

MINUTES

Redefine Nursing Home Criteria



Representative Jean Hunhoff, Chair
Representative Rebecca Reimer, Vice Chair

**Third Meeting, 2019 Interim
Wednesday, October 30, 2019**

**Room 464 – State Capitol
Pierre, South Dakota**

The third interim meeting of the Redefine Nursing Home Criteria and Build Capacity Task Force was called to order by Representative Jean Hunhoff (Chair) at 8:33 a.m. CDT, on Wednesday, October 30, 2019.

A quorum was determined with the following members answering roll call: Representatives Chris Johnson, Jean Hunhoff (Chair), and Rebecca Reimer (Vice Chair); Senator Rocky Blare; and public members Anthony Erickson, Dr. Deepak Goyal, Amy Iversen-Pollreisz, Jeremy Johnson, Shawnie Rechtenbaugh, Phil Samuelson, and Laura Wilson (via phone).

Staff members present included Sakura Rohleder, Fiscal and Program Analyst; Michael Loesevitz, Senior Legislative Attorney; and Rachael Person, 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 office. This meeting was web cast live. The archived web cast is available on the LRC website at sdlegislature.gov.*

Opening Remarks

Representative Hunhoff welcomed everyone to the meeting and gave a quick overview of the process of any recommendations or legislation that the committee decides upon.

Approval of Minutes

A motion was made by Representative Reimer, seconded by Representative Johnson, to approve the minutes of the Redefine Nursing Home Criteria and Build Capacity meeting held October 1-2, 2019. The motion prevailed on a voice vote.

Follow-up Data

Ms. Amy Iversen-Pollreisz, Deputy Secretary, Department of Social Services (DSS), provided follow-up data requested at the previous task force meeting ([Document 1](#)).

The criteria for involuntary commitment can be found in statute [27A-1-2](#). Ms. Iversen-Pollreisz stated the criteria listed in statute is what is used when a person is placed on a hold or a petition is filed. The Mental Health board chair would be working to determine if a person met that criteria based upon the information and the Qualified Mental Health Professional (QMHP) evaluation that would be done within a 24-hour time period.

At the previous meeting the committee inquired after the number of inappropriate and unnecessary transfers from community nursing homes to the Human Services Center (HSC) that had a length of stay of five days or less. In

FY2019, there were six admissions (5 people) to HSC out of 854 total adult involuntary admissions that met the criteria of being admitted from a community nursing home and being discharged prior to, or at their 5-day hearing.

Representative Hunhoff asked about the diagnosis for the short-term commitment. **Mr. Jeremy Johnson, Director of Clinical Services, South Dakota Human Services Center**, responded it would be specific for each individual, but each would have met the criteria for an involuntary hold, and then it was determined by the treating team, or the mental health board, that the individuals did not continue to meet that criteria.

Another topic of discussion at the last meeting centered around the Medicaid application process and the sale of an asset. Ms. Iversen-Pollreisz said a home or other real property is not excluded while an individual is in the process of selling it. However, a home is excluded from the resource calculation if it continues to be the individual, their spouse, or a dependent child's principal place of residence. A home may also continue to be considered the individual's principal place of residence while institutionalized if they provide evidence that the institutionalization is temporary, and they will be returning back to that home.

Senator Blare asked if that was federal or state regulation. Ms. Iversen-Pollreisz said it is the federal regulation.

Representative Hunhoff asked if anything could be done differently and if the department provided any assistance to the people or if the facilities bear the burden of having to work through the whole process with the individual. Ms. Iversen-Pollreisz commented that the department would try to work with the facility or whomever is working with the person but ultimately there is not a direct relationship with the department and the individuals unless the individuals are coming in and working with one of the eligibility staff members at DSS. Currently, the facilities are working with them because they are in the facility and they have that relationship. It is up to the individuals to compile the information and get it to the department for review.

Mr. Anthony Erickson stated that family accountability is one of the biggest barriers the facilities face. Many times, when a resident is placed in a facility the family may live somewhere else, or they do not understand the sense of urgency the facilities have to get things done in a timely manner. There are also difficult situations where the families do not necessarily want to comply. Mr. Erickson said the facilities currently have to track the family members down if they do not come in and trying to get people to play a more active role may not make a difference.

Mr. Phil Samuelson said there are some advocates who will work with families and residents who need more assistance to complete the Medicaid applications. He agreed with Mr. Erickson and said sometimes even the residents themselves can create barriers when they refuse to pay the facilities or the hospitals and may have the legal system encouraging them to do so as they look at the transfer of assets and Medicaid eligibility.

The committee also discussed what happens if a patient dies during the Medicaid application process. An applicant can be approved for up to three months prior to their application if they met all of the eligibility criteria. Ms. Iversen-Pollreisz said the challenge is that an application must be submitted that requests coverage, and all financial eligibility criteria as well as non-financial criteria must be verified. Verification of this information can be difficult if no electronic verification source is available and the individual does not have someone who can act on their behalf.

Ms. Iversen-Pollreisz also provided data for the number of geriatric residents at HSC who are awaiting placement at another facility.

Representative Hunhoff asked about the placement process. Mr. Johnson responded that if they are looking to place a resident in another nursing home, the social work staff at HSC would make contact with that nursing home, send medical records and progress notes so the facility could see how the individual was doing, and then coordinate

the details such as transfer date, plans with the family, and other similar details that occur when an individual is transferred from a nursing home to another nursing home.

Representative Hunhoff questioned why agencies are not able to take those patients on the waiting list. Ms. Iversen-Pollreis said that typically the staff who would provide the case management services have full caseloads and cannot take on another client at the time. Workforce shortages also play into this.

Senator Blare asked if the number of individuals on the waiting list continues to increase or if it remains consistent; and what happens to the individuals on the waiting list when they are not being treated. Ms. Iversen-Pollreis remarked that the number of individuals on the waiting list stays consistent and is always being closely monitored. If the individuals on the waiting list have immediate needs, they will get emergency services or support, but the majority of the individuals can wait a short time for services. She pointed out that individuals are not on a waiting list for extended periods of time, as that is also something their department closely monitors.

The committee discussed the final question included on Ms. Iversen-Pollreis's handout which showed the FY19 Budget information by Community Mental Health Center and the statewide FY19 Outcome Measures monitored for adult clients receiving publicly funded mental health services. The information included in the outcome measures is collected at the time of admission, six months after the client has received services, and every six months following that until they are discharged.

Discussion on the Second Task Force Meeting

Representative Hunhoff opened the discussion with the topic of guardianship. She asked the committee if the issue of guardianship services for their residents was a high enough priority for the committee to consider.

Mr. Samuelson commented that helping people through the Medicaid application process is more of an issue than guardianship. When facilities are looking at taking a patient, they look heavily at whether that person has a payer or not. The payment mechanism is one of the risks for anyone going through HSC or the behavioral programs at hospitals. Mr. Samuelson said facilities often waver back and forth on what responsibilities fall in their care and hesitate to delve too far into the financial aspect of situations because that creates conflict of interest.

Mr. Erickson agreed with Mr. Samuelson and said getting the Medicaid eligibility decision made on the forefront instead of waiting until an individual is placed in a facility would remove one of the barriers facilities face.

Representative Hunhoff asked Mr. Johnson if the prework could be done and the papers turned over to the facilities upon discharge. Mr. Johnson responded that is the current process. HSC collects the background information, fills out the application, and submits it for the person. However, instances do occur where things change in the process such as assets being discovered as the bank accounts, land, and other areas are reviewed that HSC did not have when they discharged the individual.

Representative Johnson commented that a form of official communication from the state prior to accepting a patient on whether or not that patient qualifies for Medicaid would help the private sector but could put a large burden on HSC. He asked if there was a possibility for compromise to be made with an official communication containing a disclaimer. Mr. Johnson responded the determination would have to happen with the Department of Medicaid Eligibility and not with HSC. Representative Johnson said finding a way of bridging the gap of understanding and communication would help tremendously.

Representative Hunhoff moved the conversation on to the differentiation of cost between HSC and the Community.

Mr. Samuelson discussed possible incentives for facilities to take on the more challenging cases waiting for placement. He commented having an incentive may help with the financial barrier and help the facilities to attract and retain the staff and to provide the education needed to help those individuals.

Representative Hunhoff asked about the eligibility for additional payment due to challenging behaviors and if it requires documentation, what the rates could be, and if there is a cap on how it is figured.

Ms. Yvette Thomas, Division Director, Long-Term Services and Support, Department of Human Services, said there is a set of criteria in the Medicaid state plan that indicates who fits into eligibility for the add on payments. Once the facility determines they would like to apply for that, they send in medical documentation and a nurse in the office reviews the documents to make sure they meet the eligibility requirements. The actual payment to the facility receiving the add on payment for challenging behaviors is based on their cost for the units, and the aim of the add on payments is to cover the costs for that patient.

Representative Johnson said that when looking at having HSC carry less of the burden and moving some of the people over to private care, it's important to remember that HSC has certain people on staff that the private sector cannot afford to have. There is a certain level of staffing and care that has to be in place, and the cost per patient at HSC would go up substantially as the number of patients are reduced.

Identification of Priority Concerns

Dr. Deepak Goyal recommended an analysis be done of how resources are being utilized in the state. By doing such an analysis, the state could see the areas where resources could be saved and then reallocated into other areas.

Ms. Iversen-Pollreisz cautioned the committee not to make assumptions that the dollars are not being used appropriately. Currently the funds are being used to provide mental health services to people in the community. Differences do occur from one area to the next, but there are logical reasons why those differences occur. Ms. Iversen-Pollreisz reminded the committee that if funds are pulled out of one area there would be people who would not be getting services.

Representative Reimer suggested the education of staff on situations such as the recognition of dementia, signs that should be looked for, how to deescalate a situation, and other topics that would help in crisis situations be something the committee focuses on for recommendations going forward.

Representative Hunhoff asked Mr. Johnson if there was potential for HSC to be one of the providers who could work with the community providers within the education scope. Mr. Johnson responded that HSC currently does ad hoc training as they receive calls from community nursing homes asking for assistance, but the priority of their resources is focused on the people in their care. He does see HSC as being a potential resource who can share their expertise.

Mr. Erickson pointed out that providers are educating their staff to the maximum right now. Long-term care is the second most regulated industry. With the regulations and the number of continuing education hours growing, Mr. Erickson said it is difficult for staff to keep up and still provide care at the bedside level.

Dr. Goyal asked Mr. Johnson if HSC had a formal training module currently or if it that would be something to look at for the future. Mr. Johnson said they do not have a formal training module, they create presentations based on need and try to deliver their training face-to-face because that is what works the best for learning in this kind of an environment.

Representative Johnson remarked that increasing funding to HSC is a top priority so they can provide resources such as telemedicine and education, and can provide for the recruitment of staff.

Mr. Samuelson said growing the telehealth component should be one of the priorities of the committee recommendations. He mentioned telehealth and the 24/7 support component could be a good opportunity to keep people in their facilities longer and hopefully avoid transfers. There will still be a portion of the population that has to go to HSC, but with telehealth the facilities could make sure they are doing everything they can before that transfer takes place. Mr. Erickson agreed, stating one of the biggest obstacles facilities struggle with is when the behaviors occur. When they happen at night or on weekends, facilities do not have access to essential services the way HSC does and access to telehealth 24/7 could help to alleviate the situation.

Mr. Erickson recommended setting up a community forum for community providers, behavioral centers, and all levels of care to share their collective expertise of mental health care and deliver it across all settings. Dr. Goyal agreed with Mr. Erickson and said what proves to be effective is actual case discussions. Dr. Goyal also proposed a state sponsored Continuing Medical Education (CME) training that offers providers the opportunity to talk with other professionals and hear about cases and what was done to solve them.

Representative Hunhoff suggested DSS do a request for information (RFI) to see if any facilities would be interested in focusing on these individuals. If there was any interest, it would provide a basis so beds could be made available, resources could be provided to take on the behavioral health issue, the knowledge base would be available at that location, they could provide support to facilities in outlying areas, and there may be the ability to take on more patients.

Recommendations and Potential Legislative Proposals

Representative Johnson mentioned increased funding to HSC but commented the committee would be premature in trying to recommend a dollar amount for an increase in funding. He suggested studying the situation and finding out what the cost of not addressing the funding issues would be in the long term.

Ms. Iversen-Pollreisz provided a brief summary of recommendations coming out of other 2019 Interim task forces created by SCR2 and how those recommendations may modify the future of HSC. She mentioned that some of the answers requested by the Redefine Nursing Home Criteria committee will not be able to be answered until other services are put in place and are moving forward.

The committee reiterated the previously discussed priority concerns to develop the following recommendations:

- 1) Department of Social Services to establish a process that allows preauthorization of Medicaid eligibility prior to admission to the long-term facilities
- 2) Increase availability and 24/7 access to Telehealth
- 3) To encourage Yankton Area Mental Wellness Conference to include a forum for a mental health issue in South Dakota for the 2020 conference
- 4) Department of Social Services to submit a request for information in providing a specialized unit to treat geriatric mental health patients that are discharged from the HSC geriatric unit, and submit the report to the members of this taskforce, Joint Committee on Appropriations, and Executive Board by the end of the Fiscal Year 2020
- 5) Human Services Center to sponsor one continuing medical education class related to mental health case studies during the calendar year 2020
- 6) Department of Human Services to create a workgroup to review the definition and criteria for add-on payment for community-based nursing home providers

A motion was made by Mr. Samuelson, seconded by Representative Reimer to approve the recommendations read back to the committee. Motion prevailed on a roll call vote with 10 voting AYE and 2 EXCUSED. Voting AYE: Chris Johnson, Blare, Erickson, Goyal, Iversen-Pollreisz, Jeremy Johnson, Rechtenbaugh, Samuelson, Reimer, and Hunhoff. EXCUSED: Wismer and Wilson.

Closing Remarks and Adjournment

Representative Hunhoff informed the committee of the process for the recommendations. The other task forces will finalize their recommendations and legislation proposals and the chairs of the committees will come together and tie it all together to make a vision for the future of mental health in South Dakota. Once the report is done, all members of the task force will receive a copy. The final report will then be presented to the Executive Board at the meeting that will be held December 3, 2019 in Pierre. Representative Hunhoff thanked everyone for their involvement and the expertise they provided the task force over the course of the interim.

A motion was made by Senator Blare, seconded by Mr. Erickson, that the Redefine Nursing Criteria and Build Capacity Task Force be adjourned. The motion prevailed on a voice vote.

The meeting was adjourned at 1:50 p.m.