

Initial Report of the Special Committee on Mental Health Beds

CHAIRPERSON: Senator Carolyn McGinn

VICE-CHAIRPERSON: Representative Brenda Landwehr

OTHER MEMBERS: Senators Rick Billinger, J.R. Claeys, Tom Hawk, and Richard Hilderbrand; and Representatives Will Carpenter, Henry Helgerson, Kyle Hoffman, Troy Waymaster, and Kathy Wolfe Moore

STUDY TOPIC

The Committee is directed to:

- Review the need for inpatient psychiatric hospital beds and develop a long-term plan to address mental health needs;
- Review the regional bed expansion plan, including how the beds would be constructed;
- Review best practices for operation and oversight of the expanded beds;
- Review the long-term fiscal impact of the additional beds; and
- Study and develop a plan for providing a 50-bed facility with acute inpatient psychiatric beds and adult forensic beds in the Sedgwick county regional area. [*Note:* Provisions in 2022 HB 2510 [Section 8(b)] directed the Legislature to create an interim study committee on Sedgwick County regional mental health bed expansion and prescribed committee membership requirements.]

Special Committee on Mental Health Beds

INITIAL REPORT

Conclusions and Recommendations:

The Special Committee on Mental Health Beds (Committee) recognizes that a number of factors must be considered when making recommendations regarding the placement, operation, oversight, and long-term plan for a mental health facility.

In September 2022, the Committee requested and was granted two additional meeting days from the Legislative Coordinating Council. The Committee recommends these additional meeting days be used to continue hearing from stakeholders and subject matter experts to further inform recommendations. The Committee respectfully requests that the State Finance Council accept a full report and recommendations upon the conclusion of the additional meeting days.

Proposed Legislation: None

BACKGROUND

This initial report describes the information received and topics covered thus far by the Special Committee on Mental Health Beds (Committee). This report should be considered preliminary and subject to change. The Committee's recommendations will be included in its final report.

COMMITTEE ACTIVITY

The Committee met on August 23 and September 29, 2022, to hear information on mental health topics, including those provided in this report. The Committee meeting on September 29, 2022, was held at Wichita State University.

Overview of Authorizing Legislation

An Assistant Revisor from the Office of Revisor of Statutes provided an overview of the legislation that authorizes the Committee. A proviso in 2022 HB 2510 Sec. 8(b) created an interim study committee on Sedgwick County regional mental health bed expansion to develop a plan for providing a facility with acute inpatient psychiatric adult beds and adult forensic beds in the Sedgwick County regional area. The

Committee is further directed to report any recommendations to the State Finance Council by October 1, 2022. In addition, 2022 HB 2510 Sec. 28(c) appropriates \$15.0 million to the Kansas Department for Aging and Disabilities (KDADS) for the purpose of expanding mental health bed access in the Sedgwick County regional area.

The expenditure of these funds is subject to the approval of the State Finance Council. Following the 2022 Legislative Session, the Legislative Coordinating Council further directed the Committee to assess mental health bed capacity statewide.

History of Mental Health Services

Analysts from the Kansas Legislative Research Department (KLRD) reviewed several research documents relevant to mental health services in Kansas, including a history of mental health hospitals and services in Kansas; a document outlining pertinent recommendations made by past legislative committees and task forces; and an overview of inpatient bed numbers and funding in surrounding states. In addition, an analyst from KLRD reviewed a funding chart with information on state mental health funding from FY 2013 to FY 2022 and a chart of bed capacity and admissions at Osawatome State Hospital

(OSH) and Larned State Hospital (LSH) over the past ten years.

The Secretary for Aging and Disability Services, Kansas Department for Aging and Disability Services (KDADS), provided the Committee with historical information on behavioral health reform initiatives beginning with the Kansas Mental Health Reform Act of 1991 and continuing through the 2017 Mental Health Modernization and Reform Committee. The Secretary outlined a continuum of adult behavioral health care that includes state psychiatric hospitals, community inpatient care, structured care environments, community clinical services, and services dealing with prevention, assessment, and early intervention. The Secretary offered key modernization elements for the Committee's consideration, including the expansion of crisis stabilization services, State Institution Alternative (SIA) beds, and mobile competency services.

A representative of the Kansas Mental Health Coalition (KMHC), provided an overview of the 2018 and 2019 Mental Health Task Force reports and recommendations. The representative of KMHC noted that KDADS has convened many work groups over the years to address the Kansas mental health inpatient capacity crisis, which was compounded by the June 2015 moratorium on admissions at OSH. The representative outlined some of the legislative actions that have come out of the task force reports, including the creation and funding of Health Homes, Juvenile Crisis Centers, and the K-12 Mental Health Pilot Program.

State Institution Alternative Beds

The Deputy Secretary of Hospitals and Facilities, KDADS, provided an overview of SIAs, which were created in response to the moratorium at OSH. SIAs expand the number of regional psychiatric hospital beds available to serve individuals who would be eligible for admission to a state hospital. The representative of KDADS noted that the eight regional SIA facilities authorized in the past year have served 479 adults and 699 children, and the agency continues to search for other facilities that might qualify for SIA services.

National Trends in Psychiatric Bed Capacity

The Senior Director of Government and Commercial Research for the National Association of State Mental Health Program Directors Research Institute (NRI), and the Executive Director, National Association of State Mental Health Program Directors, presented information regarding trends in psychiatric bed capacity. The representative of NRI summarized findings that, between 2010 and 2018, there was a 17.2 percent increase in the number of mental health beds due to the expansion of private psychiatric hospital beds and specialty-unit hospital beds. At this same time, the number of state psychiatric hospital patients decreased by 18.5 percent.

The representative of NRI noted that state policies addressing bed limits have shifted from a focus on reopening closed state hospitals to expanding services in community-based programs. This resulted in state hospitals primarily being used to treat severe psychiatric issues other than organic brain disease, intellectual disabilities, and substance abuse. Both representatives also noted that comprehensive tracking of mental health beds is often incomplete because no single source tracks all psychiatric bed capacity.

Stakeholder Perspectives

Hospitals

The President of Ascension Via Christi St. Joseph (Via Christi) reviewed the needs for mental health beds in south-central Kansas. The representative of Via Christi commented that the Via Christi emergency department cares for approximately 600 behavioral health patients each month and said that when Via Christi's inpatient behavioral health beds are full, patients often have to stay two days before they can be moved to a facility with the appropriate level of care. The representative noted the increasing pressure to find beds to accommodate prisoners needing mental health evaluations and individuals needing treatment at OSH who are instead directed to Via Christi due to a lack of bed availability at OSH. The representative of Via Christi offered recommendations for adding mental health bed capacity, including adding inpatient behavioral-health beds at OSH and addressing workforce shortages.

The Vice President for Government Relations, Kansas Hospital Association (KHA), discussed the fiscal pressures faced by hospitals when they are required to provide accommodations for individuals in need of inpatient mental health treatment when an inpatient bed is not available. The representative of KHA noted that hospitals must often provide one-on-one observation and transportation of individuals who are waiting for a bed to become available at an inpatient facility, and hospitals do not receive reimbursement for these services.

The President and Chief Executive Officer (CEO) of NMC Health, Newton and the CEO of Kingman Healthcare Center also noted the challenges that hospitals face in providing observation and transportation services that are not reimbursed. The representatives noted that the wait time for many of the patients waiting for an inpatient bed is days, rather than hours.

The Associate Director of the Association of Community Mental Health Centers (CMHCs) said that CMHCs face similar challenges in requiring staff to address mental health needs of individuals as they await the availability of an inpatient bed. The representative offered recommendations to the Committee, including increasing state hospital capacity and building career pathways to enhance workforce development.

Kansas Counties

A representative of the Kansas Association of Counties (KAC) and a County Commissioner for Finney County testified that long wait times for beds in inpatient facilities impact the budgets of counties by increasing the funding needs for law enforcement and community mental health facilities. The KAC representative noted that this is particularly problematic for smaller communities.

Sedgwick County

Several individuals provided testimony specific to the needs of Sedgwick County, including the Chairman of the Sedgwick County Board of County Commissioners, the Sedgwick County District Attorney, and the County Manager and Deputy County Manager for Sedgwick County. All individuals spoke to the ways their respective agencies are impacted by the current

shortage of beds. The representative of the Board of County Commissioners noted that the county has been working on a plan to address mental health needs for several years and noted the current proposed project to build a Health Science Center located in downtown Wichita that will house COMCARE, the community's crisis center, and offer professional training for health providers.

Law Enforcement

A representative speaking on behalf of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association and a representative of the Sedgwick County Sheriff's Department also noted the costs in staff time and in non-reimbursed services that are provided to individuals who are waiting for an inpatient mental health bed. The representative of the Kansas Association of Chiefs of Police recommended establishing a fund to reimburse agencies (such as law enforcement, hospitals, and community health centers) for costs incurred providing observation and transportation for individuals who are waiting for an inpatient bed.

Workforce Issues

The Workforce Development Committee Chair for the Sedgwick County Mental Health and Substance Abuse Coalition (Coalition) presented on the recommendations the Coalition has made to reduce barriers in recruiting and retaining staff. Recommendations shared include allowing reciprocity for out-of-state licensing, attracting students through professional workshops, offering incentives to bring retired professionals back to the workforce, granting emergency licenses for certain services, and increasing the use of paraprofessionals. The representative also addressed the mental and emotional toll that direct service work can have on individuals and noted that staff supports such as counseling services may help increase retention by helping to prevent staff from becoming burned out.

The Superintendent of LSH and the Acting Superintendent of OSH presented information about the efforts OSH and LSH are taking to address the current workforce shortage. Efforts discussed included working with the University of Kansas and other state universities to provide practicum courses for master's-level students and

psychiatric rotations for nursing students. The representative from LSH also noted that the hospital maintains a relationship with the Fort Hays State University counseling program; offers paid practicums for students seeking applicable degrees; and helps foster relationships between students and workers to promote retention. The representative from LSH noted that the main challenge LSH faces is the distance between the LSH campus and the universities and housing availability near the LSH campus.

The Deputy Secretary of Hospitals and Facilities, KDADS, provided an overview of the direct-care staff at the two state hospitals, including vacancy rates, starting pay, and the use of contract companies to fill vacant positions. The representative noted that the cost to fill a vacant position with contract staff can cost the hospital three times the listed salary for the position.

Insurance Reimbursement for Services Provided

The Medicaid Institution for Mental Disease Exclusion

The Commissioner of Behavioral Health Services, KDADS, reviewed the Medicaid Institution for Mental Disease (IMD) exclusion that prevents facilities that have more than 16 beds and are primarily serving individuals diagnosed with mental disease or substance use disorders (SUD) from receiving Medicaid reimbursement for their services for individuals between the ages of 21 and 65 years of age. KDADS and the Kansas Department of Health and Environment have successfully sought an exception for patients in SUD facilities but are still developing the implementation and evaluation plans needed to submit for a similar exemption for IMD patients.

Reimbursement for Mental Health Services

The President of Via Christi provided information on the reimbursement rates of Medicaid, Medicare, and private pay insurance companies for inpatient mental health services. The representative noted that reimbursement rates for Medicaid do not cover the costs for providing the services and, while private insurance companies often pay higher rates, they have not been increased for several years, even as the cost of care has risen. The representative requested the committee consider a 10.0 percent increase in Medicaid rates for inpatient and outpatient mental health services.

The Executive Director of COMCARE provided testimony on insurance reimbursement for outpatient mental health services. The representative noted the time-consuming nature of paperwork required for Medicare and Medicaid, as well as the challenge that Medicare reimburses only for services provided by the highest level of degree. COMCARE is now reimbursed under a new certified community behavioral health clinic (CCBHC) encounter rate but still relies on Medicaid rates for services not included in the encounter rate. The COMCARE official noted that Medicaid has the lowest reimbursement rates for services.

Conclusions and Recommendations

After hearing information on mental health topics from conferees, the Committee requested two additional meeting days from the Legislative Coordinating Council, which were granted. The Committee agreed to hear additional testimony during the two meeting days and then submit recommendations in its final report.