

WEST VIRGINIA LEGISLATURE
LEGISLATIVE OVERSIGHT COMMISSION ON HEALTH AND
HUMAN RESOURCES ACCOUNTABILITY

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FINAL REPORT

The Legislative Oversight Commission on Health and Human Resources Accountability was appointed pursuant to the provisions of West Virginia Code §16-29E-1 *et seq.* following the 2019 Regular Session of the Legislature.

During the 2018-2019 interim period the Legislative Oversight Commission on Health and Human Resources Accountability (hereinafter the Commission) met and received information on various topics of study and other important healthcare and human services issues from state agencies, advocacy groups and other pertinent sources. The following topics were studied during the course of this Interim Period:

Drug Policy, Treatment, and Prevention

State Hospitals

Mental Hygiene Process

Child Protective Services

The Committee **REPORTS** as follows:

Drug Policy, Treatment, and Prevention

The Committee heard from Legislative Analyst Jes Russo who presented a report compiling data regarding the Office of Drug Control Policy (hereinafter ODCP). This report noted that the ODCP has had four directors since inception. This turnover has created an inconsistent approach in how to perform the office's analysis and needs improvement. The report also noted that without necessary data it is impossible for the state to make an evidence based policy decision moving forward.

Bob Hansen, Director, ODCP discussed the short and long-term goals of the program. Director Hansen noted that West Virginia leads the nation with drug-related overdose deaths with 57 deaths per 100,000 in 2017 with individual county rates as high as 194 per 100,000.

Director Hansen described a strategic plan to serve as a guide to address the drug crisis. The plan has four strategic goals: 1. Prevent initial drug use; 2. Reduce the rate of fatal and non-fatal overdoses; 3. Reduce rate of illicit drug use; and 4. increase the number of people in treatment and increase recovery support services. These goals were broken down into objectives and action items. The report indicated that the Governor's Council on Substance Abuse and Prevention will further refine this plan over the next 90 days, including the development of specific time-framed and measurable targets for implementation and evaluation.

Director Hansen discussed evidence based substance use disorder prevention programs currently supported by the Department. The presentation noted that prevention focuses on helping individuals develop the knowledge, attitudes, and skills they need to make good choices or change harmful behavior. The presentation described a continuum of evidence ranging from harmful, ineffective, discouraged approaches, promising approaches, research based or informed and evidence based. Director Hansen noted that the earlier that a person is when they try drugs the more likely they are to develop a substance use disorder. He explained that the Department funds six prevention lead organizations in geographic

areas in the state. He indicated that due to the large breadth of evidence based practices used in the state there are challenges associated with aggregate outcome data. Additionally, the cost savings are often delayed. Historically, the Department has allowed decision-making about evidence based practices at the community level and this makes tracking outcomes difficult. Director Hansen indicated that a new approach to prevention is being implemented. The Department will endorse the use of a handful of evidence-based practices to allow for consistent implementation across the state to permit for better outcome tracking.

Brian Gallagher, Chair, Governor's Council on Substance Abuse Prevention and Treatment provided an overview of the Substance Use Response Plan. He indicated that the plan was still being revised in response to public comments received. Mr. Gallagher indicated that there were regional meetings across the state to solicit input into the plan beginning October 15, 2019 and ending October 24, 2019. He explained that the first two goals were: 1. to prevent substance use disorder and enhance resiliency and 2. To monitor Opioid prescription and distribution. Based upon goal one, the group determined a number of strategies to promote prevention and reduce adverse childhood experiences, including conducting an assessment of recovery housing, and exploring tax credits and other options to improve access and capacity of recovery housing. With respect to goal 2, he explained that they were evaluating increasing community supports such as increasing the availability of transportation in order to access prevention.

Individuals from the Department of Military Affairs and Public Safety, including Cabinet Secretary Jeff S. Sandy, Thom Kirk, Deputy Cabinet Secretary, Gary Johnson, Assistant Commissioner and Inspector General, Jack Luikhart, and Betsy Jividen Commissioner of the Division of Corrections provided an overview of the inpatient substance use treatment program offered to jail-housed inmates, including goals, continuum of care, costs and outcomes.

At this time, the Committee **RECOMMENDS** no action be taken on this topic. It further **RECOMMENDS** that it continue to monitor the progress of the ODCP in the development of its policies and its program with an aim to

develop potential legislation during the 2020 Regular Session of the Legislature if needed.

State Hospitals

The Committee heard from Bill J. Crouch, Secretary of the Department of Health and Human Resources (Hereinafter Department) regarding implementation of HB 3131. He indicated that the number of employees that are anticipated to be impacted by this legislation is 690 out of 1,607. He indicated that that a community based market analysis will be conducted to determine private sector salaries for direct care staff and that the intent is to increase salaries of the impacted employees to be competitive with the private sector. He indicated that the Department was working diligently through this transition and that the timeline for compliance is from January 1, 2020-July 1, 2020.

Legislative Analyst, Jes Russo provided an overview of the response that the Department provided to an inquiry regarding the financial strength of its health care facilities. While the Department did not provide all information requested, the Department did provide financial information indicating significant losses at Jackie Withrow Hospital, Mildred Mitchell Bateman Hospital and William R. Sharpe Hospital. The only hospital that appeared to have positive net revenue was Welch Community Hospital. However, when this revenue was compared to government appropriations the facility was still operating in the negative. Additionally, all facilities had problems with OHFLAC surveys, excluding Sharpe, which just obtained recertification.

At this time, the Committee **RECOMMENDS** no action be taken on this topic. It further **RECOMMENDS** that it continue to monitor overall OHFLAC compliance and financial status of the state hospitals with an aim to develop potential legislation during the 2020 Regular Session of the Legislature if needed.

Mental Hygiene Process

Lisa Tackett, Director, Division of Court Services, West Virginia Supreme Court of Appeals provided an overview of the mental hygiene process. She

explained when an individual is addicted, then the individual can only be held during a period of detoxification and then released.

Brandon Hatfield, West Virginia Hospital Association and Owen Lander, MD, Medical Director, West Virginia University Hospitals, discussed SB 574 an involuntary hospitalization bill that failed to pass the Legislature last session. Dr. Lander explained that there is a need to empower hospitals to act in the period before the mental hygiene process can begin to take place because they are often faced with a crisis and unable to reach a mental hygiene commissioner. He argued that the ability to conduct a temporary hold would ensure patient and community safety.

Lisa Tackett, appeared before the Commission a second time to provide an overview of how West Virginia mental hygiene law differs from Kentucky's Casey's law. She indicated that in Kentucky a private family must pay for treatment. In West Virginia, this would not be practical and the state would need to assess the extent to which Medicaid would cover court ordered treatment and determined existing capacity for such treatment.

At this time, the Committee **RECOMMENDS** no action be taken on this topic. It further **RECOMMENDS** that this issue be monitored with an aim to develop potential legislation during the 2020 Regular Session of the Legislature if needed.

Child Protective Services

Melissa Bishop, CPA, Assistant Director, Post Audit Division, West Virginia Legislature, provided an overview of the audit conducted of the Bureau of Children and Families. She indicated that that the percentage of abuse and neglect cases where initial response time were met in the federal fiscal year 2019 was 50.1% and unmet 49.9%. This indicates a child safety issue. She explained that the Department experiences high turnover rates in all of its regions ranging from 20% to 37% in fiscal year 2019. She explained that starting salary for a CPS worker is lower in WV in all of the surrounding states excluding Virginia. The states of Kentucky, Pennsylvania, and Virginia do not require CPS workers to be licensed. She noted that exiting CPS workers cited caseload and job stress as the primary reasons for leaving. She

indicated that case management data could be used to improve CPS processes, effectuate better outcomes, provide insight into training, management or operational needs, and establish more relevant performance measures. She further indicated that the centralized intake calls are not recorded for future reference or quality training. She indicated the CPS does not have a formal policy in place to monitor social worker licensure status and does not perform criminal background checks for CPS workers after being hired. She indicated that out of the 66 files reviewed only nine files had proof of current social work license. They were able to verify all individuals were actively licensed and this was determined to be a record keeping issue. Further, the Department could not provide proof a criminal background had been completed for all hired employees. The Department had a policy that requires a background check at least once every five years and this is not being completed.

The Legislative Auditor made several recommendations. First, CPS develops and implements processes and procedures that will ensure that it is able to meet the statutorily required response times to reports of child abuse and neglect. Second, BCF update its retention plan by developing new retention goals that are measurable and attainable. Third, BCF consider options for improving the competitiveness of CPS workers' starting salary to increase recruitment numbers. Fourth, BCF develop strategies to decrease overtime. Fifth, BCF use the detailed data it is already collecting to better effectuate staffing and case management solutions. Sixth, BCF consider recording and storing phone calls for a quality and training purposes. Seventh, DHHR develop a consistent means of monitoring social worker licenses. Eighth, DHHR's OHRM update personnel files in a timely manner to ensure that all documentation is as up to date as possible. Ninth, complete subsequent CIP background checks at least every five years on all CPS workers, as well as all other employees responsible for the care or welfare of vulnerable populations. Tenth, DHHR require all CPS workers to sign a statement of criminal record every two years and maintain this document within their personnel file. Eleventh, DHHR consider whether its current procedure for performing background checks every five years subsequent to

employment is adequate to ensure those workers are appropriate for the nature of the work they will be performing.

Cammie Chapman, Associate General Counsel, for the Department provided an overview of the steps that the Department has or will take to address in response to the audit. She indicated that with respect to statutory timeframes, the Department is working with DHS to finalize the WV Child and Family Services Review Program Improvement Plan with an expected approval by the end of 2019. This will address the root cause of caseworkers not meeting statutory timeframes for initiating an investigation of reports of child abuse. The Department will provide a copy of the plan to the Legislative Auditor.

She explained that the Department updated its retention plan with specific goals and tasks that coordinate with the above plan submitted to DHS.

She indicated that with respect to data, the Department intends to better use data it is collecting to effectuate staffing.

She indicated that BCF will ensure that all employees practicing social work are currently licensed and will implement a formal process to monitor social worker licenses.

Last, she indicated that the Department is transiting to WV Cares for background checks of its employees. She indicated that it is anticipated that the transition for new employees will be completed by January 1, 2020.

The Commission **RECOMMENDS** that legislation be passed during the 2020 legislative session to address issues identified in the audit. The Joint Committee on Health has proposed four bills to address several of these issues.

MISCELLANEOUS

Barbara Skeen, Interim Executive Director, West Virginia Health Care Authority provided an overview of Hospice Service, Certificate of Need Standards Revisions pursuant to SB 537. She provided an overview of the members of the Hospice workgroup and the workgroup meetings. She then

explained the Hospice workgroup recommendations. First, the workgroup determined that the need methodology for hospice service should be calculated by comparing the number of hospice deaths in a county to the total deaths in the county, excluding external causes, using a three-year average of data. The number of expected hospice users in a county should be calculated by taking 30 percent of the total deaths in a county excluding external causes. The average number of hospice deaths in the county excluding external causes should then be subtracted from the calculated number of expected hospice users. If there is an unmet need to 75 or more, the county is open for the approval of a new hospice provider. Second, the Authority should conduct an annual hospice survey to collect the needed data from current hospice providers. Third, education of the public and health care providers on the benefits and services provided by hospice is needed. Fourth, there is a cumbersome process when hospice is provided in a nursing home. Ms. Skeen explained that the draft of the hospice standards had been placed for public comments and provided an overview of the public comments received. As noted in the matrix attached to her presentation the Authority anticipated making revisions to the standards in response to the comments in the area of the 75 adjustment factor and the definition of external causes.

Ryan Wakim, MD, iSelectMD, presented an overview of its telemedicine platform. It provides audio only telemedicine.

Maureen Hensley-Quinn, Senior Program Director presented information regarding a state administered wholesale prescription drug program. She indicated that Vermont, Florida, Colorado and Maine are in the process of implementation of such importation plans.

Respectfully submitted,



Senator Eric Tarr, Co-Chair



Delegate C. Jordan Hill, Co-Chair