



WEST VIRGINIA LEGISLATURE
LEGISLATIVE OVERSIGHT COMMISSION ON HEALTH & HUMAN RESOURCES ACCOUNTABILITY
STATE CAPITOL
CHARLESTON, WEST VIRGINIA 25305

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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 2021 Regular Session of the Legislature.

During the 2020-2021 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, advocate groups and other pertinent sources. The following topics were studied during the course of this Interim Period:

Behavioral Health Facilities
WV Foster Care Ombudsman Program
PATH System Update
Behavioral Health and Mental Hygiene Process
State-Owned and Operated Long-Term Care Facilities
Foster Care System Update
Nurse Innovation and Entrepreneurship
Tobacco Use Prevention and Cessation Final Report

The Commission **REPORTS** as follows:

Behavioral Health and Mental Hygiene Process

The Commission heard from Charlie Roskovensky, Counsel for the WV House Committee on Health and Human Resources for an explanation of Senate Bill 509. The bill failed to become a law during the previous legislative session. It proposed a change in the current code to determine whether an individual is medically stable before admission to a mental health facility. The bill would have allowed a circuit court, magistrate or mental hygiene commissioner, in the involuntary commitment process, to order an exam of a person by a health care practitioner to determine medical stability in addition to a mental health examination for the purpose of a probable cause hearing. Previously, it was required that a licensed physician make that determination.

Other speakers to the committee included the Chair of the Department of Psychiatry and Behavioral Medicine at Marshall University, the Cabell County Mental Hygiene Commissioner, the CEO of the Appalachian County Mental Health Center and a representative from the West Virginia Sheriffs' Association. The group expressed their concerns with the original proposal and established a willingness to work together to come up with a better way moving forward.

Following this presentation, the Commission **RECOMMENDS** that the Legislature continue studying this issue.

Behavioral Health Facilities

The Commission heard a report on behavioral health facilities in West Virginia from the Office of Health Facility Licensure and Certification (OFLAC) within the Department of Health and Human Resources. The report detailed complaints over the past three years across the 611 licensed behavioral health sites in the state, not including IDD waiver homes with three or less individuals. Those 611 sites are split into three categories: group homes, which include intermediate care facilities for individuals with intellectual disabilities (ICF/IDD), and residential units; outpatient services; and substance use disorder facilities providing behavioral health services.

According to the Director of OFLAC, the top complaints from all behavioral health centers in 2020 were abuse and neglect by staff, violation of rights and safety concerns. According to the report the issues are pervasive throughout the system. In several instances, neglect by staff led to death of a patient or resident. The Director further stated that a workforce issue exists with finding qualified professionals to fill open positions.

Following this presentation, the Commission **RECOMMENDS** that the Legislature continue studying this issue.

Foster Care Ombudsman Report

The Commission heard a presentation from Pamela M. Woodman-Kaehler, the West Virginia Foster Care Ombudsman, concerning her first few months on the job. She explained to lawmakers the many challenges facing the foster care system, with her office receiving roughly 500 complaints since she was appointed. Many were in regards to communication issues, mixed or unclear messages or an overall distrust and fear of the system.

Cammie Chapman, the associate general counsel for DHHR also spoke before the Commission and acknowledged the concerns. She states that officials are working through the issues and that the child welfare system is stressed not only in West Virginia, but nationwide. Chapman also spoke of an ongoing effort to recruit workers for the child welfare system by increasing salaries and adding more than 200 positions. As of the report to the Commission, 90 percent of districts have vacancies, with a total of 124 positions needing to be filled.

Following this presentation, the Commission **RECOMMENDS** that no action be taken on this issue at this time.

PATH System Update

The Commission heard from Justin Davis, Assistant to the Cabinet Secretary on an update of the PATH system. PATH (People's Access To Help) provides a portal for individuals to apply for Medicaid, WVCHIP (Children's Health Insurance Program), SNAP (Supplemental Nutrition Assistance Program) and others. The PATH system is currently being reviewed by DHHR, with an anticipated launch date of October 2022.

Following this presentation, the Commission **RECOMMENDS** that no action be taken on this issue at this time.

Behavioral Health/Mental Hygiene Process

The Commission heard a presentation from DHHR Deputy Secretary Jeremiah Samples regarding behavioral health centers and potential solutions to issues raised during the May 10, 2021, DHHR behavioral health presentation. According to DHHR, West Virginia has experienced a high number of individuals with intellectual and developmental disabilities suffering from abuse and neglect, some leading to serious injury or death. Documented issues included critical medication errors, failure to provide emergency medical attention, failure to secure dangerous substances, failure to report or investigate incidents and other instances of overall abuse and neglect.

Actions taken by DHHR to address the issues have included closing facilities, more closely regulating settings, as well as engaging stakeholders to develop more recommendations. The Department also highlighted a continued labor and staffing shortage and shared a proposed concept of a tiered Core Staffing Model, with the hopes to use various modes of funding to address staffing shortages.

The Commission then heard from Mark Drennan, Chief Executive Officer for the West Virginia Behavioral Healthcare Providers Association, who presented an overview of meetings held in regard to mental hygiene reform. Issues continue to arise within the process known as involuntary commitment, such as increasing timelines, lack of uniformity, medical clearance and transportation. A flow chart of the mental hygiene process was provided to members, helping explain the very detailed process from start to finish.

Stakeholders working towards mental hygiene reform include the WV Supreme Court, DHHR, the WV Behavior Healthcare Providers Association, WV Hospital Association, the Sheriffs' Association, Public Defenders Services, Disability Rights of WV, several local hospitals, the City of Charleston and the WV Legislature. Issues continue to present themselves within the process known as involuntary commitment

Following this presentation, the Commission **RECOMMENDS** that the Legislature continue studying this issue.

State-Owned and Operated Long-Term Care Facilities

The Commission heard a presentation from Bill Crouch, Secretary of DHHR, pertaining to the state's owned and operated long term care facilities. Those facilities include Hopemont Hospital, Jackie Withrow Hospital, John Manchin Sr. Healthcare Center and Lakin Hospital. Secretary Crouch highlighted some of the critical issues facing the facilities including patient/resident care culture, growing maintenance costs, reimbursement issues and increasing workforce shortages.

He also offered potential solutions to the issues, which included closures, acquisition/mergers, management contracts and facility replacements. The presentation also included a breakdown on the number of licensed beds within each facility, as well as the types of care each facility provides.

Following this presentation, the Commission **RECOMMENDS** that the Legislature continue studying this issue.

Foster Care System Update

The Commission heard from Commissioner Jeffrey M. Pack of the WV Bureau for Children and Families within DHHR for a general update on the state's foster care system. After taking over as commissioner, Pack detailed several of the challenges facing the foster care system as a whole. He explained there are three types of foster care: certified foster care, certified kinship and uncertified kinship.

Commissioner Pack explained how the Bureau is working to train kinship parents to become certified foster parents. The Bureau also recommended developing a pilot program to expand funding for uncertified kinship parents. The commissioner also noted that the issues found across West Virginia's system are also being seen across the country and that placements have been made even more difficult due to the COVID-19 issues. He also highlighted a dwindling workforce as a major cause for concern. The agency stated that their recruitment is stable, but their retention is suffering. Contributing factors in retention issues cited were low salary and unmanageable caseloads for workers. Lastly, Commissioner Pack referenced an ongoing workload study being performed through West Virginia University that will

help determine actual caseload of a CPS worker and a comparison of salaries. That study is expected to be completed by the 2022 session.

The Commission then heard from foster care parent Carey Miller, who voiced her concerns about the foster care process. She highlighted several frustrating moments within the process, including breakdowns in communication, long delays in receiving pertinent information and an overall lack of direction.

Following this presentation, the Commission **RECOMMENDS** that no action be taken on this issue at this time.

Nurse Innovation and Entrepreneurship

The Commission heard a virtual presentation from Rebecca Love, a Registered Nurse and entrepreneur who founded HireNurses.com in 2013. Love currently holds the title of Chief Clinical Officer for IntelyCare, the largest staffing platform for nursing professionals seeking per-diem positions. Love spoke passionately about several issues facing the nursing industry, specifically on how to empower nurses and create communities to help nurses innovate and collaborate as a means to transform the healthcare industry.

There are currently over five million nurses in the United States. The average age of nurses is 50 years old with 70 percent of nurses being over the age of 40. Currently, nursing is experiencing the largest exodus of any profession in the United States. Love highlighted how COVID-19 put an even bigger burden on nurses, exacerbating an issue that existed before the pandemic. While the burden on nurses grew, the available nursing workforce has been dwindling. Love spoke on the need for proper staffing and retention, as well as ways to empower nurses to help the industry as a whole.

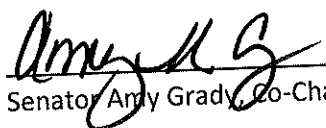
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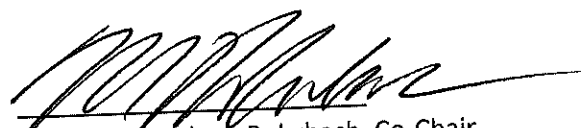
Tobacco Use Prevention and Cessation Final Report

The Commission heard from Dr. Susan Morgan with the WV Tobacco Use Prevention and Cessation Task Force for a presentation of the group's final report. The Task Force was formed in 2020 when HB 4494 was passed to recommend programs effective at reducing tobacco use by WV citizens. Dr. Morgan highlighted the groups' findings, including a breakdown on how smoking cessation efforts are designed and how many people they are helping.

Following this presentation, the Commission **RECOMMENDS** that no action be taken on this issue at this time.

Respectfully submitted,


Senator Amy Grady, Co-Chair


Delegate Matthew Rohrbach, Co-Chair