

# ACUTE PSYCHIATRIC TREATMENT COMMITTEE

Section 5 of House Bill No. 1012 (2021) created the Acute Psychiatric Treatment Committee consisting of eight members to study the acute psychiatric hospitalization and related step-down residential treatment and support needs of individuals with mental illness. The Legislative Management assigned the committee three additional studies:

- Section 2 of Senate Bill No. 2161 (2021) directed a study regarding the implementation of expanded behavioral health services, including the implementation of the Medicaid 1915(i) state plan amendment, capacity and utilization of the State Hospital, a behavioral health bed management system, and implementation of the recommendations of the 2018 North Dakota behavioral health system study conducted by the Human Services Research Institute (HSRI).
- House Bill No. 1470 (2021) directed a study regarding behavioral health needs of incarcerated adults. The study was to consider the behavioral health needs of incarcerated adults, including access, availability, and delivery of services. The study also was to include input from stakeholders, including representatives of law enforcement, social and clinical service providers, educators, medical providers, mental health advocacy organizations, emergency medical service providers, tribal government, state and local agencies and institutions, and family members.
- Senate Bill No. 2336 (2021) directed a study regarding the occupational boards that address mental health and behavioral health issues which may include the State Board of Psychologist Examiners, Board of Addiction Counseling Examiners, Board of Counselor Examiners, Education Standards and Practices Board, North Dakota Board of Social Work Examiners, and North Dakota Marriage and Family Therapy Licensure Board. The study was to include a review of the rules adopted by the boards and consideration of the frequency with which the rules are reviewed, whether there are barriers to practice and barriers to admission of foreign practitioners, and whether there is adequate training for board members and executive directors of these boards.

Committee members were Representatives Jon O. Nelson (Chairman), Emily O'Brien, Randy A. Schobinger, and Michelle Strinden and Senators Kyle Davison, Dick Dever, Kathy Hogan, and Tim Mathern.

## ACUTE PSYCHIATRIC HOSPITALIZATION AND RESIDENTIAL CARE STUDY

### Background

Section 5 of House Bill No. 1012 directed a study of the acute psychiatric hospitalization and related step-down residential treatment and support needs of individuals with mental illness. The committee was required to gather input from stakeholders and other groups, including private hospitals, the Department of Health and Human Services (DHHS), and mental health advocates. The study was to include the review of options for a long-term plan for acute psychiatric hospitalization and related step-down residential treatment and support needs in the state and short-term options during the next 2 bienniums to contract with private provider acute psychiatric care facilities to provide treatment services in four or more cities in the state, workforce needs of such specific locations, and options to replace the existing State Hospital facility with one or more treatment facilities focused on forensic psychiatric evaluation and treatment.

The committee, with the approval of the Legislative Management, was allowed to obtain consulting services to determine the total number of acute care beds needed in the state and to develop recommendations for private provider contracts, treatment requirements and outcome measures, locations in the state, including private and public facilities, and the future use of facilities at the State Hospital campus, including the LaHaug Building. The study provided consulting services also may include the development of conceptual drawings for recommendations for a new State Hospital. The 2021 Legislative Assembly appropriated one-time funding of \$500,000 from the general fund to the Legislative Council for consulting services of the study.

The Department of Health and Human Services was required to provide to the consultants and the committee a complete description of other outpatient and inpatient private and public behavioral health services, including substance use disorder (SUD) facilities existing in the state to prevent acute behavioral health hospitalization and to support patients following discharge from psychiatric hospitalization and related residential care. The department was required to seek Medicaid plan amendments or Medicaid waivers to allow federal funding reimbursement for services provided in institutions for mental diseases (IMD) to Medicaid beneficiaries between the ages of 21 and 64.

### State Hospital

#### Background

The State Hospital was first authorized in 1883, opened in May 1885, and is located on the south side of Jamestown. The State Hospital is referenced in Section 12 of Article IX of the Constitution of North Dakota. It provides psychiatric and chemical dependency treatment to residents of the state. North Dakota Century Code Chapter 25-02 contains

various provisions related to the hospital, including Section 25-02-01, which provides an institution for the care of the mentally ill must be maintained in Jamestown, the institution must be known as the State Hospital, and is to be administered and controlled by DHHS.

Section 25-02-03 provides the State Hospital is an IMD serving specialized populations of the mentally ill, including persons suffering from drug addiction or alcoholism. The State Hospital is one component of the North Dakota mental health delivery system and serves as a resource to community-based treatment programs. The State Hospital, pursuant to rules adopted by DHHS, receives and cares for all persons with mental illness, including persons suffering from drug addiction or alcoholism, residing within the state, and is required to furnish to those persons all needed food, shelter, treatment, and support necessary to restore their mental health or to alleviate their illness or suffering.

### Services

The State Hospital provides short-term acute inpatient psychiatric and substance abuse treatment, intermediate psychosocial rehabilitation services, forensic services, and safety net services for adults. Clinical services include psychiatry, psychology, nursing, social work, addiction counseling, chaplaincy, education, occupational therapy, therapeutic reaction, and vocational rehabilitation services. Treatment is provided for individuals with serious mental illness or chemical dependency diagnoses. Inpatient evaluation and treatment services are provided for sexually dangerous individuals. The Adult Psychiatric Services Unit provides services for patients age 18 and older who have a primary diagnosis of serious mental illness. Inpatient services include short-term stabilization, trauma program, geropsychiatric services, and psychosocial rehabilitation services.

### Facilities

The following is a summary of buildings located on the State Hospital campus:

Buildings	Use	Year Built	Square Footage	Percentage Used
Electrical substation	Main electrical substation for campus, houses, and backup generator	1984	1,800	100%
Powerhouse	Centralized power plant and smokestack	1914	39,285	100%
Sewage lift station	Sanitary sewer lift station to connect to city water	2012	800	100%
Grounds shop	Equipment storage	1956	3,200	100%
Vehicle maintenance shop	Equipment repair	1949	4,550	100%
Therapeutic pool	All hospital therapeutic exercise	1967	6,800	100%
LaHaug	Inpatient services	1984	143,127	90%
Gronewald-Middleton	Residential sex offender treatment	1956	82,670	60%
New Horizons	Residential SUD services and inpatient treatment	1968	75,485	75%
Cottages (7)	Residential services, student housing, and storm accommodations	1954	21,000	75%
Learning Resource Center	Patient services, staff offices, and cafe	1916	75,485	75%
Greenhouse	Patient services and treatment space	1997	3,000	25%
16 West	Plant services, offices, and storage	1930	39,990	50%
Superintendent cottage	Storm sleeping rooms and event space	1917	5,552	20%
Pedestrian tunnels	Pedestrian traffic and dietary delivery	N/A	24,832	60%
Garages	Storage	1988	1,360	25%
Grounds warehouse	Supply storage	1917	2,755	25%
Warehouse 1	Storage	1929	6,020	10%
Warehouse 2	Plumbing and electrical storage	1925	23,414	10%
Grounds implement shed	Large equipment storage	1926	5,370	20%
Quonset	Plant equipment storage	1965	3,130	25%
Administration building <sup>1</sup>	N/A	1916	24,675	0%
Water tower	N/A	N/A	N/A	0%
Water pressure pump house	N/A	1958	4,802	0%
Chapel <sup>1</sup>	N/A	1961	13,140	0%
Water treatment	N/A	1958	4,802	0%
Employee building <sup>1</sup>	N/A	1952	34,345	0%

<sup>1</sup>Section 17 of House Bill No. 1012 (2021) authorized DHHS to demolish the administration building, chapel, employee building, and associated tunnels during the 2021-23 biennium.

### LaHaug Building

The LaHaug Building, built in 1984, is a 143,127 square foot facility on the State Hospital campus used for the treatment of adults who receive psychiatric and substance abuse services. The building is the newest on the State Hospital campus. The building contains the State Hospital clinic, pharmacy, laboratory, x-ray, staff offices, and recreational and treatment areas.

## **Residential Treatment Facilities**

Psychiatric residential treatment facilities provide children and adolescents with therapeutic services, integrating group living, educational services, and a clinical program based on a clinical assessment and individual treatment plan that meets the needs of the child and family. The facilities are available to children in need of active psychotherapeutic intervention who cannot be treated effectively in their home, another home, or a less restrictive setting. North Dakota residential treatment providers include:

- Dakota Boys and Girls Ranch - Bismarck, Fargo, and Minot
- Nexus-PATH Family Healing - Fargo
- Pride Manchester House - Bismarck
- Ruth Meiers Adolescent Center - Grand Forks

## **Department of Health and Human Services Testimony**

### **State Hospital**

The committee received testimony from representatives of DHHS regarding inpatient and outpatient private and public behavioral health services, including SUD facilities in the state available to prevent acute behavioral health hospitalization and to support patients following discharge from psychiatric hospitalization and related residential care. The testimony indicated:

- Crisis services are available within 45 miles of the eight largest cities in North Dakota.
- There is a pilot project in place with a critical access hospital to provide crisis services remotely.
- If the pilot project is successful, each of the 32 critical access hospitals in the state could have a service area of 45 miles surrounding the hospital, resulting in more critical service coverage in the state.
- While crisis services are nearly fully staffed, certain human service centers have experienced difficulty recruiting physicians.
- While agreements may be possible with North Dakota hospital facilities and other states' hospital facilities, there may be licensing restraints for physicians attempting to practice outside North Dakota.
- Crisis intervention services and services offered by human service centers are available to children, adolescences, and adults.

The committee received testimony from representatives of DHHS regarding behavioral health services available at the State Hospital, including residential SUD treatment, residential sexual offender treatment, residential transitional living, outpatient SUD treatment, outpatient adult forensic assessments, outpatient youth forensic assessments, and outpatient restoration treatment. The testimony indicated:

- The State Hospital serves 1,000 to 1,200 patients a year.
- The State Hospital has 100 inpatient acute psychiatric beds but 25 beds were closed due to the Coronavirus (COVID-19) pandemic to establish an isolation area for residents who test positive for COVID-19.
- Of the 73 inpatient beds filled at the State Hospital in October 2021, 24 beds were for rehabilitation patients, 22 beds were for geropsychiatric patients, 16 beds were for acute psychiatric patients, 7 beds were for restore-to-competency patients, and 4 beds were for jail patients.
- Of the 51 residential beds filled at the State Hospital in October 2021, 30 beds were for sex offender patients, 13 beds were for SUD patients, and 8 beds were for transitional living patients.
- On average, patients at the State Hospital are referred for admission from private hospitals (41 percent), local admissions primarily emergency room referrals from Jamestown and Devils Lake (24 percent), residential SUD programs (17 percent), jails for psychological evaluation (12 percent), and forensic referrals for assessment of criminal responsibility and sex offenses (6 percent).
- The State Hospital receives patients needing inpatient acute psychiatric hospitalization services primarily from Cass, Burleigh, Williams, and Grand Forks Counties.

The committee received testimony from representatives of DHHS regarding facilities on the State Hospital campus. The testimony indicated:

- The estimated combined deferred maintenance expense of buildings on the State Hospital grounds is approximately \$51.23 million in the near future and \$148 million in total.

- 76 percent of mechanical, electrical, plumbing, and structural systems have deteriorated and have exceeded their useful life expectancy.
- Future capacity and utilization needs of the State Hospital include screening for all State Hospital admissions, expansion of community services, expansion of intensive community treatment services, development of a statewide crisis system, expansion of SUD residential services, contracts for local private hospital beds, geropsychiatric skilled nursing facilities, and teleforensic assessments.
- Three options for the future of the State Hospital have been developed by DHHS, including the construction of a new State Hospital facility, renovating the LaHaug Building and New Horizons Building, and renovating all patient areas of the State Hospital.
- DHHS supports the construction of a new State Hospital facility, which would improve patient outcomes, improve patient and staff safety, create operational efficiencies, and remove the need for 40 full-time equivalent (FTE) State Hospital positions.
- While the child and adolescent unit at the State Hospital supported 8 beds prior to its closure, if those services were reinstated, the State Hospital would request a 12-bed unit.

### **Medicaid State Plan Amendments**

The committee received testimony from representatives of DHHS regarding progress in seeking Medicaid plan amendments or Medicaid waivers to allow federal funding reimbursement for services provided in IMDs to Medicaid beneficiaries between the ages of 21 and 64. The testimony indicated:

- Four facilities are classified as IMDs in North Dakota and have a combined 373 beds, including the State Hospital in Jamestown (140 beds), Prairie St. John's Hospital in Fargo (110 beds), Sharehouse in Fargo (87 beds), and Summit Prairie Recovery Center in Raleigh (36 beds).
- Section 1115 of the Social Security Act gives the Secretary of the United States Department of Health and Human Services authority to approve experimental, pilot, or demonstration projects that promote the objectives of Medicaid and the children's health insurance program. Under this authority, the Secretary may waive certain provisions of Medicaid law to give states additional flexibility to design and improve programs.
- Some states have received approval from the United States Department of Health and Human Services Centers for Medicare and Medicaid Services (CMS) for Section 1115 waivers related to SUD treatment services provided in IMDs.
- In November 2018, CMS clarified Section 1115 waivers may be approved for services provided in IMDs that focus primarily on treatment for individuals with serious mental illness or serious emotional disturbance.
- Based on conversations with other states, it may cost \$3.5 million and require 5 FTE positions to complete the Section 1115 waiver process within the next 3 to 5 years. However, the cost may increase if additional system work is needed or rates need to be adjusted.
- As of September 2021, 49 states, as well as the District of Columbia and Puerto Rico, have applied for at least one Section 1115 waiver, resulting in a total of 153 waiver applications. Of these states, 36 have had a waiver application approved by the Secretary of the United States Department of Health and Human Services which is currently active.
- North Dakota has not submitted a Section 1115 waiver application.

### **Request for Proposal and Consultant Selection**

The committee, with Legislative Management Chairman approval, issued a request for proposal (RFP) in August 2021 to hire a consultant to provide information and recommendations related to the Acute Psychiatric Treatment Committee's study of acute psychiatric and residential care needs in the state.

Two organizations, Renee Schulte Consulting, LLC, and Schafer Consulting, Inc., submitted proposals in response to the committee's RFP. In September 2021, the committee heard proposals from the organizations and selected Renee Schulte Consulting, LLC. The Chairman of Legislative Management approved a contract with Renee Schulte Consulting, LLC, which provided Renee Schulte Consulting, LLC, be paid \$247,000 to assist the committee in its study and provide recommendations by April 2022 on the following:

1. Development of options and a recommendation for a long-term plan for acute psychiatric hospitalization and related step-down residential treatment and support needs in the state, including:
  - a. The number of acute care beds needed in the state;
  - b. Appropriate locations in the state for treatment and support services, considering workforce availability;

- c. The involvement of private providers, including contract requirements, treatment requirements, and outcome measurers; and
  - d. The use of existing public facilities and the need for new public facilities, including options to replace the existing State Hospital facility with one or more treatment facilities focused on forensic psychiatric evaluation and treatment.
2. Development of options and a recommendation for a short-term plan for the remainder of the 2021-23 biennium and the 2023-25 biennium to contract with private acute psychiatric care facilities to provide appropriate treatment services in four or more cities in the state.
  3. Development of options and a recommendation for the future use of facilities at the State Hospital, including the LaHaug Building.

**Renee Schulte Consulting, LLC**

The committee received testimony from Renee Schulte Consulting, LLC, regarding the organization's methodology of collecting information to assist the committee in its study, which included:

- Conducting interviews with private providers to determine the number of acute psychiatric hospitalization beds needed in the state, why private hospitals have chosen not to offer acute psychiatric hospitalization services, and if the barriers to offering those services are financial-, risk-, or space-based.
- Obtaining acute psychiatric hospitalization and behavioral health utilization data from private providers and DHHS for Medicaid and non-Medicaid patients to attempt to quantify the number of uninsured patients in need of these services.
- Using information from previous North Dakota behavioral health studies to discover solutions for problems and concerns related to the committee's study while not recreating previous studies.

The committee received the final report from Renee Schulte Consulting, LLC, on April 28, 2022. The final report included the following recommendations relating to acute psychiatric hospitalization and related step-down and residential treatment and support needs:

Recommendation	Implementation Process	Priority Level
<b>Short-Term Plan - 2021-23 Biennium</b>		
1. Draft a proposal to build a modern 75- to 85-bed State Hospital	Direct DHHS to develop a plan with estimated costs	High
2. Draft a proposal to allow the Department of Corrections and Rehabilitation (DOCR) to renovate and utilize the LaHaug building	Direct DOCR to develop a plan with estimated costs	Medium
3. Develop regulations to fund acute psychiatric services and beds in critical access hospitals, most notably in Jamestown, Devils Lake, Minot, Dickinson, and Williston	Legislation needed	High
4. Amend North Dakota Administrative Code Chapter 33-07-01.1 so emergency psychiatric treatment and behavioral health services can be provided in emergency departments in all hospitals	Administrative rule change	High
5. Continue and increase use of coordinated care agreements between DHHS and the federal Indian Health Services (IHS) and other cultural affair organizations	Direct DHHS to pursue and develop an action plan	High
6. Evaluate the children and adolescent admission and transfer process from hospitals to residential facilities	Direct DHHS to conduct a functional process audit	High
7. Codify the purpose of the State Hospital and human service centers to clarify the State Hospital care for all mentally ill individuals	Legislation needed	High
8. Improve accountability in hospital and provider contracts, including requiring "no eject" and "no reject" language related to patient discharges be included in all contracts	Direct DHHS to require providers to adhere to all Medicaid guidelines and regularly report data and predetermined outcome measures established in DHHS regulations	
9. Define mental health levels of care similar to how SUD levels of care are defined	Administrative rule change	High

Recommendation	Implementation Process	Priority Level
10. Fund an implementation team consisting of 3 to 5 individuals to implement the report recommendations	Appropriation needed	High
11. Improve communications and collaboration between DHHS, IHS, and providers	Direct DHHS to pursue and develop an action plan	High
12. Maximize use of full service telepsychiatry throughout the state and ensure parity with in-person psychiatry services	Legislation needed	High
<b>Long-Term Plan - 2023-25 Biennium</b>		
13. Build a modern State Hospital	Appropriation needed	High
14. Provide funding for renovations to the LaHaug Building	Appropriation needed	Medium
15. Demolish unused State Hospital buildings	Appropriation needed	Medium
16. Conduct a state fiscal audit on the State Hospital and human service centers	Direct the State Auditor to conduct an audit	High
17. Assign a cultural liaison between minority population groups and human service centers, DHHS, and health care stakeholders	Appropriation needed	High
18. Require state-administered licensing boards rather than volunteer-led licensing boards to standardize board administrative processes and increase efficiencies	Legislation needed	Medium
19. Codify universal licensing recognition for each behavioral health profession to promote easy relocation of licensed professionals	Legislation needed	Medium
20. Codify a composite licensing board for family therapists, counselors, and addiction counselors to provide consistent regulatory oversight, streamline processes, and remove barriers to interprofessional services	Legislation needed	Medium

Recommendations included in the Renee Schulte Consulting, LLC, final report related to behavioral health workforce include:

- Coordinating or reorganizing local administrative workforce groups.
- Developing standardized minimum data expectations when collecting primary health and behavioral health workforce data.
- Supporting integration of human service center and behavioral health professional degree program missions.
- Providing a grant fund similar to Minnesota's medical education and research costs fund to allow behavioral health care facilities to be reimbursed for supervisor teaching and training costs of behavioral health program students.
- Providing matching funds from the state or seeking private matching funds for federally supported behavioral health training and professional service programs for underserved areas and for children and adolescents.
- Supporting the State Board of Psychologist Examiners' participation in the psychology interjurisdictional compact, also known as PSYPACT.

Recommendations included in the Renee Schulte Consulting, LLC, final report related to behavioral health workforce loan repayment programs include removing loan repayment program restrictions that limit supervisory or administration time for teaching and training, adding loan repayment program hour and location flexibility, allowing students to apply for loan repayment programs and receive program approval contingent upon licensure, and increasing state funded loan repayment programs for behavioral health professionals with priority for areas of the state in most need.

The committee received testimony from Renee Schulte Consulting, LLC, regarding conclusions reached while compiling the recommendations related to acute psychiatric hospitalization and related step-down residential treatment and support needs in the state. The testimony indicated:

- Behavioral health data collection was a challenge and an evaluation should be considered regarding the type of behavioral health data collected and the agency responsible to collect it. It was suggested North Dakota research universities may be appropriate entities to collect behavioral health data and the North Dakota Health Information Network may be an appropriate system to store the data.

- The COVID-19 pandemic caused a reduction in the number of open acute psychiatric beds and increased difficulty for providers to maintain an appropriate number of staff for each bed.
- The COVID-19 pandemic caused slower court actions and a reduction in the availability of acute psychiatric beds at the State Hospital, resulting in an increase in mentally ill individuals being housed in jails.
- Crisis systems will not be successful unless the state and private providers have strong relationships with law enforcement and jail systems.
- The closing of private provider acute psychiatric beds in multiple areas of the state has reduced the levels of care available to children and adults.
- Providers often are slow to implement use of the Medicaid 1915(i) waiver.
- Incorrect World Health Organization Disability Assessment Schedule (WHODAS) scores have made fewer individuals eligible for care.
- Multiple levels of care in the state are not functioning properly, resulting in individuals receiving care in levels they often do not belong and because there is a lack of appropriate followup care facilities, these individuals are not discharged, resulting in new patients waiting for beds.
- Of the 3,323 total hospital beds in the state, 244 are adult acute psychiatric beds, which is considered adequate for North Dakota's population; however, the beds are not in the correct locations, are being shared with out-of-state patients, or are not being used correctly as problems related to improper levels of care, payment for each level of care, procedures to access each level, and inappropriate discharging of acute care patients are present throughout the state.
- Critical access hospitals, not the State Hospital, should provide short-term acute psychiatric services to the Jamestown and Devils Lake regions so the State Hospital can focus on treating patients with the greatest intensity and complexity of need.
- The State Hospital should focus on forensic evaluations of acute psychiatric patients and sex offenders, individuals referred by the courts for psychological evaluation, and individuals with complex needs.
- The State Hospital should not provide residential SUD services.
- Recommended levels of care at the human service centers include assessment and evaluation, case management, mobile crisis, crisis stabilization, and crisis residential services.
- The final report does not include information regarding whether the state should pursue an IMD waiver because the state should focus on requiring providers to use Medicaid when possible and further evaluate the use of the newly implemented Medicaid 1915(i) state plan amendment, then consider the need for an IMD waiver.

### **Department of Health and Human Services Response to Consultant Recommendations**

The committee received testimony from DHHS in response to recommendations included in the Renee Schulte Consulting, LLC, final report. The testimony indicated DHHS:

- Supports the recommendation to build a new state hospital with 75 to 85 beds for adult services and will work with local providers in the Jamestown and Devils Lake regions to provide short-term acute psychiatric services to citizens rather than the State Hospital.
- Will continue to partner with critical access hospitals as crisis stabilization services are expanded.
- Supports recommendations to increase tribal care assessment and capacity coordination with private providers.
- Believes a collaborative workgroup should be established to address recommendations related to geropsychiatric services.
- Supports the recommendation to increase residential SUD treatment program capacity rather than those services being provided at the State Hospital and will suggest changes to administrative rules to address this recommendation.
- Supports recommendations to update statutory references regarding definitions and the purpose of the State Hospital and human service centers.
- Requested examples of no eject/no reject contract language from Renee Schulte Consulting, LLC, and have reviewed those examples.
- Agrees with data management recommendations and could provide proposals to identify investments in infrastructure to increase capacity for data collection, management, and analysis.

- Agrees with recommendations to increase financial accountability and transparency and requests these efforts be led by an individual or organization with health care expertise so operational efficiencies are the primary focus, rather than a financial audit.
- Supports the recommendation to encourage all public and private providers to use Medicaid when possible and has encouraged the use of Medicaid through the Medicaid 1915(i) state plan amendment.
- Agrees with the recommendation to codify mental health levels of care and is willing to provide examples of potential mental health level language.
- Supports recommendations to increase use of telepsychiatry, particularly in correctional facilities.
- Agrees with recommendations to reduce licensing barriers for behavioral health practitioners to increase behavioral health workforce.
- Will continue to pursue the expansion of inpatient beds in areas of the state in most need, as recommended in the Renee Schulte Consulting, LLC, final report.
- Is seeking guidance from the Legislative Assembly regarding whether children and adolescent inpatient services should be provided at the State Hospital or by private providers. The department indicated there is interest among private providers to provide additional children and adolescent inpatient services which may be a better option than re-establishing a children and adolescent unit at the State Hospital.
- Does not have the number of staff necessary to implement the Renee Schulte Consulting, LLC, final report recommendations.

### **Department of Health and Human Services Workgroups**

The committee encouraged DHHS to form behavioral health workgroups with public and private organizations to implement acute psychiatric hospitalization, crisis stabilization, and geropsychiatric recommendations included in the Renee Schulte Consulting, LLC, final report at the State Hospital, critical access hospitals, and other provider facilities.

The committee received testimony from DHHS regarding the workgroups formed to address recommendations included in the Renee Schulte Consulting, LLC, final report. The testimony indicated:

- DHHS formed a workgroup related to behavioral health services in critical access hospitals and a workgroup related to geropsychiatric needs in the state, which have goals of identifying barriers for individuals to receive services and finding solutions to increase access to those services.
- Because the goals of the task forces align with recommendations from the 2018 HSRI report, DHHS has contracted with HSRI to facilitate the workgroup meetings.
- Through September 2022, the behavioral health services in critical access hospitals workgroup met to discuss recommendations in the Renee Schulte Consulting, LLC, final report and identify barriers for critical access hospitals to provide behavioral health services.
- The behavioral health services in critical access hospitals workgroup identified transportation to and from critical access hospitals as a barrier for individuals to receive behavioral health services.
- Through September 2022, HSRI hosted two meetings of the geropsychiatric services workgroup to discuss service needs and concerns of individuals with significant behavioral health, aging, and disability needs. Most stakeholders in the geropsychiatric services workgroup were in support of the Renee Schulte Consulting, LLC, recommendation to create separate regulations and licensing standards for populations with complex needs and were in support of changing the term "geropsychiatric" to reflect that adults younger than 55 are provided these services.
- The next steps of the geropsychiatric services workgroup include evaluating best practices of other states regarding needs of different age population groups and the creation of separate regulations and licensing standards.

### **Other Testimony Received**

The committee received testimony and comments from the stakeholders, providers, and other interested persons, including:

- Mental Health Advocacy Network - Regarding acute psychiatric hospital, residential care, and behavioral health services and programs available and any recommendations of additional services and needs in the state.
- Mandan, Hidatsa, and Arikara Nation - Regarding SUD treatment services and programs available and recommendations for additional behavioral health services and needs in the state.

- Mosaic Wellness Center - Regarding behavioral health services available in rural communities and recommendations for additional services and needs in the state.
- North Dakota Hospital Association - Regarding acute psychiatric hospitalization, residential care, and behavioral health services available and recommendations for additional services and needs in the state.
- Altru Health System - Regarding acute psychiatric hospitalization, residential care, and behavioral health services available and recommendations for additional services and needs in the state.
- West Central Human Service Center - Regarding acute psychiatric hospital and residential care services and programs available and recommendations for additional services and needs.
- Catholic Health Initiatives St. Alexius - Regarding contracts with private providers for the expansion of behavioral health services in western North Dakota.
- Anne Carlsen Center - Regarding behavioral health services and programs available and suggestions for additional services needed in the state.
- Dakota Boys and Girls Ranch - Regarding behavioral health services and programs available and suggestions for additional services in the state.
- Fargo Medical Center - Regarding federal suicide prevention and treatment programs available to North Dakota veterans and any additional service needs.
- Information Technology Department - Regarding availability of behavioral health data shared on the North Dakota Health Information Network, capabilities of the network, and any limitation for sharing behavioral health data.
- Integrated Telehealth Partners - Regarding telepsychiatry services the organization provides and services available to North Dakota providers.
- Sanford Mayville Medical Center and Sanford Hillsboro Medical Center - Regarding the role of rural providers providing behavioral health services in the state and comments regarding recommendations included in the Renee Schulte Consulting, LLC, final report.
- Grafton Unity Medical Center - Regarding the role of rural providers providing behavioral health services in the state and comments regarding recommendations included in the Renee Schulte Consulting, LLC, final report.
- Blue Cross Blue Shield of North Dakota - Regarding the organization's role in the behavioral health system in the state and comments regarding recommendations included in the Renee Schulte Consulting, LLC, final report.
- National Council for Mental Wellbeing - Regarding certified community behavioral health clinic models.
- Prairie St. John's Hospital - Regarding acute psychiatric, residential treatment, and behavioral health services and programs available and suggestions for additional services needed in the state.
- Altru Health System - Regarding the organization's plans to expand inpatient behavioral health services.

### **Tours**

The committee toured the following facilities while studying acute psychiatric hospitalization and related step-down residential treatment and support needs in the state:

- The State Hospital grounds and facilities, including the power plant, all faiths church, administration building, Gronewald Middleton Building, New Horizons Building, and LaHaug Building.
- Prairie St. John's Hospital grounds and facilities, including existing facilities and the new facility scheduled to be completed in January 2023.

### **Recommendations**

The committee considered the following bill drafts and resolution drafts relating to the study of acute psychiatric and residential care needs in the state:

- A resolution draft [\[23.3014.01000\]](#) relating to the State Hospital and terminology.
- A resolution draft [\[23.3015.01000\]](#) relating to terminology describing public institutions.
- A resolution draft [\[23.3016.01000\]](#) relating to a State Hospital.
- A bill draft [\[23.0182.04000\]](#) relating to the object of the State Hospital.
- A bill draft [\[23.0183.02000\]](#) relating to a study of building a new State Hospital.
- A bill draft [\[23.0184.02000\]](#) relating to the demolition of State Hospital buildings.

- A bill draft [\[23.0201.01000\]](#) relating to a Legislative Management study regarding the implementation of behavioral health and acute psychiatric treatment recommendations.

The committee recommends the following bill drafts and resolution drafts:

- A resolution draft [\[23.3015.01000\]](#) to amend the Constitution of North Dakota to update terminology related to the State Hospital and other institutions included in Sections 12 and 13 of Article IX of the Constitution of North Dakota.
- A bill draft [\[23.0206.01000\]](#) to provide for a Legislative Management study regarding the implementation of behavioral health and acute psychiatric treatment recommendations. The bill draft provides for a Legislative Management study of the implementation of recommendations of the 2018 HSRI report and the 2022 Renee Schulte Consulting, LLC, report.
- A bill draft [\[23.0207.01000\]](#) to provide a one-time contingent \$2 million appropriation from the general fund to DHHS to demolish unused buildings on the State Hospital campus, including the milk barn, pig barn, and water treatment plant buildings.

## **IMPLEMENTATION OF EXPANDED BEHAVIORAL HEALTH SERVICES STUDY**

### **Background**

Section 2 of Senate Bill No. 2161 (2021) directed a study regarding the implementation of expanded behavioral health services.

The 2017-18 interim Human Services Committee received information regarding the Department of Human Services' (DHS) actions relating to behavioral health. The department contracted with HSRI for \$160,000 to conduct a review of the state's behavioral health system. The goals of the study were to conduct an in-depth review of the state's behavioral health system; to analyze current utilization and expenditure patterns by payer source; to provide recommendations for enhancing the integration, cost-effectiveness, and recovery orientation of the system to effectively meet community needs; and to establish strategies for implementing the recommendations. The study gathered data by reviewing existing reports and documents, by conducting stakeholder interviews, and by reviewing Medicaid claims and state service utilization data for behavioral health services. The final HSRI report included 13 recommendations, or "aims," to direct future behavioral health policy and services in the state.

Senate Bill No. 2012 (2019) included an ongoing \$300,000 general fund appropriation for the implementation of the study recommendations during the 2019-21 biennium.

The 2019-20 Human Services Committee studied the implementation of the recommendations of the HSRI study of North Dakota's behavioral health system. The committee received updates regarding the status of implementation of recommendations included in the HSRI study of the state's behavioral health system. The committee made no recommendations regarding the study of the implementation of recommendations included in the HSRI report on the state's behavioral health system.

In House Bill No. 1012 (2021), the Legislative Assembly continued ongoing funding of \$250,000 from the general fund for DHS to continue implementing the HSRI recommendations during the 2021-23 biennium.

### **Medicaid 1915(i) State Plan Amendment**

A recommendation of the 2018 North Dakota behavioral health system study conducted by HSRI was to diversify and enhance funding for behavioral health, including pursuing a Medicaid 1915(i) state plan amendment. The 2019 Legislative Assembly appropriated ongoing funding of \$9,397,991, of which \$4,053,273 was from the general fund and \$5,344,718 from other funds, to allow DHS to administer services to children and adults through a Medicaid 1915(i) plan amendment, including hiring 3 FTE positions.

Section 43 of Senate Bill No. 2012 (2019) required DHS to implement and manage a Medicaid 1915(i) state plan amendment for children and adults with behavioral health conditions for fiscal year 2021. The section provided the requirements of Chapter 54-44.4 do not apply to the addition of coverage consistent with the traditional Medicaid 1915(i) state plan to the managed care contract between DHS and the Medicaid Expansion managed care organization. The department and the Medicaid Expansion managed care organization were required to ensure the appropriate contract amendment was adopted for coverage beginning July 1, 2020.

In January 2021, CMS approved a Medicaid 1915(i) state plan amendment from DHS to allow state home- and community-based services programs to be eligible for Medicaid funding.

In Section 56 of House Bill No. 1012 (2021), the Legislative Assembly provided legislative intent that funding appropriated from the general fund for supported employment in Section 1 of the bill be used to continue contracts with

existing evidence-based supported employment providers during the 2021-23 biennium, and that any funding available through the Medicaid 1915(i) state plan amendment be utilized before funding appropriated from the general fund.

The committee received testimony from DHHS regarding implementation of the Medicaid 1915(i) state plan amendment. The testimony indicated:

- To be eligible for services before January 2022, an individual must have been enrolled in North Dakota Medicaid or Medicaid Expansion, have a federal poverty level at or below 150 percent, have a substance use, mental health, or brain injury diagnosis, have a WHODAS score of 50 or more, and reside in and receive services in a setting meeting the federal home- and community-based settings rule.
- In January 2022, CMS authorized DHHS to decrease the WHODAS score requirement from 50 to 25.
- From January 1, 2022, through September 25, 2022, 132 individuals with WHODAS scores of 25 to 49 were eligible for and received Medicaid 1915(i) services compared to 137 individuals with WHODAS scores of 50 or greater receiving services during this time period.
- Future implementation steps include establishing rural differential rates, updating the payment methodology for nonmedical transportation services, negotiating additional exceptions to conflict-of-interest rules with CMS, identifying barriers to individual and provider enrollment, continuing to provide information to community referral sources and potential providers, and providing additional care coordinator training.

### **Bed Management System**

Section 27 of House Bill No. 1012 (2021) required DHHS to establish and maintain a behavioral health bed management system to improve utilization of behavioral health bed capacity. The section required public and private providers of residential or inpatient behavioral health services to participate in and report daily to DHHS the information and documentation necessary to maintain the behavioral health bed management system in the form and manner prescribed by DHHS.

The committee received testimony from DHHS regarding implementation of the bed management system. The testimony indicated:

- 25 states have either implemented or are implementing a behavioral health bed management system.
- The average cost of the behavioral health bed management system software is \$150,000 and annual maintenance costs average \$60,000 to \$70,000, depending on the complexity of the system.
- Research of behavioral health bed management systems by DHHS and project planning analysis by the Information Technology Department, including an analysis of how the bed management system will integrate with the North Dakota Health Information Network, have been completed.
- The behavioral health bed management system will include a web-based electronic database, identify the number of available beds and the types of available beds, include data from public and private entities, be available to crisis and emergency personnel, and may be accessible to the public.
- Some providers have concerns the behavioral health bed management system will result in increased pressure to accept patients and the system will create unnecessary steps for admission.
- DHHS is considering the possibility of integrating the behavioral health bed management system with the emergency bed management system.
- DHHS applied for funding for the bed management system from CMS on September 9, 2022, and the estimated time frame for CMS application review is November or December 2022.
- DHHS intends to issue an RFP in November 2022, choose a vendor in December 2022, negotiate the vendor contract in January 2023, seek CMS approval of the contract in March 2023, begin the project in May 2023, and complete the project in January 2024.
- Although the estimated project completion date is later than originally estimated, DHHS does not anticipate requesting additional funding for the project from the 2023 Legislative Assembly if DHHS is awarded federal funding from CMS.

### **Mental Health Registry**

Senate Bill No. 2161 (2021) created Section 50-06-06.15 and requires DHHS to create a registry of mental health programs in the state and for DHHS to make the registry available on the department's website. The committee received testimony from DHHS regarding the status of the mental health registry, including cooperation and participation from

providers, how the registry will integrate with the 211 crisis system, and when the registry will be available to the public. The testimony indicated:

- On July 18, 2022, DHHS notified all licensed mental health providers, including social workers, marriage and family therapists, psychologists, psychiatrists, counselors, and advance practice registered mental health nurses, of the requirement to register for the mental health registry.
- The mental health registry became available for citizen use on October 3, 2022, and consists of 132 registered organizations operating at 161 locations, of which 155 locations provide adult services and 98 provide children and adolescent services.
- Citizens can use the mental health registry to search by program name, city, county, telehealth options, adult services, or children services.
- The registry will provide a list and location map of providers matching the criteria searched.

### Human Services Research Institute

The committee received testimony from HSRI regarding implementation of recommendations from the 2018 HSRI report. The testimony indicated:

- The Behavioral Health Planning Council, which is an advisory council appointed by the Governor, consists of 10 subcommittees that are implementing the HSRI report recommendations.
- The Behavioral Health Planning Council advises all project activities, including plan development, communication with the public, and the approval of strategic plans.
- The HSRI recommendation implementation strategic plan included 138 potential strategic goals that were narrowed to 28 finalized strategic goals. The 28 strategic goals are combined into 13 aims to summarize the recommendations in the HSRI report.
- The development of the strategic plan considered the results of a public survey conducted by HSRI which included responses from 570 individuals throughout the state.
- The four phases of implementing the recommendations are strategic planning, prioritization and refinement, initiation, and monitoring and sustaining the recommendations. As of July 2022, the implementation of recommendations is in the monitoring and sustaining phase.
- Progress on implementation of the recommendations from the HSRI report have been delayed due to the COVID-19 pandemic.
- HSRI recently selected a contractor with experience working with behavioral health workforce to facilitate a behavioral health summit in September 2022 at which 65 attendees from 39 organizations reviewed HSRI report Aim 7 related to engagement in targeted efforts to recruit and retain a qualified and competent behavioral health workforce.
- Aim 8 related to expanding telebehavioral health services is being updated due to telework changes resulting from the COVID-19 pandemic.
- HSRI agrees with the Renee Schulte Consulting, LLC, final report that additional and more focused data collection is needed to provide improved behavioral health services in the state.

The testimony indicated progress on the 13 aims ranges from 39 to 100 percent complete or in progress and on time through July 2022, as follows:

Aim	Objective	Percentage Complete or In Progress and On Time
1	Develop a comprehensive implementation plan	87%
2	Invest in prevention and early intervention	86%
3	Ensure all North Dakotans have timely access to behavioral health services	64%
4	Expand outpatient and community-based service array	91%
5	Enhance and streamline system of care for children and youth	39%
6	Continue to implement and refine criminal justice strategy	63%
7	Engage in targeted efforts to recruit and retain competent behavioral health workforce	75%
8	Expand the use of telebehavioral health	83%
9	Ensure the system reflects values of person centeredness, cultural competence, and trauma-informed approaches	86%
10	Encourage and support the efforts of communities to promote high-quality services	100%
11	Partner with tribal nations to increase health equity	100%
12	Diversify and enhance funding for behavioral health	100%
13	Conduct ongoing, system-side data-driven monitoring of needs and access	80%

## **Considerations and Recommendation**

The committee considered two bill drafts relating to the study of implementation of expanded behavioral health services:

- A bill draft [[23.0185.02000](#)] relating to regional human service centers entering contracts with private behavioral health providers.
- A bill draft [[23.0186.02000](#)] relating to human service centers becoming certified community behavioral health clinics.

The committee recommends a bill draft [[23.0208.01000](#)] to require each human service center to begin the process of becoming a certified community behavioral health clinic to provide continuous community-based behavioral health and related physical health care services for children and adults.

## **BEHAVIORAL HEALTH NEEDS OF INCARCERATED ADULTS STUDY**

### **Background**

House Bill No. 1470 (2021) directed a study regarding behavioral health needs of incarcerated adults.

The Department of Corrections and Rehabilitation has 16 offices across the state staffed by parole and probation officers who manage offenders on parole or supervised probation and complete presentence investigations ordered by courts. The officers supervise offender compliance with the supervision conditions and provide cognitive, behavioral, and other forms of counseling services. The Parole and Probation Division operates or participates in drug court programs, GPS monitoring of offenders, drug and alcohol testing of offenders, and monitoring of sex offenders, and contracts for services with privately operated facilities to provide transition services.

The Adult Services Division of DOCR offers addiction treatment services, a sex offender treatment program, and mental health programs through its treatment department. The division's education program offers a variety of education programs, skills training, and vocational programs. In addition, the division offers work experience through Roughrider Industries.

The Division of Juvenile Services has eight regional offices serving the eight human service regions across the state and is staffed to provide supervision to juveniles committed by the courts. The division also oversees the Youth Correctional Center, which is located west of Mandan and is the state's secure juvenile correctional institution. Juvenile programming at the Youth Correctional Center includes drug and alcohol programming; child psychiatric and psychological services; sex offender programming; a pretreatment program for juveniles who are difficult to manage; and a security intervention group program to inform, educate, and provide juveniles with alternatives to gang activity and gang affiliation. The Youth Correctional Center provides adjudicated adolescents an opportunity to complete or progress toward completing their education coursework while in residence through an accredited junior high and high school.

During the 2003-05 biennium, DOCR began to contract with the Dakota Women's Correctional and Rehabilitation Center (DWCRC) in New England to house its female inmates. The center is owned and operated by the Southwest Multi-County Correction Center Board. The prison at DWCRC consists of a 70-bed minimum security unit, a 45-bed medium security unit, and a 16-bed orientation unit. In May 2006, a 5-bed high security unit was added to the facility.

The Tompkins Rehabilitation and Corrections Center (TRCC) is located on the State Hospital campus and historically was operated by DHS in collaboration with DOCR. The center provides a cognitive behavioral treatment approach utilizing cognitive restructuring groups to reduce risks to reoffend. The center consists of three 30-bed wards--one ward (30 beds) for females and two wards (60 beds) for males. The 2019 Legislative Assembly provided for DOCR to assume control of the 60-bed male unit of TRCC. The department renamed the 60-bed male unit the James River Minimum Unit.

### **Department of Corrections and Rehabilitation**

The committee received testimony from DOCR regarding prison-based behavioral health services, community support services, and jail-related services. The testimony indicated:

- DOCR employs 43 addiction counselors, social workers, professional counselors, psychologists, and administrative personnel to address behavioral health needs of incarcerated adults.
- Individual prison-based services available to incarcerated adults include crisis management, individual therapy, behavioral management, and medications for opioid use disorder services.
- Group programs available to incarcerated adults include a new arrival group, cognitive-behavioral interventions for substance use, conflict resolution program, new pathways to health relationships, cognitive behavioral interventions for sexual offenders, free your mind program, and gender-responsive groups.

- The DOCR special assistance unit includes 22 beds and 4 observation cells where crisis management; individual behavior plans; chemical addiction assessment and treatment; daily group programming; and prosocial structured out-of-cell time are provided through in-person and telehealth services. The state does not have a specialized unit for female patients.
- Community-based behavioral health services available in DOCR facilities include the free through recovery program, SUD treatment advanced practice and aftercare, and thinking for a change program.
- Jail-related behavioral health services include screening, crisis management, withdrawal management, psychiatry services, limited group programs, and the Cass County community support initiative.
- The estimated average number of community supervision individuals needing acute hospital care in the state is approximately 140 per day, of which 59 require acute psychiatric care and 81 require acute chemical care.
- DOCR and DHHS coordinate meetings, exchange patient documentation, sentencing information, treatment plans, psychological diagnostic assessment information, and other data as necessary to ensure a successful transition from correction facilities to the State Hospital. The State Hospital will assess the parolee for 30 to 60 days to complete a psychiatric evaluation and provide disposition recommendations to DOCR. A recommendation for the individual to remain at the State Hospital without the individual's consent must be consistent with involuntary commitment requirements of Chapter 25-03.1.
- The Heart River Correctional Center is a minimum-security women's prison located in Mandan which is not equipped to treat residents with acute psychiatric diagnoses but DOCR is working with a vendor on a potential plan for a new facility that would include a unit to treat residents with acute psychiatric diagnoses.

### **Dakota Women's Correctional and Rehabilitation Center**

The committee received testimony from DWCRC regarding behavioral health services available to incarcerated adults, any additional services needed, and infrastructure needs to facilitate behavioral health services. The testimony indicated:

- The need for behavioral health services has increased in western North Dakota but available services have decreased, resulting in jails becoming the holding facilities for mentally ill individuals due to the lack of private sector providers.
- A mental health facility and stabilization beds are needed in western North Dakota to provide individuals appropriate behavioral health and long-term psychiatric services and to prevent individuals from cycling in and out of jails.
- Some individuals are accepted for transfer to the State Hospital but are quickly returned with instructions to seek services from the private sector in the community.
- Despite the opening of the Heart River Correctional Center in Mandan, the needs of DWCRC have not changed due to an increase in the number of residents needing mental health or substance abuse treatment.

### **Bismarck Transition Center**

The committee received testimony from the Bismarck Transition Center (BTC) regarding the current and historical number of individuals served at the center, facility capacity, behavioral health services available, and any additional services needed. The testimony indicated:

- BTC has 145 male beds and 20 female beds and provides American Society of Addiction Medicine certified programs, the thinking for a change program, Alcoholics Anonymous and Narcotics Anonymous, and Bible study.
- BTC does not provide medical and mental health services to residents, as residents are expected to access these services within the community.
- Residents' ability to access mental health services is limited due to frequent lack of insurance coverage or financial means.
- Community, Counseling, and Correctional Services, Inc., (CCCS) which owns BTC, is considering a pilot program for a 90- to 120-day dual diagnosis treatment center in Bismarck for individuals in need of mental health, drug or alcohol addiction, and criminal offense services. The company provides these services at locations in Butte, Warm Springs, Lewistown, and Glendive, Montana.
- The proposed program would include an additional 16 to 20 beds on the second floor of BTC, would focus on female beds due to high demand in the area, and would require funding from the state at a cost of approximately \$120 per day per bed because the length of the program will result in it being ineligible for Medicaid reimbursement.

- The programs offered in Montana have been Medicaid-eligible and CCCS bills the Montana state Medicaid program for services. Dual diagnosis treatment programs in Montana avoided a Medicaid IMD exclusion designation due to a Medicaid waiver obtained by CCCS.

### **Law Enforcement**

The committee received testimony from law enforcement organizations regarding behavioral health services available to incarcerated adults, any additional services needed, and infrastructure needs to facilitate behavioral health services. The testimony indicated:

- Despite Fargo being the area of the state with the most behavioral health resources available, behavioral health demand has significantly increased, the behavioral health system lacks sufficient resources, and outcomes are worsening for individuals needing behavioral health services in the Fargo area.
- The Cass County Sheriff's office contracts with an independent psychiatrist for supplemental care, but the time needed to treat the increasing number of individuals needing services exceeds the psychiatrist's time available, resulting in patients waiting for psychiatric care or medications for up to 8 weeks.
- Capacity concerns at the State Hospital have resulted in delays in receiving psychiatric treatment services for inmates.
- Data and information for continued care services is gathered in different systems, which is not always available to each organization or agency reviewing patient information.
- Services available to incarcerated adults at the Burleigh-Morton County Detention Center include mental health and SUD services and access to a licensed addiction counselor and behavioral health therapist to provide treatment programming, health care treatment and therapy services during incarceration, and medications and other behavioral health services.
- Although private providers conduct a limited number of assessments ordered by the District Court for Burleigh-Morton County Detention Center inmates, mental health and psychiatric services are accessed primarily through the West Central Human Service Center and the State Hospital.
- The Burleigh-Morton County Detention Center is working with the Attorney General's office to expand medically assisted treatment services in jail facilities to engage opioid-addicted inmates with medication and to enroll the inmates in a SUD treatment program prior to being released.
- Infrastructure needs and concerns of Burleigh-Morton County Detention Center include the lack of treatment staff and programs in the community, coordination of services, and lack of convenient and accessible transportation for inmates.

### **Indian Affairs Commission**

The committee received testimony from the Indian Affairs Commission regarding behavioral health services available to incarcerated adults on tribal land, collaboration with law enforcement and behavioral health service providers, and recommendations for additional services needed in the state. The testimony indicated the Indian Affairs Commission has held meetings with each tribe, the Behavioral Health Planning Council, and other groups about behavioral health needs of incarcerated tribal members; and works with DOCR to help individuals leaving incarceration to return to society.

### **Tour**

The committee toured the James River Correctional Center in Jamestown, including the Special Assistance Unit while studying behavioral health needs of incarcerated adults.

### **Conclusion**

The committee makes no recommendation regarding the study of behavioral health needs of incarcerated adults.

## **MENTAL AND BEHAVIORAL HEALTH SERVICES OF OCCUPATIONAL BOARDS STUDY** **Behavioral Health Occupational Boards**

Senate Bill No. 2336 (2021) directed a study regarding the occupational boards that address mental health and behavioral health issues.

The committee received testimony from the State Board of Psychologist Examiners, Board of Addiction Counseling Examiners, Board of Counselor Examiners, North Dakota Board of Social Work Examiners, North Dakota Marriage and Family Therapy Licensure Board, and Education Standards and Practices Board regarding mental and behavioral health services provided by licensees, the frequency of rule review, licensing requirements, history and trends of the licensing of foreign practitioners and any additional licensure requirements for foreign practitioners, reciprocity agreements with surrounding states, fees charged by the board, training requirements for board members and executive directors,

executive director turnover trends, the average length of service of board members, and benefits and concerns having administration and information technology (IT) services being provided by the state.

### **State Board of Psychologist Examiners**

Testimony from the State Board of Psychologist Examiners indicated:

- The board does not have authority to enter reciprocity agreements with other states but it may grant a license to an applicant who has a license in good standing in another state.
- The board allows practitioners to provide telehealth services in certain circumstances.
- The board did not deny any out-of-state applications during 2019, 2020, or 2021.
- The board, Association of State and Provincial Psychology Boards, and Canadian psychologist organizations are evaluating licensure requirements of psychologists in an effort to allow for quick licensure of practitioners between the countries. This process has resulted in a uniform license examination that some states have implemented recently, but data on the examination and its results is limited.
- The board may request the 2023 Legislative Assembly to authorize the board to join the psychology interjurisdictional compact, also known as PSYPACT, which allows psychologists to conduct telehealth practice in participating states. At the time of this report, 32 states and the District of Columbia participate in PSYPACT.
- North Dakota Administrative Code Title 66 relates to the State Board of Psychologist Examiners, which was most recently amended in January 2020.

### **Board of Addiction Counseling Examiners**

Testimony from the Board of Addiction Counseling Examiners indicated:

- There has been a trend of younger individuals pursuing addiction counseling, as 36 percent of licensees are age 50 or older while 50 percent of licensees in 2014 were age 50 or older.
- Beginning in June 2020, the board began meeting monthly instead of quarterly to allow for quicker approval of license applications.
- The board would support receiving certain state IT services but is concerned with receiving all IT services from the state which may result in increased costs compared to the cost of services from the current provider.
- North Dakota Administrative Code Title 4.5 relates to the Board of Addiction Counseling Examiners, which was most recently amended in July 2018.

### **Board of Counselor Examiners**

Testimony from the Board of Counselor Examiners indicated:

- Licensees provide services in person or through telehealth in hospitals, jails, clinics, and private practices in individual, group, couples, and family settings.
- There has been increased demand for telehealth counseling services due to the COVID-19 pandemic.
- The board may request the 2023 Legislative Assembly consider a bill to change the board's licensure structure from three tiers to two tiers.
- The board employs an executive secretary who performs all administrative duties and certain IT functions, such as web hosting.
- Potential efficiencies of receiving administrative services from a state agency may include the ability to upgrade online application, renewal, fee collection, document scanning, and storage equipment and software while potential inefficiencies may include the lack of direct communication of someone employed by the board working with licensed counselors.
- North Dakota Administrative Code Title 97 relates to the Board of Counselor Examiners, which was most recently amended in July 2018.

### **North Dakota Board of Social Work Examiners**

Testimony from the North Dakota Board of Social Work Examiners indicated:

- 445 licensure applications were received in 2021, of which 194 applications were out-of-state reciprocity applications, and no applications were denied.
- Since 2017, the board has issued 23 licenses to out-of-state applicants having experience or qualifications substantially like North Dakota's regular licensing standards, pursuant to Section 43-41-07.

- The board has not taken a position on any potential federal or state social work licensure compact legislation but the board supports reasonable efforts to remove undue barriers to licensure.
- North Dakota Administrative Code Title 75.5 relates to the Board of Social Work Examiners, which was most recently amended in April 2021.

### **North Dakota Marriage and Family Therapy Licensure Board**

Testimony from the North Dakota Marriage and Family Therapy Licensure Board indicated:

- The board increased fees in 2017 to pay for two cases involving disciplinary action of licensees but expects to reduce fees in the future.
- The board receives audit services from the State Auditor, legal services from the Attorney General's office, and risk management services from the Office of Management and Budget.
- The board's concerns regarding a requirement to receive administrative services from a state agency include deciding who would be responsible for board budgets, collecting fees, processing invoices, reviewing applications and renewals, processing licensee disciplinary actions, coordinating with national marriage and family therapy organizations, and determining who would have authority to make policy decisions.
- North Dakota Administrative Code Title 111 relates to the North Dakota Marriage and Family Therapy Licensure Board, which was most recently amended in January 2018.

### **Education Standards and Practices Board**

Testimony from the Education Standards and Practices Board indicated:

- Senate Bill No. 2048 (2015) created Section 15.1-13-35 to require candidates for teacher licensure to demonstrate competencies in youth mental health.
- Section 15.1-13-20 allows the board to issue a license to an individual who has a valid license in another state.
- North Dakota Administrative Code Title 67.1 relates to the Education Standards and Practices Board, which was most recently amended in October 2022.

### **Attorney General**

The committee received testimony from the Attorney General's office regarding the agency's involvement with occupational boards providing mental and behavioral health services and similarities and differences of licensing and reciprocity requirements. The testimony indicated:

- Generally, occupational boards are operated by volunteers, receive funding primarily from dues paid by licensees, and do not have resources to issue licenses quicker than the current process.
- Occupational boards that provide mental and behavioral health services have statutes that allow the board to issue a license to an applicant who has a license in good standing in another state if the laws of the other state are substantially the same as North Dakota.
- If the laws of North Dakota and another state are not substantially similar, the Board of Addiction Counseling Examiners and the North Dakota Board of Social Work Examiners may grant a license by reciprocity if the board determines the applicant has experience and qualifications substantially similar to North Dakota's regular licensing standards.

The committee received testimony from the Attorney General's office regarding statutes, rules, and administration duties that could be standardized among occupational boards providing mental and behavioral health services and the estimated biennial cost if the Attorney General's office provided administrative services for all occupational boards in need of administrative assistance. The testimony indicated:

- The estimated biennial cost to provide administrative services for five boards is \$1,245,124 for salaries and benefits and \$233,950 for operating expenses of 7 new FTE positions, including 1 FTE executive director position, 1 FTE attorney position, 1 FTE IT support specialist position, 1 FTE licensing technician position, and 3 FTE administrative assistant positions.
- Statutes that are not consistent among behavioral health occupational boards include those related to board membership, powers, and meetings; license renewals; licensee complaints and discipline; confidential and exempt information requirements; what is permissible for nonlicensees; and reciprocity standards for limited practice without a license, indirect practice, provisional licenses, and telework practice.

- Some states have a separately created agency to provide various services for occupational boards and some have a division created under existing agencies, such as the Secretary of State, Department of Commerce, Department of Labor, or Governor's office.

### **Information Technology Department**

The committee received testimony from the Information Technology Department regarding services provided to behavioral health occupational boards. The testimony indicated the department provides email, virtual private network access, and file sharing and storing services to behavioral health occupational boards including the State Board of Psychologist Examiners, Board of Addiction Counseling Examiners, Board of Counselor Examiners, and North Dakota Board of Social Work Examiners. Other services that could be provided to behavioral health occupational boards include providing physical computer hardware, hardware replacements, and scheduled software updates to increase the boards' data security.

### **Department of Commerce**

The committee received testimony from the Department of Commerce regarding the department's workforce task force efforts related to behavioral health occupations and behavioral health workforce needs in the state, including any changes needed for behavioral health licensure, reciprocity agreements, and composite board considerations. The testimony indicated:

- In February 2020, the Workforce Development Council created a subcommittee of legislators and other stakeholders of occupational licensing boards to evaluate barriers for individuals attempting to enter or move through the workforce with a goal of removing unnecessary barriers to employment.
- National occupational licensure reform has been pursued through interstate compacts, universal license recognition, and reciprocity agreements.
- In May 2022, the Department of Commerce sent surveys to occupational boards and received responses from 35 of 50 boards which revealed behavioral health-related occupational boards average time to process licensure applications during 2021 ranged from 1 day to 4 months.
- The Workforce Development Council intends to recommend a centralized system be developed for licensing boards and recommend policies that remove barriers for professionals to be licensed in the state.

### **University of North Dakota School of Medicine and Health Sciences**

The committee received testimony from the University of North Dakota School of Medicine and Health Sciences regarding behavioral health workforce needs in the state and data regarding student enrollment in behavioral health-related courses at the University of North Dakota. The testimony indicated:

- Approximately 80 percent of School of Medicine psychiatry graduates in the most recent 5 years are practicing psychiatry in North Dakota or near the North Dakota and Minnesota border.
- A concern of new behavioral health professionals is the lack of experienced behavioral health professionals available to train and guide new professionals, which leads to fewer new professionals practicing in low-population areas.

### **Minot State University**

The committee received testimony from Minot State University regarding behavioral health workforce needs in the state and data regarding student enrollment in behavioral health-related courses at Minot State University. The testimony indicated:

- Minot State University has the only addiction studies program in the state which averages 9 to 10 graduates each year and the only school psychology program in the state which averages 7 graduates each year and currently has 26 students enrolled in the program.
- Tuition costs and lack of available graduate programs can be barriers for students to pursue behavioral health careers.
- Programs offered at Minot State University allow students to graduate with educational qualifications required to become licensed as both a social worker and an addiction counselor.

### **Considerations and Conclusion**

The committee considered bill drafts relating to the study of mental and behavioral health services of occupational boards:

- A bill draft [\[23.0059.01000\]](#) relating to administrative services provided to occupational boards.

- A bill draft [\[23.0110.01000\]](#) relating to an appropriation to DHHS for the student loan repayment program.
- A bill draft [\[23.0110.02000\]](#) relating to an appropriation to DHHS for the student loan repayment program and authorizing psychiatric registered nurses be eligible for the program.
- A bill draft [\[23.0187.01000\]](#) relating to the North Dakota Board of Social Work Examiners' participation in the development of a social work licensure compact.
- A bill draft [\[23.0188.02000\]](#) relating to occupational board IT services provided by the Information Technology Department and relating to compensation of occupational board members.

The committee makes no recommendation regarding the study of mental and behavioral health services of occupational boards.