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MEMORANDUM

TO: Representative Frank Kotowski

FROM: D.C. Bates, House Committee Research

DATE: July 26, 2018 [updated November 5, 2018]

SUBJ: HB 400 Health and Human Services Oversight Report

The purpose of this memo is to summarize the measures taken by the Department of Health and Human Services in response to the requirements in HB 400 (2017), as preparation for the report by the Oversight Committee on those measures.

This memo first reviews the steps relevant to this report which HB 400 required the Department to take, then the measures that the Department has taken in response to those requirements, and finally the elements of the required Oversight report.

The measures which HB 400 required of the Department, and which the Oversight Committee is required to report on, are as follows:

- *A Plan to Remove Youths from NH Hospital* while ensuring that they continue to receive the level of care they need. The relocation of the Office of Professional Licensure and Certification to another state building and the repurposing of the Philbrook Center for the care of the relocated youths was to be examined.

- *A Plan for Statutory Due Process Rights for Involuntarily Committed Patients in Emergency Rooms* to be developed which provided for judicial review on a schedule consistent with statutory requirements.

- *A Mental Health Needs Assessment*, which includes an inventory of existing mental health services, and a gap analysis to determine where existing capacity falls short of needs. (Also required by HB 517)

- *A 10 Year Plan for the Mental Health System,* focusing on the integration of the mental health system with other systems of care, addressing a continuum of care, reducing the boarding of involuntarily committed mental health patients in emergency rooms, establishing performance metrics, and recommending a timeline and strategies for appropriate implementation. (Also required by HB 517)

A summary of each of the measures taken follows.

Plan to Remove Youths from NH Hospital

On November 3rd the Commissioner reported on the development of a plan to relocate the 24 children's beds at NH Hospital.

Plans to relocate the beds to a new or renovated facility outside Concord were deemed unfeasible due to the Concord based location of the clinical and professional staff needed for the facility, and the ongoing workforce challenges in the mental health field.

Three alternatives were considered: renovation of the Anna Philbrook Building, construction of a new detached building and construction of a new attached wing to NH Hospital.

The construction of a detached children's hospital was estimated to be the most expensive option, requiring $16,750,000 to build, and an additional $1,490,587 annually to fill 28 full time positions necessitated because it would not share dietary, housekeeping and other services with NH Hospital.

The construction of an attached addition was estimated to be slightly less expensive - $15,500,000 in construction costs, with an additional $775,513 annually for 13 additional full time positions.

In order to ensure accreditation, renovations to existing buildings must meet the recent standards for safety and environment of care. This played a large role deliberations for moving youths to the Anna Philbrook Building, and renovating the E and F units currently occupied by youth beds so that they can accommodate 48 new adult beds. Because the Anna Philbrook Building would need to be entirely gutted and an addition built, that option was deemed unfeasible and no cost estimates were developed.

Renovation of the E and F units to accommodate 48 new adult beds was estimated to require $6,506,000 in construction costs and $8,301,915 in annual costs for an additional 111 full time positions.

Given the scale of the expenses, and the workforce difficulties anticipated in filling many new positions, the Commissioner recommended that pursuing future plans for the expansion of beds and relocation of youths at NH Hospital be integrated with the 10 year plan currently under development.

He also recommended pursuing other strategies in order to reduce the number of patients boarding in emergency rooms while waiting for in-patient admission. In order to open up occupied beds at NH Hospital, he recommended investing in additional community based services, particularly related to housing, as well as funding the housing of long term patients judged to be not guilty by reason of insanity at a separate facility. Finally, he recommended that the State pursue a comprehensive workforce development program for behavioral health to remedy chronic staffing shortages.

Associated Document:
November 3, 2017 Report Pursuant to 2017 Laws Chapter 156, Section 187, Removal of Certain Persons from New Hampshire Hospital

Plan for Statutory Rights for Involuntarily Committed Patients in Emergency Rooms

After discussion with stakeholders in July and August of 2017, on August 31st the Commissioner submitted his proposal for the provision of a timely hearing (within 72 hours) for involuntarily committed patients waiting in hospital emergency rooms for inpatient treatment or discharge following a hearing. The proposals envisioned a 90 day, four hospital pilot program at the cost of $900,000 with the following features:

- A notice of rights to be provided to individuals within 12 hours of admission.
- The creation of a central IEA coordinator at NH Hospital to receive involuntary emergency admission petitions from hospitals, contact the Court, engage defense counsel and notify the petitioner and witnesses of the time and location of the hearing.
- Appointment of counsel for patients, either through an expansion of existing contracts or an agreement with the Judicial Counsel.
- Hearings conducted in emergency rooms through the local district courts via video link and telephone.
- A finding of probable cause would expire after ten days at a designated receiving facility or NH Hospital. During that time patients would be assessed to determine if a longer term commitment is needed.

After working with four hospitals, the Circuit Court, Attorney General's Office, the Department of Information Technology, and NH Hospital staff during the fall, a consensus was reached that there were insurmountable barriers to implementing even a pilot program. Barriers included:

- Safety concerns in the physical environment for patients, attorneys, staff, witnesses, court staff and other visitors.
- Patient behavior during the process, including reaction to court proceedings and notification of the hearing outcome.
- Liability associated with a plan to conduct hearings outside of statutory authority.
- Additional burdens on existing emergency department staff.
- Obtaining additional security staff.
- Creating the position of central IEA coordinator.

In April of 2017 the Governor had convened a subgroup of the Work Group on Mental Health Crisis and ER Boarding. Discussions in the subgroup on Regulatory Barriers and Solutions informed some elements of SB 590 (2018), and the notification of rights element of the Commissioner's plan found its way into the bill. Another relevant change made by the bill is that rather than being notified of the designated receiving facility to which a patient will be transported to when the involuntary commitment certification is signed or a conditional discharge revoked, the patient would be notified later, once a bed is found for them. SB 590 was signed by the Governor on June 28th.

Associated Documents:
August 31, 2017 Report on Involuntary Emergency Admissions Pursuant to 2017 Law Chapter 112
December 21, 2017 Supplemental Report on IEA Hearings in Non-Designated Receiving Facilities
Update from Governor's Work Group on Mental Health Crisis and ER Boarding / Subgroup on Regulatory Barriers and Solutions

Mental Health Needs Assessment

On June 30th the Department released an RFP for the conduct of an independent evaluation of the current mental health system in New Hampshire. On August 1st the RFP closed. Among other exchanges in the question and answer process, vendors asked if the Department would consider a extending the timeline to accommodate potential issues with the timely receipt of existing data or the collection of new data. While this question was not directly addressed, the Department indicated in other responses that HB 517 required the completion of the evaluation by November 1st.

On September 13th the Department submitted its request for approval of a contract with the Human Services Research Institute, which was approved at the September 27th Executive Council meeting.

The HSRI authors of the evaluation noted the eight week timeframe as a limitation on their study. Quantitative data cited by the authors as particularly relevant was not able to be provided by the Department, including medical claims data on mental health hospitalizations from the CHIS system and quantitative data on the NH Hospital patient population. The only emergency department quantitative data available within the time limits was from the Automated Hospital Emergency Department Data dataset – data captured only on emergency department encounters that do not result in hospital admission. In the absence of the relevant quantitative data sets, the authors acknowledged that they relied heavily on interviews with 55 key informants from NH's mental health system and data aggregated in reports issued by the Community Mental Health Agreement monitor and by the Community Mental Health Centers for their analysis and recommendations.

On December 22nd HSRI's Final Report on the Evaluation of the Capacity of the NH Behavioral Health System was released, which made 28 specific recommendations for the improvement of the system.

Associated Documents:
HSRI Capacity of the NH Behavioral Health System Policy Brief
HSRI Final Report: Recommendations Section (pg. 8-10)

10 Year Plan

On September 14th the Department submitted a sole source contract request to the Executive Council to work with Antioch University in the development of a 10 year mental health plan. This request was approved by the Executive Council on September 27th.

On October 31st the Department issued its first interim report on the process of the development of the plan. The framework envisioned an advisory team of high level stakeholders tasked with setting priorities, workgroups focused on generating input on potential strategies in high priority areas, and focus groups to provide input from relevant sectors and all geographic regions.

The advisory team was established in the spring, and 15 focus group meetings were held, but by the end of April 2018 work groups had not yet begun meeting, and SB 590 was amended to include an extension for the submission of the plan from July 1st to October 15th of 2018.

While HB 400 required the second interim report on or before March 1st, it was instead submitted on June 8th. At that point six workgroups had been organized around the following areas, with meetings scheduled through July:

- Community Education
- Prevention and Early Intervention
- Outpatient Treatment
- Step Up and Step Down Options
- Crisis and Inpatient Services
- Operations and Funding

The advisory group also listed 5 key principles to guide the development of the 10 year plan:

- Focus on systemic, in addition to practice level, change
- Set strategic direction for the next 10 years
- Provide funding priorities, mechanisms and operational plan for the next 2-4 years
- Connect and integrate with the overall DHHS Strategic Plan
- Assess plan priorities, progress and adjust as necessary each biennium through SFY 2027.

From September 25th – December 3rd the Department is hosting six Public Engagement Forums around the state in Keene, Portsmouth, Littleton, Nashua, Manchester, and Concord in order to seek broad public input. The forums will provide an opportunity for the Department to hear from the public about key components of the plan, consider that input, and make modifications to the plan prior to finalizing.

Associated Documents:
October 31st, 2017 1st Interim Report
June 8th, 2018 2nd Interim Report
September 19, 2018 Press Release
September 25, 2018 10 Year Mental Health Plan Overview Powerpoint

Elements of the Report from the Oversight Committee on Health and Human Services

HB 400 requires the Oversight Committee on Health and Human Services to report on the outcome of elements of the bill. The report is required to review, evaluate and report on whether the measures taken have:

- Reduced the waiting list and waiting times for designated receiving facilities.
- Resulted in the referral and receipt of services at the appropriate level of care and in a timely manner.
- Improved the responsiveness of the state, payers, and providers to customer needs.
- Allowed the mental health medical supervisor to adequately assist in the mental health triage process.
- The Committee is also required to review and compare the costs and benefits of other models of mental health triage and include any recommendations it might have.

If I can provide further assistance or more detail on any point, please contact me.