2017 HOUSE HUMAN SERVICES

HB 1116

2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

House Bill 1116
1/9/2017
26672

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Judy Kepple

Explanation or reason for introduction of bill/resolution:
Relating to the structure of the department of human services and changes in terminology

Minutes: 1

Chairman Weisz: called the committee to order.
HB 1116

Rosalie Etherington, Superintendent of the State Hospital

Attachment 1
End of testimony
2:12

Chairman Weisz: Questions from the committee?

Representative Devlin: Why did it take 10 years to get to this point of change?

R. Etherington: I do not know. I cannot speak specifically.

Representative Skroch: When we make this wording change does that end the separation between the definition of mental illness and behavioral care?

R. Etherington: I would say it is not necessarily an ending of separation, but an umbrella term for both. So although we within the profession would still talk about and make recommendations for and in fact diagnose mental illness. We may also then do the same thing for addiction, but under the umbrella of behavioral health it is both. So we as a facility treat both sets of disorders, but it would be a misnomer for us to say mental health only because, in fact, it is behavioral health. I don't know if that answers your question, but there really isn't a separation at the moment anyway. Although there are mental illnesses and there are addictions, they are all in fact considered behavioral disorders.

Representative Skroch: My concern with that is mental illness I would think should be a higher priority. I base that on behaviors that do lead to addictions sometimes are choices and mental illnesses are not choices. My concern would be that since I know how tight

funding is for people with mental illness that there would be a shift from funding those programs that help the mentally ill when they start including those with behavior addictions.

R. Etherington: If I understand accurately and I can describe it accurately, although there is general belief that addiction is a choice and not an illness. The research clearly would tell us that it is a brain disease. No different than other form of mental illness. Also then would indicate that there are degrees of illness, both addiction and mental illnesses. So on the farthest end of the spectrum you have individuals with paranoid schizophrenia that we know the certainty are solely the results of genetics and the disease takes such horrible tole that they are sometimes not responsible for their actions and need our care. Sometimes total care as a community. Then on the other end you have the rest of us like those of us in this room, one of four of whom will have some form of mental illness and yet we function quite well. One of six of us will have a compounding addiction. So I would say if I had a mental illness I would not quantify my need similar to that of an individual with paranoid schizophrenia. When you look at the issues of funding we are going to have to weigh the needs based on those that have the most need and those that need the most care. Having said that, there are some individuals that have addiction disorders that are in that most severe category and then there are a bunch of individuals that are not. It is those individuals that might choose or choose poorly the things in their lives that compound that illness. They should not be considered the same as those with the most severe.

Representative McWilliams: There is a bell curve of addictions from the most severe to about 10% of the population that are predisposed to addictive behavior. Is there any definition to say those on this side of the bell curve don't qualify and on the other part of the bell curve they do. If there any effort to make a distinction somewhere in that bell curve. Now if you are one of the 10% of the population that is predisposed to addiction. If I am addicted to scratching my head 1000 time a day, can I now qualify for behavioral health services?

R. Etherington: In my world yes, but in everybody else's no. I would consider that the bell curve and the threshold. It is not a bold line. It can get a little fuzzy. It really comes down to severity of illness and impact of function. Those that can get up and take a shower and go to work, even if we have an illness would be at the lower end of this bell curve. Those in the upper end not only have the severest disease so the résistance to alcohol might be almost impossible to resist and all those other factors that go with it. Plus their function is so impaired that they are not employed. They are sometime homeless. They cannot meet their basic needs. They are on the other end of the curve, so it makes it easier to distinguish as far as who of the most need and who has the least need. I believe that behavioral health disorders and behavioral wellness is necessary for all of us. We need to make sure within our community we have sufficient resources across the board. It is just that those here are more likely to find those resources on their own or to find assistance for the help of what I might consider a minor disorder. Whereas it is different than those who are now homeless, jobless and often dying that might need more of our assistance to make sure that they get the help that they need. It really comes down to severity and function.

Representative McWilliams: Then should we be looking at a bill that further defines addictions so that we would be more clear as to who gets services and who doesn't. If we make an umbrella term it can reach from one end to the other and would represent a huge increase in expenditures in the department lowering the quality of services that those who most need it receive.

R. Etherington: The majority of those we serve are already defined as on that end of the bell curve. The come to us already under a commitment status identified as a person needing treatment. Therefore, I do not believe that will change, because there are other individuals within our communities that can seek their own care with private providers and other individuals that are not funded by the department. Those that have insurance or other means of getting and paying for that help are different than those with the greatest need. It is not black and white. It is a continuum of care. We need to be sure we have that and it is difficult especially in our west. We also then within the department prioritize based on the greatest need.

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Representative Porter: When we were out during the interim talking with communities and law enforcement. Lots of discussion about jails and inmates with mental health problems. Used to be able to make a phone call to State Hospital and they could make arrangements over the phone for that inmate to be transferred to the St. Hospital for the start of that care rather than just hold them in a jail cell. Over a period of time we have changed that admission procedure and policy. They are not happy about it and they are not happy about how it works. They feel it's a great disservice to the state of ND and to this population. That the ability for them to bring patients in prior to going to court or prior to going to a human service center in essence has taken away the mission of the State Hospital. I would be interested to hear from your job as a superintendent how we take a system in their eyes was working to a system that is not working. To a system that had access to a system that doesn't have access. To a system that had beds available to a system that doesn't especially in western ND. when there isn't any other acute psychiatric facility available for those acute patients that is willing to accept them. They feel very left out. Their job as the sheriff or law enforcement officers leaves them with only one option. To keep them behind bars.

R. Etherington: I am also the Chief Clinic Director for the Human Service Centers. I am Not deaf to the law enforcement pleas that particularly in the west they feel not only abandoned by often become the provider by driving around in the middle of the night with those individuals that need care. Back in the mid, 70s there was a statute that was put on the books to do a screening of every admission to the State Hospital. The purpose of that was rule out any community resources available to meet the needs of that person. And, therefore, they could limit those that come to the state hospital. The intent, of course, was to build up the community resources for the purpose of not growing state hospitals, but shrinking them. Reserve the SH to those with the greatest need. What has occurred over time in my opinion, the intent was good, but we haven't developed the ray of services in other communities, particularly in our most rural area. So the law enforcement get stuck. Our jails become places for detox and for holding the mentally ill as opposed to getting them to an appropriate treatment level. Not that everybody needs to come to a bed, but sometimes they do. Sometimes they need community wrap around services to prevent the

need for a bed and to prevent the law enforcement from having to get involved in the first place. We are far away from solving that problem, but we have been listening to the law enforcement around the state, trying to shore up and improve our region intervention services. We have been trying to right size our crisis residential units in each of those communities of which we have at least in 7 regions. We are looking to open the 8th for the purpose of having local beds when a person doesn't need a hospital. Then if the person does need a hospital we also know that the psychiatric hospitals beds are full across the state. We are also improving those afterhours services so our staff can be available to those law enforcement officers in the middle of the night in the event there is another hospital bed and that person still has to come to the state hospital. We do see that there is a problem.

Representative Porter: Listening and knowing there is a problem is the first step. You are listening to the very concerns that I have heard and I am sure others have heard. If we are going to have a gate keeper set up they need to be ready to answer the phone 24 hours a day. Not to get an answering machine that says call back on Monday at 9. We need to fix it.

Chairman Weisz: Further questions?

Chairman Weisz: Is there further support for HB 1116

Opposition for HB 1116?

Hearing none.

Committee closed.

Chairman Weisz: Is there any discussion?

Representative B. Anderson: I move that we do pass

Chairman Weisz: Is there a second?

Representative P. Anderson: second

Roll call vote done

12 yes 0 no 2 absent.

Chairman Weisz: Motion carried. Do we have a volunteer to carry the bill?

Chairman Weisz: Representative D. Anderson will carry. Thank you

Date: 1-9-17
Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1116

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☑ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. B. Anderson Seconded By Rep. P. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. P. Anderson	✓	
Vice Chairman Rohr	✓		Rep. Schneider	✓	
Rep. B. Anderson	✓				
Rep. D. Anderson	✓				
Rep. Damschen	✓				
Rep. Devlin	✓				
Rep. Kiefert	✓				
Rep. McWilliams	✓				
Rep. Porter	—	—			
Rep. Seibel	✓				
Rep. Skroch	—	—			
Rep. Westlind	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. D. Anderson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1116: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1116 was placed on the Eleventh order on the calendar.

2017 SENATE HUMAN SERVICES

HB 1116

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1116
2/14/2017
Job Number 28346

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Era Liebelt for Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to the structure of the department of human services and changes in terminology.

Minutes: 2 attachments

Chair J. Lee: Brought the public hearing to order, Sen. Anderson was absent.

Rosalie Etherington, Superintendent of the North Dakota State Hospital for the Department of Human Services: Testified in favor, Written testimony, please see attachment #1 and proposed amendment, attachment #2. (0:30-1:43)

Senator Heckaman: Was this amendment proposed in the house or was it something that came to your attention later?

Rosalie Etherington: Correct, over sight on our part.

V-Chair Larsen: In regard to Medicare and Medicaid could you explain how reimbursement is with those folks when you're through the state hospital, the cost, what some of the payouts are in relation to behavioral and mental health?

Rosalie Etherington: The state hospital is considered an Institute of Mental Disease, therefore we may not bill Medicaid and we do not receive reimbursement for such. In regards to Medicare the federal program, our individuals that are in fact on Medicare, we bill as in the other form of insurance and do receive payments.

Senator Piepkorn: What is your opinion on the make-up and the number of people on the governing body?

Rosalie Etherington: A governing body of a psychiatric hospital is a requirement by the Centers of Medicare and Medicaid, CMS. It works like any other governing bodies except it is a state agency. We are probably prone to more over sight at a governmental level but the make-up works quite well because we have a variety of individuals from the hospital and from the department and from community members.

V-Chair Larsen: What is the occupancy of the hospital currently?

Rosalie Etherington: As of today we are at about a 97% occupancy which had been running at an average of 83% the last year. We generally fill up around January or February. We have an approximate 250 individuals and that is separated in inpatient services which would be approximate 130. Are sex offender treatment program has approximate 52 and then our addiction residential program contracted with the department of corrections which should have approximately 109.

V-Chair Larsen: With the new buzz about alternatives to incarceration, what role does the state hospital playing in those groups or discussing with the incarceration group to come up with ideas.

Rosalie Etherington: Our Tompkins Rehabilitation Center or TRC, has been in existence since the late 1980s. It was originally designed as a jail and prison diversion addiction treatment center. Over the years that then shifted to a combination of diversion and individuals under the jurisdiction of the department of corrections. Then in the last 3-4 years based on overcrowding of the prison the department of corrections has opted for contracting with us, solely as a set of treatment beds for individuals that are leaving the prison. As a measure of treatment before going into the community.

Chair J. Lee: Closed the hearing.

V-Chair Larsen: Moved to adopt the amendment.

Senator Kreun: Seconded the motion.

Passes 7-0-0

V-Chair Larsen: Moved a do pass as amended.

Senator Kreun: Seconded the motion.

Passes 7-0-0

Senator Anderson will carry the bill.

CR
2/14/17

17.8062.01001
Title.02000

Adopted by the Human Services Committee

February 14, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1116

Page 1, line 10, overstrike "health care financing"

Page 1, line 11, overstrike "administration" and insert immediately thereafter "centers for Medicare and Medicaid services"

Renumber accordingly

Date: 2/14 2017

Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1116

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: 17.8062.01001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Larsen Seconded By Sen. Kreun

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	X		Senator Joan Heckaman	X	
Senator Oley Larsen (Vice-Chair)	X		Senator Merrill Piepkorn	X	
Senator Howard C. Anderson, Jr.	X				
Senator David A. Clemens	X				
Senator Curt Kreun	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2/14 2017

Roll Call Vote #: 2

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1116

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Larsen Seconded By Sen. Kreun

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	X		Senator Joan Heckaman	X	
Senator Oley Larsen (Vice-Chair)	X		Senator Merrill Piepkorn	X	
Senator Howard C. Anderson, Jr.	X				
Senator David A. Clemens	X				
Senator Curt Kreun	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Anderson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1116: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1116 was placed on the Sixth order on the calendar.

Page 1, line 10, overstrike "health care financing"

Page 1, line 11, overstrike "administration" and insert immediately thereafter "centers for Medicare and Medicaid services"

Renumber accordingly

2017 TESTIMONY

HB 1116

HB 1116
Att #1
1-9-17

Testimony
House Bill 1116 – Department of Human Services
House Human Services Committee
Representative Weisz, Chairman
January 9, 2017

Chairman Weisz, and members of the House Human Services Committee, I am Rosalie Etherington, Superintendent of the North Dakota State Hospital (NDSH) for the Department of Human Services (Department). I am here today in support of House Bill 1116, which was introduced at the request of the Department, and is in relation to the structure of the NDSH Governing Body.

On January 7, 2007 The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) became known as simply The Joint Commission, and thus we recommend this change to Subsection 1 of Section 25-02-01.1.

In regards to the amendments to Subsection 3 of Section 25-02-01.1 mental health services, although not inaccurate, is not considered inclusive of addiction services and thus we recommend this change to behavioral health. In addition, the Department has centralized fiscal function. Therefore, the statute needs to be updated to reflect what's in place for fiscal administration.

This concludes my testimony. I am open to questions the committee may have. Thank you.

HB 1116
Attach # 1
2/14

Testimony
House Bill 1116 – Department of Human Services
Senate Human Services Committee
Senator Lee, Chairman
February 14, 2017

Chairman Lee, and members of the Senate Human Services Committee, I am Rosalie Etherington, Superintendent of the North Dakota State Hospital (NDSH) for the Department of Human Services (Department). I am here today in support of House Bill 1116, which was introduced at the request of the Department, and is in relation to the structure of the NDSH Governing Body.

On January 7, 2007 The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) became known as simply The Joint Commission, and thus we recommend this change to Subsection 1 of Section 25-02-01.1.

In regards to the amendments to Subsection 3 of Section 25-02-01.1 mental health services, although not inaccurate, is not considered inclusive of addiction services and thus we recommend this change to behavioral health. In addition, the Department has centralized fiscal function. Therefore, the statute needs to be updated to reflect what's in place for fiscal administration.

The Department of Human Services also proposes an amendment to replace 'health care financing administration' on lines 10 and 11 with 'centers for medicare and medicaid services'.

This concludes my testimony. I am open to questions the committee may have. Thank you.

HB 1116
Attach #2
2/14

Proposed Amendments to House Bill No. 1116

Page 1, line 10, overstrike "health care financing" and insert immediately thereafter "centers for medicare and medicaid services"

Page 1, line 11, overstrike "administration"

Renumber accordingly