

MINUTES

Access to Mental Health Services 2018 Interim Study Committee



Senator Deb Soholt, Chair
Representative Herman Otten, Vice Chair

**Fifth Meeting, 2018 Interim
Monday, December 03, 2018**

**Room 414 – State Capitol
Pierre, South Dakota**

The fifth meeting of the Access to Mental Health Services (AMHS) 2018 Interim Study Committee was called to order by Senator Deb Soholt (Chair) at 8:07 a.m. CDT, on December 3, 2018, in Room 414 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Bob Ewing, Craig Kennedy, Kris Langer, Deb Soholt (Chair), Alan Solano, and Jim Stalzer; and Representatives Steven Haugaard, Jean Hunhoff, Kevin Jensen, Tim Johns, Herman Otten (Vice Chair), Tim Reed, and Susan Wismer. Representatives Michael Diedrich and Taffy Howard were excused.

Staff members present were Emily Kerr, Legislative Attorney; Wenzel Cummings, Senior Legislative Attorney; Jason Simmons, Principal Fiscal and Program Analyst; and Kelly Thompson, Senior Legislative Secretary.

NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council (LRC) office. This meeting was webcast live. The archived webcast is available at the LRC website at sdlegislature.gov.

Approval of Minutes

A motion was made by Senator Langer, seconded by Senator Stalzer, to approve the minutes of the Access to Mental Health Services Interim Study Committee meeting held on October 17, 2018. Motion prevailed on a voice vote.

Opening Remarks

Senator Deb Soholt, Chair, commended committee members for their due diligence over the last six months in covering a remarkable scope of work in respect to the group's mission. Now that the information gathering and small group discussion phase has been completed and short and long-term goals identified, the next step is to review and act on draft legislation and complete their final report.

Follow-Up Data

The **Department of Social Services (DSS)**, presented follow-up statistics for the Human Services Center (HSC) related to restoration to competency, the number of patients discharged from the acute unit to the psychiatric rehab unit, and a breakdown of the adult acute length of stay from less than 3 days to more than 15 days for fiscal year 2018 ([Document 1](#)).

Senator Solano commented that officials in Pennington County are looking at a pilot program that would allow restorations to be completed in the county rather than waiting for a vacancy to come open at HSC.

Representative Hunhoff asked where an individual goes when the restoration has been completed.

Ms. Amy Iversen-Pollreisz, Deputy Secretary, DSS, said once the courts have been notified of the completion, the person is returned to jail to go through the court process. Most patients are discharged within a day or two of being found competent.

Ms. Iversen-Pollreisz confirmed for Senator Kennedy that patients are no longer admitted to HSC while waiting for competency evaluations but are for competency restoration. Representative Hunhoff asked if the 203 patients (28 percent) who stayed 15 or more days were in the acute unit, and how that number compared to other states and prior years in South Dakota. Ms. Iversen-Pollreisz replied she did not have that information available. She clarified the DSS data showing 146 patients (20 percent) with stays of less than 3 days was for HSC only and did not include those individuals held in other facilities.

Senator Solano remarked that it is not a good use of resources to send short-stay patients to HSC and strategies need to be developed to treat them closer to home with access to family and other support systems and plans for reintegration into their home community. Accomplishing these goals will take longer than one year of study.

Ms. Emily Kerr, Legislative Attorney, LRC, reviewed follow-up information provided by the **Western Interstate Commission for Higher Education (WICHE)** ([Document 2](#)). Louisiana was added to the list of states implementing mandatory suicide training for school personnel; from 2008 (when the training began) to 2016, the suicide rate in that state increased 2.1 percent. Senator Soholt noted these statistics indicate it takes more than just education to reduce suicide rates and additional solutions should be considered.

The WICHE information also clarified answers to questions relating to Mental Health Professional Shortage Area (HPSA) designations, the source of the data used for the state psychiatric hospital inpatient rates, and the sample size for South Dakota's National Survey on Drug Use and Health (NSDUH) data.

Senator Soholt thanked April Hendrickson and WICHE for assisting the Committee with their work and providing valuable insight on the national perspective.

Public Testimony

Mr. Thomas Otten, Assistant Vice President, Avera Behavioral Health Services, and **Mr. Steve Lindquist, Avera Health**, presented a white paper on the regionalization of mental health services ([Document 3](#)).

For the last several years, South Dakota's mental health system has become stressed due to delayed placements for patients; individuals being backed up into the criminal justice system because of a lack of access to mental health services; decisions being made on cost rather than clinical issues; length of stay being driven by the course of treatment; and challenges created by staffing shortages. Behavioral health

systems have crashed in other states, and regionalizing services in South Dakota could prevent a similar situation here.

Mr. Otten and Mr. Lindquist stressed HSC cannot continue to be used as the front line of care for individuals needing mental health services. Minnesota, Iowa, and Nebraska have formed partnerships for services, and state hospitals in other states have downsized with mixed results. The opportunity to regionalize exists for South Dakota. The state has three distinct regions, each with an inpatient psychiatric facility, and all counties have community mental health centers. Instead of sending people for brief hospitalization, HSC should be utilized as a safety net for the system to care for those individuals who cannot be cared for anywhere else. By building services at the regional level and linking with inpatient providers, vacancies would be created at HSC to allow the facility to specialize in those populations only they are equipped to serve.

Representative Hunhoff asked about the intermediate facility concept and if South Dakota currently has these facilities. Mr. Lindquist said although some similar programs exist in Rapid City, Pierre, and Sioux Falls, there are no intermediate facilities in the state right now. A filtering process would need to be implemented to provide access to multiple layers of services but there are elements available in the state that could work together better. Rural areas will continue to be a challenge. Responding to Representative Hunhoff as to whether South Dakota could develop intermediate facilities without Medicaid, Mr. Lindquist advised that it would be necessary to look at the number of Medicaid eligible patients to determine the impact.

Senator Solano inquired if the current lack of intermediate facilities in the state means patients are being sent to higher level facilities because they are perceived to be the best alternative. Mr. Lindquist said yes. Mr. Otten commented intermediate facilities would be particularly beneficial for crisis stabilization units which usually have lengths of stay from 24 to 48 hours.

The three regional facilities are attached to hospital systems. Senator Solano wondered what the impact would be on independent facilities with 16 or fewer beds. According to Mr. Lindquist, the larger facilities are possible because of their attachment to hospitals. If they were not, under federal regulations for facility designations, they could not exceed the 16-bed limit. Senator Solano commented it is important to recognize there are ways to move past funding roadblocks if new units are attached to existing facilities. Mr. Lindquist agreed, saying a regional collaborative approach would better identify needs in those specific areas and provide a filtering mechanism for HSC.

Senator Sohlt told the Committee choices need to be made on funding mechanisms to make regional facilities a reality, and larger issues need to be understood to inform those making decisions.

Review and Discussion of Draft Legislation and Recommendations

Mr. Wenzel Cummings, Senior Legislative Attorney, LRC, introduced three legislative drafts for the Committee's review and consideration.

A proposed draft was presented regarding emergency involuntary commitments ([Document 4](#)). The draft contained clean-up language for current statutes; removed probable cause language because it is a

phrase in a criminal context while these are civil commitments; outlined how cases are transferred from one county to another; added definitions; and made technical changes.

Mr. Greg Sattizahn, Unified Judicial System, was asked to share perspective on the commitment process. He was concerned about the change of venue terminology and said chairs of mental illness boards and law enforcement may not be in agreement with the changes. Committee members Representative Haugaard, Representative Johns, and Senator Kennedy, who all have legal backgrounds, suggested language changes to the draft regarding the commitment petition process including the following: patient transportation by law enforcement, responsibility of the State in paying for non-residents' care, and the transfer of payment for patient costs from one jurisdiction to another.

Representative Otten asked how often non-residents are the subject of commitment petitions and what the cost is associated with them. **Mr. Jason Simmons, Principal Fiscal and Program Analyst, LRC**, responded that definitive numbers were not available from DSS or county officials by meeting time. Representative Haugaard relayed that such situations occur in Minnehaha County weekly with out-of-county residents and possibly monthly with out-of-state individuals, largely transients.

Representatives Haugaard and Hunhoff questioned whether the bill draft contemplated private insurance that may be available to cover some of the costs.

Senator Soholt invited DSS to share perspective on the commitment process. Ms. Iversen-Pollreis responded that while the Department cannot formally give an opinion on the draft, there may be some concerns with the costs becoming the responsibility of the State if an individual is placed at any facility in the state, including private facilities at which the State has no control over costs.

Senator Soholt asked members if the Committee could come to a conclusion on the bill by the end of the meeting if the draft was edited to address the concerns that were raised. Mr. Cummings was directed to make requested changes and return with an updated draft for review and consideration before the end of the meeting.

Following review of the updated draft, the overall concept was endorsed by the Committee. However, a draft on this subject will not be endorsed by the Committee as a whole.

A motion was made by Representative Johns, seconded by Senator Kennedy, that the Committee endorse the concept but not move forward with sponsoring the draft. Motion prevailed on a voice vote.

Mr. Cummings next presented a proposed draft ([Document 5](#)) to provide for a statewide resource information system that could be accessed by any South Dakotan needing resources for crisis or disaster situations, social or human services, legal or financial assistance, and assistance for mental health, physical health, or substance abuse.

Senator Soholt advised members the system could be an expansion of the current 2-1-1 system operated by the Helpline Center. Currently those services are not available to rural areas of

South Dakota. Extending the services statewide would require sustainable funding of \$298,000 annually from the State ([Document 6](#)). The total costs of funding a statewide system would amount to approximately \$800,000 ([Document 7](#)). The remaining \$502,000 in funding would come from current private and public donors. 2-1-1 currently covers 63% of the state. The added costs would be to hire more staff to handle the additional calls from areas not currently served.

Mr. Simmons noted there is no appropriation in the bill. In the past, the 2-1-1 system received funding through a special appropriations bill which provided only one-time funding. If the proposed bill passes, the Committee on Appropriations would need to amend the General Appropriations Bill to add the funding to the budget request for DSS.

Representative Hunhoff explained that if DSS were to partner with the counties on resources, an internal review would be needed to see what other funding sources exist and how they could be used. If private donations to 2-1-1 were to drop off, the potential exists for the State to have to pick up the entire \$800,000 cost. The Committee on Appropriations would have to find the extra funds to cover the cost.

Representative Jensen asked what the scope of county services offered would be, given that 2-1-1 provides other services beyond those covering mental health issues. **Ms. Janet Kittams, President, Helpline Center**, clarified that the volunteer referral centers operating in Brookings, Rapid City, and Sioux Falls are separate from the 2-1-1 program, and statewide volunteer centers would not need to be created in each county.

A motion was made by Representative Otten, seconded by Representative Reed, that the Committee endorse the bill draft as written. Motion prevailed on a roll call vote with 13 ayes and 2 excused. Voting aye: Ewing, Haugaard, Hunhoff, Jensen, Johns, Kennedy, Langer, Otten, Reed, Soholt, Solano, Stalzer, and Wismer. Excused: Diedrich and Howard.

Ms. Kerr advised the Committee that all members voting aye will be listed as sponsors on the bill.

The third piece of proposed legislation discussed was a concurrent resolution draft to provide for ongoing legislative task forces to study and develop recommendations for sustainable improvements to available mental health services in South Dakota ([Document 8](#)).

Senator Soholt said due to the Committee's vast scope of study, certain areas were identified as needing improvement but more time is needed to accomplish it. Interim legislative study committees are comprised only of legislators. Task forces could bring together a variety of individuals from the private and public sectors with a wider array of expertise and experience.

The draft legislation establishes five separate task forces to cover these areas: redefining acute hospitalizations for short, intermediate, and long-term placement with emphasis on keeping patients close to home when possible; developing community-based short-stay alternatives and day treatment options; expanding the capabilities of telehealth and telemedicine for assessments, crisis support, and counseling; redefining nursing home admission criteria at HSC and building mental health nursing home capacity for people with organic brain damage; and increasing the capacity for transitional housing and residential services in communities, and developing caregiver supports.

Mr. Simmons stated the estimated cost for five task forces of 12 members each, holding five meetings at which all members are present, is approximately \$95,667 ([Document 9](#)). The membership breakdown for each task force is four legislators, three state employees, and five non-legislative citizen members. The legislative members would include two legislators from the House and two from the Senate. The Committee on Appropriations would need to find additional funding to pay the costs.

Committee members recommended language changes to the draft indicating that the efforts of the task forces would need to result in sustainable improvements.

A motion was made by Senator Ewing, seconded by Senator Solano, that the Committee endorse the bill draft as revised by the Committee. Motion prevailed on a roll call vote with 13 ayes and 2 excused. Voting aye: Ewing, Haugaard, Hunhoff, Jensen, Johns, Kennedy, Langer, Otten, Reed, Soholt, Solano, Stalzer, and Wismer. Excused: Diedrich and Howard.

Final Remarks

Senator Soholt thanked the Committee for working hard to find better ways to care for the people of South Dakota who need mental health services.

Senator Ewing expressed thanks for Senator Soholt's leadership, the serious consideration she brought to the issues, and the extensive amount of time she put into the committee.

Adjourn

A motion was made by Representative Jensen, seconded by Senator Stalzer, that the Access to Mental Health Services Interim Study Committee be adjourned. The motion prevailed unanimously on a voice vote.

Chair Soholt adjourned the meeting at 11:32 a.m.