

**MINUTES  
of the  
SECOND MEETING  
of the  
BEHAVIORAL HEALTH SERVICES SUBCOMMITTEE**

**December 2, 2011  
Room 307, State Capitol  
Santa Fe**

The second meeting of the Behavioral Health Services Subcommittee was called to order by Senator Mary Kay Papen, chair, on December 2, 2011 at 8:10 a.m. in Room 307 of the State Capitol.

**Present**

Sen. Mary Kay Papen, Chair  
Rep. Ray Begaye, Vice Chair  
Rep. Dennis J. Kintigh  
Sen. Bernadette M. Sanchez

**Absent**

**Advisory Members**

Sen. Sue Wilson Beffort  
Sen. Dede Feldman  
Rep. Antonio Lujan  
Rep. James Roger Madalena

**Guest Legislators**

Sen. Linda M. Lopez  
Rep. Danice Picraux  
Rep. Edward C. Sandoval

**Staff**

Michael Hely, Staff Attorney, Legislative Council Service (LCS)  
Rebecca Griego, Records Officer, LCS  
Abenicio Baldonado, Intern, LCS  
Kathleen Dexter, Researcher, LCS

**Minutes Approval**

These minutes have not been approved by the Behavioral Health Services Subcommittee, as the subcommittee has finished its work for the interim.

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts and written testimony are in the meeting file.

## **Friday, December 2**

### **House Joint Memorial 17 Task Force Report**

Members of the task force formed pursuant to House Joint Memorial 17 (2011), including Grace Philips, co-chair of the task force and attorney for the New Mexico Association of Counties, Chris Tokarski, executive director of Mental Health Resources, Inc., Nils Rosenbaum, crisis intervention team psychiatrist for the Albuquerque Police Department, Ron Gurley of the Doña Ana County Forensic Intervention Consortium, and Linda Roebuck Homer, chief executive officer of the Interagency Behavioral Health Purchasing Collaborative (IBHPC), gave a report on their work during the 2011 interim. The task force was charged with studying the needs of people with mental illness, with a focus on reducing the number of such people who end up in detention facilities or who require law enforcement intervention of some kind. The task force met five times during the interim to develop recommendations that span the following broad areas (and appear in detail on pages 4 through 15 of the handout): system improvements; crisis triage centers; respite services; training; call centers; warm line call center; community crisis system planning; peer services; and criminal laws.

On questioning from subcommittee members, the presenters addressed the following concerns and topics.

*Law enforcement involvement.* Members discussed the concern that law enforcement officers are doing social work when responding to incidents involving the mentally ill. Presenters noted that while urban areas have social work divisions within their law enforcement structures, rural areas have only law enforcement officers to act as first responders and they, along with emergency medical personnel, must be trained to handle the incidents. The New Mexico Law Enforcement Academy will conduct a training for officers in December 2011.

*Warm line call center.* Information from the warm line call center must be shared with law enforcement officers and other first responders for their safety. The nurse advice line in the Department of Health and the state resource center hot line in the Aging and Long-Term Services Department (ALTSD) are existing systems that might be used for setting up the warm line call center.

*Funding.* The IBHPC is working with OptumHealth New Mexico on a financing plan to implement the task force's recommendations, which are broken down into phases beginning in fiscal year 2013. The greatest cost-effectiveness would come if the entire health care system worked together, with behavioral health services integrated with health care.

*Jail diversion.* Jail diversion programs, which arrange for mental health treatment and informal probation in lieu of incarceration, cannot be implemented in districts that do not have pretrial services, and these services do not exist outside of Albuquerque.

*Tribal input.* A representative from Five Sandoval Indian Pueblos, Inc., sat on the task force, and recommendations from tribes statewide were included in the task force's final report.

*Life of the task force and the subcommittee.* Members expressed support for continuing both the task force and the subcommittee, with the latter created as a full interim committee.

On invitation from the chair, members of the audience made brief statements: Michael Hall of the Administrative Office of the District Attorneys spoke in support of the task force's work; Jamie Michael of the Doña Ana County Social Services Department and Charlie Marquez, lobbyist for Doña Ana County, reported on the Doña Ana County crisis triage center's goal of being a regional center and the need for capital outlay funding to complete construction; and Ann Albrink of the National Alliance on Mental Illness spoke of the need for diversion programs so that people no longer need to plead guilty to a crime in order to get mental health services.

- ★ Ms. Homer will provide a report on integration efforts among groups directed by memorials to address behavioral health issues.
- ★ Mr. Rosenbaum and Ms. Homer will provide information on the cost savings from diversion programs.

### **Substance Abuse Issues**

Tim Condon, Ph.D., a visiting research professor at the University of New Mexico (UNM) Center on Alcoholism, Substance Abuse and Addictions, gave a presentation on substance abuse disorders and treatment. With recent advances in science, views on drug abuse and addiction have shifted radically — what was once seen as a moral/social problem is now seen, and treated, as a medical/physical problem. A 2010 study found that approximately 22 million people in the U.S. were addicted to drugs or alcohol, yet fewer than four million people received treatment for their addictions. Included in these statistics is the growing problem of prescription pain medication addiction, opioids that are relatively easy to obtain. Prescriptions in the U.S. increased from 175 million in 2000 to nearly 260 million in 2009 (page 19 of the handout), and as many as 70 percent of pain medication addicts interviewed in a 2009 study cited family and friends as their source for the drugs.

Prolonged drug use fundamentally changes the brain; for this reason, addicts cannot "just quit". Historically, treatment efforts have followed an acute care model, in which an addict was put into treatment for a "cure" of a finite duration and then released, and relapse was the norm. In contrast, the continuing care model that is now used treats addiction as a chronic condition and focuses on recovery rather than cure, employing a continuum of support systems ranging from case managers to family therapy to child care.

On questioning from subcommittee members, Dr. Condon addressed the following concerns and topics.

*Drug abuse, mental illness and treatment.* Some people use drugs to relieve an existing mental illness, such as depression, but the reverse can also be true — drug use can bring on mental illness. There are biological underpinnings to addiction that are unique to each individual, and a biological trait combined with environmental modeling can be a deadly combination. The federal Patient Protection and Affordable Care Act of 2010 (PPACA) includes funding for substance abuse treatment, including treatment for adult single men with no children.

*Access to and disposal of prescription drugs.* Offshore online purchasing is not as big a problem as overprescribing and unused drugs in medicine cabinets. Four things are necessary to halt the epidemic of prescription drug abuse: 1) education, to get the general public to lock up their medications and get doctors to adjust their prescribing habits; 2) real-time prescription monitoring, to prevent someone from getting several prescriptions from different doctors; 3)

appropriate disposal, to give people a safe place to take unused medications and turn them in (the Drug Enforcement Agency has occasional "take-back days"); and 4) stronger law enforcement. Pharmacists need the authority to contact physicians and question prescriptions. They also need statutory authority to take back unused medication, a practice that is legal under the federal Secure and Responsible Disposal Act but restricted to physicians under New Mexico law. One study has shown that unused medication flushed down toilets is the major cause of contamination in the Rio Grande.

- ★ Senator Sanchez will sponsor a bill on prescription drug monitoring.

### **Posttraumatic Stress Disorder (PTSD) in Returning Military Personnel**

Ms. Homer, Harrison Kinney, executive manager of the Behavioral Health Services Division of the Human Services Department (HSD), and Chris Burmeister, administrator of the Rio Rancho Family Health Center, gave a presentation on IBHPC programs for treating military trauma spectrum disorders. The collaborative has contracted with the Rio Rancho Family Health Center to develop best practices for supporting veterans, National Guard members and their families; has trained a network of providers statewide in treating military PTSD; is promoting specialty courts that will divert veterans with PTSD from jail and into treatment; and has services tailored to work with Native American veterans (page 3 of the handout). As it builds the program, the collaborative plans to develop programs to integrate services into a broad system of care.

On questioning from subcommittee members, the presenters addressed the following concerns and topics.

*Outreach.* The collaborative does outreach through its family readiness group program, which collects names of all returning military personnel and works to help them and their families with both deployments and reintegration. The collaborative is also planning to do outreach to caregivers through the ALTSD.

*Clients.* The clients being served come from all military conflicts, not just the recent wars in Iraq and Afghanistan. One challenge for the collaborative is the definition of "veteran" — while some programs define the term to mean a person who has "seen combat", the collaborative defines it more broadly and will provide services to anyone who has "worn a uniform".

*Access.* Currently, most services for returning military personnel are concentrated in the Albuquerque-Rio Rancho area. On invitation from the chair, Deputy Secretary of Veterans' Services Alan Martinez, speaking from the audience, noted that the collaborative is also working with the Veterans' Administration (VA) to provide services through its statewide clinic system, a network that will be critical as troops are pulled from Iraq and Afghanistan.

- ★ Deputy Secretary Martinez will provide information on services available through VA clinics.

### **IBHPC Priorities and Budget**

Ms. Homer, who was joined by Brent Earnest, deputy secretary of finance, HSD, and Diana McWilliams, deputy chief executive officer, IBHPC, presented the collaborative's budget

request for fiscal year 2013. At approximately \$421.8 million, the request represents a decrease of \$3.2 million over its prior year budget (page 3 of the handout). The presenters provided information on remediation steps taken by OptumHealth following sanctions against the company in 2011 regarding behavioral management and psychosocial rehabilitation services (page 13 of the handout) and demonstrated a matrix used for assessing patient needs based on the intersection of behavioral health factors and physical health factors (page 18 of the handout). The collaborative's priorities include integration of behavioral and physical health care through health homes; a 10 by 10 campaign to increase life expectancy by 10 years for those with behavioral health issues; suicide prevention programs, with a focus on Native Americans; substance abuse treatment, especially for adolescents; memorials for the upcoming session concerning opioid addiction and crisis intervention; and rebidding behavioral health services under the Medicaid modernization initiative (page 17 of the handout).

On questioning from the subcommittee, the presenters addressed the following concerns and topics.

*Residential treatment.* While behavioral health providers saw a three percent overall reduction in funding under Medicaid cost-containment requirements, there was a 10 percent reduction for residential treatment facilities. Because more people were served at a lower cost in fiscal year 2011 than in fiscal year 2010, the rate reduction may not necessarily mean a reduction in services. An audit of such out-of-home care will be conducted beginning in January 2012.

*Prescription drugs.* Switching to generic drugs works for some people, though not all. On invitation from the chair, UNM child psychiatrist Dr. Steve Adelsheim, speaking from the audience, noted that prescriptions for psychotropic drugs for children are a great concern and are the subject of a federal Government Accountability Office report and national news coverage. OptumHealth will be providing data on which prescriptions are being written for children, though not data on the length of time children remain on those drugs.

*Internal review.* An internal review in 2012 will include a review of claim denials.

*Benefits package and the new 1115 waiver.* Behavioral health services are included as part of the current benefits package available to all, though not everyone is referred for those services. Under the state's current Medicaid Section 1115 waiver application, there will only be a "carve-in" for these services if there is adequate protection for the funding. One goal is to reduce the number of contracts issued and, consequently, the amount paid for administrative fees by requiring that contractors have expertise in all services.

*Future of the collaborative.* The collaborative is created in statute, so it will not disappear with the health reform initiatives unless repealed by the legislature. It could, however, benefit from some streamlining at the policy level.

- ★ Ms. McWilliams will provide an electronic version of the handout used for the presentation and a chart showing payments for behavioral health services, including a percentage breakdown for administrative costs.
- ★ Mr. Earnest will provide information on how the cost savings for residential treatment are achieved and on how federal funds were spent in a Children, Youth and Families Department transformation grant program.

- ★ Ms. Homer will provide the name of the physician who placed two foster children in a home where they later killed an adult and copies of a DVD presentation on prescription drug addiction.

### **New Mexico State University (NMSU) Psychiatric Nursing Program**

Pamela Schultz, Ph.D., R.N., associate dean and director of the NMSU School of Nursing, gave a presentation on the NMSU psychiatric and mental health nurse practitioner program, which has been operating for a decade and has graduated more than 100 students. As the program transitions from a master's-level program to a doctorate-level program, increased funding will be necessary in order to attract appropriate faculty.

In discussing the program, a member expressed concern that advanced degrees might not be necessary for teaching in a nursing school and that there might not be a need to train nurses at the doctoral level because there are already doctors practicing. Dr. Schultz noted that these programs have evolved to meet the needs of communities lacking health care services and that nurse practitioners are the only practitioners available in some clinics due to a shortage of primary care doctors. On invitation from the chair, Albert Dugan, M.D., speaking from the audience, described the current difficulty of getting doctors to stay in primary care and noted that the system needs all practitioners, whether they are doctors or nurse practitioners or assistants.

### **Update on Psychopharmacology Training and Status of Prescribing Psychologists**

Elaine LeVine, Ph.D., ABMP, training director for the NMSU master's program in psychopharmacology, and Jonathan Schwartz, Ph.D., NMSU Department of Counseling and Educational Psychology, gave a presentation on the NMSU psychopharmacology master's degree program available to practicing psychologists. Graduation from the program qualifies a psychologist to become a prescribing psychologist in New Mexico, in Louisiana, for the U.S. military and for the Indian Health Service. The program was created to address a critical shortage of psychiatrists and access to psychopharmacological care in New Mexico, especially in rural areas where there are only six psychiatrists for every 100,000 people.

On questioning from subcommittee members, the presenters noted that, along with the authority to prescribe, these psychologists also have the authority to un-prescribe, applying treatments other than prescription drugs when they feel medication is not the best approach. They also noted that supervision requirements in statute need to be streamlined.

### **Civil Commitment Proceedings — Report from House Memorial 45 (2011)**

Karen Meador, J.D., senior policy director for the IBHPC, and Gabrielle Sanchez-Sandoval, J.D., acting general counsel for the Department of Health, gave a presentation on the work of the task force formed pursuant to House Memorial 45 (2011), which concerned civil commitment and treatment guardianship for people with mental illness. The task force is looking into the roles of district attorneys, civil commitment and criminal procedures and treatment guardianship processes with a focus on preserving public safety, protecting civil liberties and fostering effective treatment (page 4 of the handout). The task force spent the 2011 interim considering mental health and competency statutes; criminal procedures; myths about violence and mental illness; treatment guardians and advance directives; adult protective services; intimate partner violence; services available through the New Mexico Behavioral Health Institute; and recommendations in House Joint Memorial 17 (2011) (page 7 of the handout). Final recommendations from the task force will be presented in the summer of 2012.

On invitation from the chair, several members of the task force in the audience introduced themselves, including Frank Fajardo of the Office of Guardianship; Daphne Rood-Hopkins, HSD behavioral health clinical manager; Mr. Gurley; Desiree Perriguet; Mr. Rosenbaum; Ms. Philips; and Nancy Koenigsberg of Disability Rights New Mexico.

In discussing the presentation, subcommittee members noted that mental illness is a very big problem in the state, especially for law enforcement officers who are at risk of being harmed or killed when confronting someone with mental illness. The issue is also a drain on the Medicaid system, and it needs to be addressed in a more permanent fashion than by a two-day subcommittee. Members supported the idea of a memorial requesting continuation of the subcommittee for the 2012 interim and additional days in its meeting schedule. At the end of the 2012 interim, the members will consider legislation for the 2013 session to create the body as a permanent statutory committee.

- ★ Representatives Kintigh and Picraux will jointly sponsor a memorial requesting continuation of and additional days for the subcommittee.

#### **Public Comment**

Mr. Gurley spoke in favor of treatment guardianships and of leaving a guardian's authority uncompromised. He also cautioned against combining Medicaid Section 115 waivers.

Becky Beckett submitted written comments in support of continuing the subcommittee in the future because the body has "given mental illness a voice".

#### **Adjournment**

There being no further business, the subcommittee adjourned at 4:05 p.m.