

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**HUMAN SERVICES COMMITTEE**

Tuesday, September 20, 2016  
Harvest Room, State Capitol  
Bismarck, North Dakota

Representative Kathy Hogan, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Kathy Hogan, Bert Anderson, Alan Fehr, Naomi Muscha, Kylie Oversen, Jay Seibel, Peter F. Silbernagel, Greg Westlind; Senators Tyler Axness, Dick Dever, Oley Larsen, Judy Lee, Tim Mathern

**Members absent:** Representatives Dick Anderson, Chuck Damschen, Dwight Kiefert, Gail Mooney

**Others present:** Jennifer S. N. Clark, Christopher Joseph, and Allen H. Knudson, Legislative Council, Bismarck  
See [Appendix A](#) for additional persons present.

**It was moved by Representative Fehr, seconded by Representative Seibel, and carried on a voice vote that the minutes of the July 25-26, 2016, meeting be approved as distributed.**

The Legislative Council staff provided information ([Appendix B](#)) regarding testimony that was submitted by the North Dakota Housing Finance Agency relating to a statewide plan to address housing issues. The Legislative Council staff said the information is in response to a request at the May 10-11, 2016, meeting for information from the Department of Human Services (DHS) and the Housing Finance Agency regarding a review of housing recommendations relating to the study of behavioral health services.

### **STUDY OF BEHAVIORAL HEALTH NEEDS**

#### **Role and Function of the Department of Human Services**

The Legislative Council staff presented a bill draft [[17.0204.02000](#)] relating to the role and function of DHS. The bill draft was prepared for committee discussion and action. The bill draft includes changes related to:

- Definitions for behavioral health;
- Administration of behavioral health programs;
- The licensure process for regional human service centers;
- Crisis services;
- Advisory groups for human service centers;
- Medical assistance; and
- The location of a second state hospital for the mentally ill.

In response to a question from Representative Oversen regarding licensure of regional human service centers, Mr. Christopher Joseph, Counsel, Legislative Council, said the bill draft requires a regional human service center to be licensed by DHS, and accredited by a national accrediting body.

Senator Lee suggested adding language to require the DHS service delivery division to provide chronic disease management, regional intervention services, and 24-hour crisis services for individuals with mental, emotional, or substance abuse disorders.

Senator Mathern suggested changing reference of mental, emotional, or substance abuse disorder to behavioral health disorders.

**It was moved by Senator Lee, seconded by Representative Fehr, and carried on a voice vote to amend bill draft [[17.0204.02000](#)], relating to the role and function of DHS, to require the DHS service delivery**

division to provide chronic disease management, regional intervention services, and 24-hour crisis services for individuals with behavioral health disorders.

It was moved by Representative Silbernagel, seconded by Senator Larsen, and carried on a roll call vote that bill draft [17.0204.02000], as amended, relating to the role and function of DHS, including changes relating to definitions for behavioral health, administration of behavioral health programs, licensure process for regional human service centers, crisis services, advisory groups for human service centers, medical assistance, and the location of a second state hospital for the mentally ill, be approved and recommended to the Legislative Management. Representatives Hogan, B. Anderson, Fehr, Muscha, Oversen, Seibel, Silbernagel, and Westlind and Senators Axness, Dever, Larsen, Lee, and Mathern voted "aye." No negative votes were cast.

### **Policy Changes That Do Not Require Additional Funding**

The Legislative Council staff presented a bill draft [17.0182.03000] relating to policy changes that do not require additional funding. The bill draft was prepared for committee discussion and action. The bill draft includes changes relating to:

- Youth mental health training requirements;
- Emergency procedures to allow 72 hours after admission for examination of an individual with a serious physical condition or illness;
- Behavioral health training for early childhood service providers; and
- Children's behavioral health task force.

Senator Mathern provided comments regarding the children's behavioral health task force. He suggested members of the task force be appointed by a designated association or group of providers. He said the current bill draft includes many members being appointed by the Executive Director of DHS.

Senator Lee suggested the committee recommend further review of a task force during the next legislative session. She said more time is needed to review the task force with other interested persons. She said there also may be qualified individuals who are not part of a group that may wish to seek appointment to the task force. She suggested reviewing the percentage of providers who are members of a designated group that wish to appoint a member.

Representative Oversen expressed concern regarding a name of a specific organization or association being included in North Dakota Century Code. She said names may change. She suggested adding language to provide for the Executive Director of DHS to consult with existing organizations, and to request those organizations to provide recommendations for appointing members.

Mr. Jim Vetter, Vice President of Partner and Community Relations, Dakota Boys and Girls Ranch, and President, North Dakota Residential Child Care Facilities Association, expressed support for allowing associations and other groups to appoint members to the task force.

Chairman Hogan said the intent of a children's behavioral health task force is to provide a multi-system collaboration that includes various agencies and groups to address children's behavioral health.

**It was moved by Representative Silbernagel, seconded by Representative Fehr, and carried on a voice vote to amend bill draft [17.0182.03000], relating to policy changes that do not require additional funding, to require the Superintendent of Public Instruction and the Executive Director of DHS to appoint members to a task force for children's behavioral health based on recommendations from designated organizations or associations.**

**It was moved by Senator Mathern, seconded by Representative Silbernagel, and carried on a roll call vote that bill draft [17.0182.03000], as amended, relating to policy changes that do not require additional funding, including changes relating to youth mental health training, emergency procedures to allow 72 hours after admission for examination of an individual with a serious physical condition or illness, behavioral health training for early childhood service providers, and establishing a children's behavioral health task force, be approved and recommended to the Legislative Management.** Representatives Hogan, B. Anderson, Fehr, Muscha, Oversen, Seibel, Silbernagel, and Westlind and Senators Axness, Dever, Larsen, Lee, and Mathern voted "aye." No negative votes were cast.

### Program Expansion With Additional Funding Requirements

The Legislative Council staff presented a bill draft [17.0183.03000] relating to program expansion, including additional funding requirements. The bill draft was prepared for committee discussion and action. The bill draft:

- Provides for an evidence-based alcohol and drug education program to be administered by DHS;
- Provides one-time funding of \$10,000 for startup costs for an evidence-based alcohol and drug education program;
- Provides \$1,956,000 from the general fund for childrens' prevention and early intervention behavioral health services;
- Provides \$70,000 from the general fund for a behavioral health database;
- Provides \$1,920,000 from the general fund for peer-to-peer and family-to-family support services;
- Provides \$12,196,834 from the general fund and \$12,196,834 from other funds for expanding targeted case management services; and
- Provides 1 full-time equivalent position to DHS for administering expanded targeted case management services.

In response to a question from Representative Fehr, Ms. Pamela Sagness, Director, Behavioral Health Services Division, Department of Human Services, said the intent of the bill draft is to establish a responsible authority for overseeing alcohol and drug education pursuant to North Dakota Century Code Section 5-01-08(3). She suggested DHS create standards for an evidence-based program that will be provided by private organizations.

**It was moved by Senator Mathern, seconded by Senator Lee, and carried on a voice vote to amend bill draft [17.0183.03000], relating to program expansion, including additional funding requirements and to change reference of an alcohol and drug education program to alcohol and drug education standards.**

In response to a question from Senator Mathern, Ms. Maggie D. Anderson, Executive Director, Department of Human Services, suggested changing severe emotional disability to severe emotional disturbance to be consistent with the state's Medicaid plan. She also suggested including an effective date of October 1, 2017, for implementing targeted case management services. She said DHS will need time to amend the state's Medicaid plan.

**It was moved by Senator Mathern, seconded by Senator Lee, and carried on a voice vote to amend bill draft [17.0183.03000], relating to program expansion, including additional funding requirements, to change reference of severe emotional disability to severe emotional disturbance, and to provide an effective date of October 1, 2017, for expanding targeted case management services.**

**It was moved by Representative Oversen, seconded by Senator Mathern, and carried on a roll call vote that bill draft [17.0183.03000], as amended, relating to program expansion with additional funding requirements, including changes relating to adding an alcohol and drug education program for minors, and appropriations for childrens' prevention and early intervention behavioral health services, a behavioral health database, peer-to-peer and family-to-family support services, targeted case management services, and one-time funding for startup costs for an alcohol and drug education program for minors, be approved and recommended to the Legislative Management.** Representatives Hogan, B. Anderson, Fehr, Muscha, Oversen, Seibel, Silbernagel, and Westlind and Senators Axness, Dever, Lee, and Mathern voted "aye." Senator Larsen voted "nay."

### Statutory References for Mental Health Professionals

Ms. Jennifer S. N. Clark, Counsel, Legislative Council, presented a bill draft [17.0228.02000] relating to the statutory references for mental health professionals and suggested changes in statute to more fully utilize professionals within the scope of practice. The bill draft was prepared for committee discussion and action. The bill draft includes changes relating to:

- Definitions for tiers of mental health professionals; and
- Statutory changes to update references to new definitions.

In response to a question from Senator Lee, Mr. Christopher Dodson, Executive Director and General Counsel, North Dakota Catholic Conference, said religious practitioners of the healing arts is a standard term used to refer to Christian Science practitioners.

In response to a question from Senator Mathern, Dr. Andrew J. McLean, Medical Director, Department of Human Services, and Chair, Department of Psychiatry and Behavioral Science, University of North Dakota School of Medicine and Health Sciences, said reference to a medically trained Tier 1 professional can be changed to a Tier 1b professional in Sections 3, 23, and 24 of the bill draft if psychiatrists are assumed to be considered physicians within the Tier 1b professional group.

**It was moved by Senator Mathern, seconded by Senator Lee, and carried on a voice vote to amend bill draft [17.0228.02000], relating to the statutory references for mental health professionals, to change Sections 3, 23, and 24 of the bill draft to reference a Tier 1b mental health professional; to remove reference of mental health professionals in Tiers 2, 3, and 4 in Section 2; and include provisions in Section 28 relating to a mental health professional.**

**It was moved by Representative Seibel, seconded by Representative Silbernagel, and carried on a roll call vote that bill draft [17.0228.02000], as amended, relating to statutory references for mental health professionals, be approved and recommended to the Legislative Management.** Representatives Hogan, B. Anderson, Fehr, Muscha, Oversen, Seibel, Silbernagel, and Westlind and Senators Axness, Dever, Larsen, Lee, and Mathern voted "aye." No negative votes were cast.

### **Medicaid Copayment Provisions**

The Legislative Council staff presented a bill draft [17.0229.01000] relating to eliminating Medicaid copayments. The bill draft was prepared for committee discussion and action. The bill draft provides legislative intent for DHS to not require an individual eligible for the medical assistance program to provide a copayment for any Medicaid service. The fiscal impact is anticipated to be approximately \$1.2 million, of which \$600,000 is from the general fund.

Ms. Anderson presented information ([Appendix C](#)) regarding eliminating Medicaid copayments. She said Medicaid pharmacy expenditures may increase significantly if copayments are eliminated.

In response to a question from Chairman Hogan, Ms. Anderson said the bill draft could be amended to exclude pharmacy services.

**It was moved by Representative Silbernagel, seconded by Senator Larsen, and carried on a roll call vote that bill draft [17.0229.01000], relating to eliminating Medicaid copayments, not be approved or recommended to the Legislative Management.** Representatives B. Anderson, Fehr, Seibel, Silbernagel, and Westlind and Senators Dever, Larsen, and Lee voted "aye." Representatives Hogan, Muscha, and Oversen and Senators Axness and Mathern voted "nay."

### **Constitutional Amendment Relating to the State Hospital**

Senator Mathern presented a resolution draft [17.3010.01000] relating to the State Hospital. He said the resolution draft proposes a constitutional amendment to remove provisions requiring a state hospital to be located in Jamestown.

In response to a question from Chairman Hogan, Senator Mathern said the resolution draft is not removing the State Hospital from Jamestown, but removing the requirement that a state hospital must be in Jamestown.

In response to a question from Representative Oversen, Senator Mathern said he would support an amendment to the resolution draft to remove language in the constitution that requires a facility in or near Grafton for individuals with intellectual and developmental disabilities.

Ms. Anderson said Section 25-02-01 also provides for the State Hospital to be located in Jamestown.

Mr. Allen H. Knudson, Legislative Budget Analyst and Auditor, Legislative Council, said Section 25-04-01 also provides for the Life Skills and Transition Center to be located in or near Grafton.

**It was moved by Senator Mathern, seconded by Representative Oversen, and carried on a roll call vote that the resolution draft [17.3010.01000], relating to subsection 8 of Section 12 of Article IX of the Constitution of North Dakota, relating to the State Hospital and the Life Skills and Transition Center, be approved and recommended to the Legislative Management.** Representatives Hogan, Fehr, Muscha, and Oversen and Senators Axness, Dever, and Mathern voted "aye." Representatives B. Anderson, Seibel, Silbernagel, and Westlind and Senators Larsen and Lee voted "nay."

## STUDY OF FAMILY CAREGIVER SUPPORTS AND SERVICES

### Memorandum of Funding for North Dakota's Long-Term Care Continuum Services

The Legislative Council staff presented a memorandum entitled [Funding For North Dakota's Long-Term Care Continuum Services](#). He said the memorandum provides information regarding the funding and inflationary increases provided for long-term care services programs, including nursing home care, basic care, and home- and community-based services. He the memorandum also provides information regarding the service payments for the elderly and disabled (SPED) sliding fee schedule.

### Study of Family Caregiver Supports and Services

The Legislative Council staff presented a bill draft [[17.0227.01000](#)] relating to the study of family caregiver supports and services. The bill draft:

- Provides \$197,580 from the general fund for a pilot project to expand local training programs for family caregiver training;
- Provides \$200,000 of other funds for administering a lifespan respite care program;
- Provides for DHS to establish and promote a caregiver resource center website;
- Provides \$1,535,000 from the general fund for increasing the SPED program sliding fee schedule; and
- Provides for DHS to review services and related funding within its Long-Term Care Division and provides for a report to the Legislative Management.

**It was moved by Senator Mathern, seconded by Senator Dever, and carried on a voice vote to amend bill draft [[17.0227.01000](#)], relating to the study of family caregiver supports and services, to provide for the SPED sliding fee scale to be adjusted to commensurate with provider inflationary increases since 2009.**

Chairman Hogan suggested changing language relating to the lifespan respite care program to allow funds to be used for public awareness of the program.

**It was moved by Senator Mathern, seconded by Senator Dever, and carried on a voice vote to amend bill draft [[17.0227.01000](#)], relating to the study of family caregiver supports and services, to change reference of marketing and outreach efforts to public information.**

Senator Larsen expressed concern regarding funding being appropriated to the North Dakota State University (NDSU) Extension Service for implementing a caregiver training program. He said he supports family caregivers, but does not support involving the NDSU Extension Service in the expansion.

In response to a question from Representative Silbernagel, Ms. Nancy Nikolas-Maier, Director, Aging Services Division, Department of Human Services, said it is unlikely DHS could implement a caregiver training program statewide for \$197,580.

In response to a question from Chairman Hogan, Ms. Nikolas-Maier said the NDSU Extension Service has a presence in rural communities. She said DHS can assist with informing family caregivers of the training program.

Mr. Josh Askvig, Advocacy Director, AARP North Dakota, presented information ([Appendix D](#)) regarding the study of family caregiver supports and services and the caregiver training program. He said the "Powerful Tools for Caregivers" training program is an evidence-based program that provides information to caregivers regarding care, services, and resources. He said caregivers that receive training have better health and wellness. He said training reduces the risk of stress.

Mr. Larry Hinder, Grant County, presented information relating to the family caregiver supports and services study. He discussed his experiences as a caregiver for his wife. He expressed concerns regarding available supports and services in rural communities.

**It was moved by Senator Larsen, seconded by Senator Dever, and failed on a voice vote to remove Section 1 of bill draft [[17.0227.01000](#)], relating to an appropriation of \$197,580 from the general fund to the NDSU Extension Service for a pilot project to expand local training programs to include family caregiver training.**

In response to a question from Representative Fehr regarding a caregiver resource center website, Ms. Nikolas-Maier said DHS determined the costs will be minimal to reconfigure and add a caregiver resource center website within the Aging and Disability Resource-LINK at [www.carechoice.nd.gov](http://www.carechoice.nd.gov).

**It was moved by Representative Oversen, seconded by Senator Larsen, and carried on a roll call vote that bill draft [17.0227.01000], as amended, relating to the study of family caregiver supports and services, including appropriations for a pilot project to expand local training programs for family caregiver training, administering a respite care program, adjusting the SPED sliding fee schedule, and providing for DHS to establish a caregiver resource center website and review services and related funding within its Long-Term Care Division, be approved and recommended to the Legislative Management.** Representatives Hogan, B. Anderson, Fehr, Muscha, Oversen, Seibel, Silbernagel, and Westlind and Senators Axness, Dever, Larsen, Lee, and Mathern voted "aye." No negative votes were cast.

### **Hospital Discharge Policies**

The Legislative Council staff presented a bill draft [17.0124.02000] relating to hospital discharge policies. The bill draft includes components that must be included in hospital discharge policies.

Mr. Askvig presented information ([Appendix E](#)) regarding hospital discharge policies. He said 30 states, the District of Columbia, and two territories have passed legislation similar to the Caregiver Advise, Record, Enable Act. He said other rural states include Wyoming, Alaska, Utah, and Nebraska. He said a national caregiving report conducted by the University of Pittsburgh Health Policy Institute in collaboration with the RAND Corporation provides that more than 24 states require hospitals to educate caregivers about necessary procedures to assist patients being discharged.

**It was moved by Senator Mathern, seconded by Representative Fehr, and carried on a roll call vote that bill draft [17.0124.02000], relating to hospital discharge policies, be approved and recommended to the Legislative Management.** Representatives Hogan, B. Anderson, Fehr, Muscha, Oversen, Seibel, Silbernagel, and Westlind and Senators Axness, Dever, Larsen, Lee, and Mathern voted "aye." No negative votes were cast.

## **OTHER COMMITTEE REPORTS**

### **Department of Human Services Behavioral Health Services Report and Behavioral Health Needs Assessment Final Report**

Ms. Sagness presented information ([Appendix F](#)) regarding DHS's quarterly behavioral health services report pursuant to Section 24 of 2015 Senate Bill No. 2012. She said the report provides information relating to programs administered through the Behavioral Health Services Division, and information on services provided through the regional human service centers, including substance abuse and adult and youth mental health services. She said the report includes services that were provided during the period from July 2015 to June 2016.

Ms. Sagness provided the final report ([Appendix G](#)) for the behavioral health needs assessment. She said the preliminary report was presented to the committee at the July 25-26, 2016, committee meeting.

Ms. Sagness also provided an update regarding rules adopted to establish and administer the voucher system to assist in the payment of addiction treatment services provided by private licensed substance abuse treatment programs pursuant to Section 4 of 2015 Senate Bill No. 2048. She said the program began July 1, 2016. She said there are currently two active providers in the state--Heartview Foundation and ShareHouse, Inc. She said individuals are beginning to receive services. She said the voucher system also was established to provide services to rural areas. She said DHS encourages rural providers to participate in the program.

### **Down Syndrome and Eligibility for Assistance**

The Legislative Council staff presented a bill draft [17.0049.01000] to add Down syndrome to the definition of developmental disability pursuant to Section 25-01.2-01(1) relating to medical assistance eligibility.

**It was moved by Senator Dever, seconded by Representative Oversen, and carried on a roll call vote that bill draft [17.0049.01000], relating to Down syndrome and eligibility for assistance, be approved and recommended to the Legislative Management.** Representatives Hogan, B. Anderson, Fehr, Muscha, Oversen, Seibel, Silbernagel, and Westlind and Senators Axness, Dever, Larsen, Lee, and Mathern voted "aye." No negative votes were cast.

### **Addiction Counseling**

The Legislative Council staff presented a bill draft [17.0036.03000] relating to the definition of addiction counseling. The bill draft adds tobacco, nicotine, and gambling to the definition of addiction counseling.

The Legislative Council staff presented a bill draft [17.0289.01000] relating to addiction counseling. The bill draft adds tobacco, nicotine, and gambling to the definition of addiction counseling as well as other harmful substances, including those identified in the *Diagnostic and Statistical Manual of Mental Disorders*, American Psychiatric Association, 5<sup>th</sup> edition, text revision (2013).

Representative Fehr presented a bill draft [17.0240.02000] relating to addiction counseling. The bill draft adds other harmful substances or behavioral addiction to the definition of addiction counseling. In addition, the bill draft allows individuals licensed by the State Board of Psychologist Examiners, North Dakota Board of Social Work Examiners, Board of Counselor Examiners, or the Marriage and Family Therapy Licensure Board to conduct addiction counseling services.

Dr. Julijana Nevland, Chair, Board of Addiction Counseling Examiners, and Assistant Professor and Chair, Graduate Counseling, University of Mary, said the Board of Addiction Counseling Examiners does not seek to restrict other boards' scope of practice. She said the board is concerned that some of those professions may not have appropriate training relating to addiction counseling.

**It was moved by Senator Lee, seconded by Representative Seibel, and carried on a voice vote, to amend bill draft [17.0289.01000], relating to addiction counseling, to include other harmful substance or behavior, including a substance identified in the *Diagnostic and Statistical Manual of Mental Disorders*, American Psychiatric Association, 5<sup>th</sup> edition, text revision (2013), or future edition adopted by the board.**

**It was moved by Representative Oversen, seconded by Senator Lee, and carried on a voice vote, to amend bill draft [17.0289.01000], relating to addiction counseling, to include other harmful substance or behavior, as defined in the *Diagnostic and Statistical Manual of Mental Disorders*, American Psychiatric Association, 5<sup>th</sup> edition, text revision (2013), or future edition adopted by the board.**

In response to a question from Senator Mathern, Ms. Clark said items 1 and 2 of Section 2 of bill draft [17.0289.01000] relating to addiction counseling, are not substantive changes. She said the changes are to bring language in Century Code up-to-date.

**It was moved by Senator Mathern, seconded by Representative Silbernagel, and carried on a voice vote, to amend bill draft [17.0289.01000], relating to addiction counseling, to add items 1 and 2 from Section 2 of bill draft [17.0240.02000], which updates statutory provisions in Section 43-45-06, relating to exemptions for addiction counseling practice.**

**It was moved by Representative Seibel, seconded by Representative Westlind, and carried on a roll call vote that bill draft [17.0289.01000], as amended, relating to addiction counseling, be approved and recommended to the Legislative Management.** Representatives Hogan, B. Anderson, Muscha, Oversen, Seibel, Silbernagel, and Westlind and Senators Axness, Dever, Larsen, Lee, and Mathern voted "aye." Representative Fehr voted "nay."

### COMMITTEE DISCUSSION AND STAFF DIRECTIVES

**It was moved by Senator Mathern, seconded by Senator Dever, and carried on a voice vote that the Chairman and the Legislative Council staff be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Management.**

No further business appearing, Chairman Hogan adjourned the committee sine die at 4:00 p.m.

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Michael C. Johnson  
Fiscal Analyst

ATTACH:7