WEST VIRGINIA LEGISLATURE

JOINT COMMITTEE ON HEALTH

2021 Interim Session

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FINAL REPORT

The Joint Committee on Health was appointed by the Joint Committee on Government and Finance, following the 2021 Regular Session of the Legislature. The Committee reports as follows:

INTERIM MEETINGS:

June 7, 2021

There was a presentation regarding local public health. The following persons gave a presentation: VJ Davis, Preston County Health Department, A. Jay Root, Mineral County Health Department, Dr. Lee Smith, Monongalia Health Department, Chad Bundy, Harrison-Clarksburg Health Department, and Teri Harlan, Fayette County Health Department. They discussed the various funding sources for local health departments which include: the legislature, the county commission, city government, the board of education, a levy, fees for permits, fees for clinical services, and grants.

The services of local health departments include:

Community Health Promotion (which includes assessing and reporting community health needs and improving health status; facilitating community partnerships and including the community priority needs; and mobilizing a community around identified priorities and monitoring the progress of community health education goals);

Environmental Health Protection (which includes disaster preparedness, disease control/epidemiology, issuing permits and inspecting facilities, and investigating complaints on permitted facilities);

Communicable Disease or Reportable Disease Prevention and Control (which includes disease surveillance, case follow-up, outbreak investigation, response to epidemics, rabies control and prevention, capacity and availability of screening and treatment for sexually transmitted diseases, capacity and availability of education, screening diagnosis and referral for HIV/AIDS, tuberculosis prevention, control, surveillance and reporting, vaccine preventable disease assessment, outreach and administration).

There are 48 local boards of health serving 55 counties. Local health departments have the same basic structure: administration, clinical, environmental, health promotion, and threat preparedness.

The majority of rules are promulgated based upon state code and some local rules.

September 12, 2021

The meeting began with a presentation regarding sober living homes. Al Johnson, Assistant Chief, Office of the State Attorney, Palm Beach County, Florida, discussed how the Florida Recovery Model is to work in theory: a substance abuse disorder patient

enters a detox and inpatient treatment facility, after treatment he/she has outpatient care and possible stay in a sober living home and has sobriety. He described the "Florida Shuffle" where marketers and labs provide kickbacks to sober living homes and marketers provide kickback, or an inducement, to patients such as free airfare or free housing to stay at certain sober living homes. Providers and sober living homes provide kickbacks to marketers depending on the quality of patient insurance and the level of care provided to the patient. Sober living homes provide kickbacks to residents such as free rent, cigarettes, scooters, acupuncture, gym memberships, and gift cards.

He explained that the Fair Housing Act (FHA) and the Americans with Disability Act (ADA) created an unregulated sober living home environment. Florida passed a Patient Brokering Act, a Deceptive Marketing Practices Act, voluntary certification of sober living homes, and requires sober living homes to be certified or otherwise to have national standards when requesting reasonable accommodation to house unrelated adults in excess of the number allowed in residential areas.

With respect to certification of sober living homes, the FHA and ADA may prohibit mandatory certification. So, Florida elected to designate a certifying agency to provide best practice standards.

With respect to zoning, a sober living home cannot be banned, and you cannot deny a reasonable accommodation under the ADA/FHA. However, oversight must be rationally based and the least restrictive standard. Accordingly, you can prevent overconcentration and you can require adherence to national standards for certification.

The second topic for discussion was childcare and daycare. The following people discussed this topic: Leslie Stone, Stone Strategies; Meghan Hullinger, parent and former childcare provider; Helen Post-Brown, Director, Sunbeam Early Learning Center and Vice Chair of WV Association for Young Children, and Dr. Jamie Jeffrey, Pediatrician and Associate Clinical Professor of Pediatrics, WVU-Charleston.

In WV, 64% of people live in a child-care desert. The annual cost of child-care is more than the average cost of in-state tuition. WV is currently ranked 50th in child-care accessibility.

With respect to priority recommendations:

Raise the income eligibility for families to receive child-care subsidies from the current entry level of 150% of 2019 federal poverty level and current exit level of 185% of 2019 federal poverty level to entry level of 185% of 2021 federal poverty level and exit level of 250% of 2021 federal poverty level;

Invest in, and fully implement, a quality review and improvement process and increase the amount and frequency of quality grants and bonuses to incentivize all child-care programs to increase and sustain higher tier levels;

Provide funds for current or prospective child-care providers to expand existing or create new child-care businesses, with greater incentives in WV's child-care deserts;

Pay child-care providers based on children's enrollment rather than daily attendance;

Implement a wage enhancement process with enhancements for higher levels of education and provide full subsidies for child-care workers cost of child-care for their own children.

November 16, 2021

A presentation regarding modernization of local health was provided. The following people presented: Dr. Ayne Amjad, State Health Officer, VJ Davis, Preston County Health Department, Chad Bundy, Harrison County Health Department, and Boyd VanHorn, Taylor County Health Department.

There are several recommendations from the speakers:

- Expand and revise WV basic public health services to include immunizations and public health preparedness as distinct services.
- Ensure that every West Virginian has access to a basic set of public health services.
- Modify the statutory language to include certain statutory language that may be needed to reinforce the role that local health departments play in responding to public health emergencies and permit the use of state funds to support service activities.
- Remove the responsibility of the state in the approval of the local health departments fees and shift the oversight to the appointing authorities.
- Third-party reimbursement is not available for most public health services, unlike other health providers. However, for a small set of services that can be reimbursed by health insurers, this can take place. The passage of legislation requires the promulgation of rules to reduce barriers to third party billing by local health departments.
- Develop a process for periodic review and revision of the WV basic public health standards and services and for monitoring service delivery.
- Formalize the process for local health departments to request shared services and mutual aid both among local health departments and from the state.

- Inventory need for shared services and resources available for shared services.
- Allow costs to be determined by the individual local health department engaged in the sharing arrangement.
- Oversee the implementation of the modernization recommendations.
- Refine the Center for Local Health duties to state support functions:
    - Provide program guidance and support to local health departments
    - Training and technical assistance
    - Bi-directional communications and reporting of information including actionable data

December 5, 2021

A presentation regarding the modernization of the mental hygiene process was provided by Mark Drennan, Chief Executive Officer, Behavioral Health Providers Association.

Mr. Drennan described a stakeholder meeting that he convened that included: the WV Supreme Court, DHHR, WV Behavioral Health Providers, WV Sheriff's Association, WV Hospital Association, WV Public Defenders, Disability Rights of WV, City of Charleston, Cabell-Huntington Hospital/St. Mary's Hospital, Thomas Hospital, and the West Virginia Legislature.

He provided an overview of the mental hygiene process. The people involved in the process are: a mental hygiene certifier or examiner, a metal hygiene commissioner, a public defender, a prosecuting attorney, a sheriff or designee, the Supreme Court of Appeals, Hospitals, and emergency departments.

The mental hygiene examiner is a mental health professional who determines if the person being examined is mentally ill, has a substance use disorder, presents an imminent danger to self or others, or needs an intervention to save their life of the lives of others.

The mental hygiene commissioners are attorneys appointed by the chief judge in each circuit. They act as the judge over involuntary hospitalization hearings.

The public defender has the role of counsel in the mental hygiene process and is to assert the defendant's constitutional rights associated with the loss of liberty.

The Sheriff, upon acceptance of a mental hygiene petition and order from a mental hygiene commissioner, will take into custody the respondent and maintain custody until the disposition of the process. If probable cause is found, the sheriff transports the individual to the hospital.

The simple flow of the process is: application filed, petition accepted, pick up order/ transportation event takes place, mental hygiene examination, possible transportation event, hearing with transportation, placement at facility.

Issues with the process: timeliness, lack of uniformity from county to county, medical clearance, and transportation.

With respect to timeliness: there is a consensus among the stakeholders that improving timeliness will alleviate complaints. There are places in the process that will increase efficiency.

Lack of uniformity: one major complaint is that the process is different from county to county. For example, in Raleigh County, mental health centers meet with the petitioner prior to filing the petition to explain the process and provide assistance. This may reduce the number of petitions. Second, the interpretation of "forthwith" is being interpreted differently county by county. Some counties wait until the next business day for hearings. "Forthwith" means immediately.

Transportation: These issues are significant. Transporting individuals for assessment and possible commitment tie up limited resources across the state. Possible solutions are: adding municipalities to aid the Sheriff in transportation, adding EMS to transport after disposition, improving the efficiency of the process at each step, streamlining medical clearance, adopting the Raleigh County model of meeting with the petitioner prior to filing the petition, and technology solutions including video conferencing for hearings.

Medical Clearance: In 2020, HB 4004 was amended to require medical clearance in all mental hygiene cases. It became effective June 5, 2020. Many at the stakeholder meeting expressed the opinion that the current requirements for medical clearance are excessive and cause significant delays in many settings and instances. There should be appropriate, less burdensome medical clearance requirements. There are concerns around medical clearance if completed before the hearing. This occurs before an individual has had their liberties restricted. What if the testing is refused, and who pays?

A proposed bill was provided that recommends a silver medical clearance model. This model is evidence-based and promotes standardization and expedited medical clearance when appropriate for patients.

January 11, 2022

A follow up presentation regarding the modernization of the mental hygiene process was provided. The following speakers gave the presentation: Mark Drennan, Chief Executive Officer, Behavioral Health Providers Association, Rodney Miller, WV Deputy Sheriff's Association, and Mike Folio, Counsel, DHHR Office of General Counsel.

Jim Kaufman, CEO West Virginia Hospital Association, gave a presentation discussing health care professional shortages.

Respectfully submitted,

Senator Michael Maroney, Co-Chair

Delegate Matthew Rohrbach, Co-Chair