioral health clinics - Licensure.

Human

1. Community-based behavioral health services must be delivered through regional ~~human service centers~~state-operated behavioral health clinics in the areas designated by the governor's executive order 1978-12 dated October 5, 1978. The department shall request appropriations and resources sufficient for ~~accreditation~~:
 - a. Accreditation and to ensure maintenance of the accreditation for the ~~regional human service centers~~state-operated behavioral health clinics, including associated facilities, by ~~the council on accreditation~~the social current or by a similar national accrediting body accepted by the department; and
 - b. Certification as a certified community behavioral health clinic.
2. The ~~regional human service centers~~state-operated behavioral health clinics are subject to licensing or certification by the department. The department may use the accreditation as a basis for licensing in lieu of adopted rules for the operation of the ~~regional human service centers~~state-operated behavioral health clinics. ~~The department shall~~may adopt rules for the operation of the ~~regional human service centers~~state-operated behavioral health clinics. A ~~regional human service center~~state-operated behavioral health clinic may not operate without a license or certification issued in accordance with this section or section 30 of this Act. ~~Regional human service centers~~State-operated behavioral health clinics are authorized to receive federal and other funds available to finance, in whole or in part, the services and operations of the ~~centers~~state-operated behavioral health clinics.

SECTION 29. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

Certified community behavioral health clinics - Rules.

1. To operate in this state, a **certified** community behavioral health clinic must be certified by the department.
2. The department shall adopt rules for the certification of community behavioral health clinics, including assessment of need in the proposed location.
3. The department may deny a request to become or revoke a certified community behavioral health clinic's certification based on failure to comply with the rules adopted by the department or deny a request to become a certified community behavioral health clinic based on the assessment of need determination.