

Health and Human Services Committee
LB 816
February 17, 2016

Courtney Phillips, MPA
Chief Executive Officer
Department of Health and Human Services

Good afternoon, Senator Campbell and members of the Health and Human Services Committee. My name is Courtney Phillips (C-O-U-R-T-N-E-Y P-H-I-L-L-I-P-S), Chief Executive Officer of the Department of Health and Human Services. I'd like to thank Senator Scheer for introducing LB 816 on behalf of the Department. This bill changes the requirements that currently govern the exchange of health information for individuals served in Nebraska's institutions and the reporting responsibilities as outlined in LB 603, passed in 2009.

LB 816 will align state law with the Health Insurance Portability and Accountability Act (HIPAA) requirements, which provide the mechanism for patient privacy and allows for certain sharing of information. The exchange of information is crucial in providing timely, quality treatment. If an individual is not cooperative in signing a release and does not have an attorney or a guardian, the current statute's limitations require treatment to be delayed or require that a guardian must first be sought. For example, the absence of a release makes it difficult for Regional Center staff to obtain records of medical episodes while in non-state operated facilities and providers in the community.

The existing state law has led to difficulty in providing information about incidents that involve patients at DHHS facilities. The change would eliminate the delay in discharging a patient when the sole reason for the delay is that the patient will not sign a release. Similarly, if a current facility patient is seen by a doctor who is not contracted with a DHHS facility and the patient does not sign a release for the DHHS facility to provide medical information, the facility cannot provide it even though it may be relevant for treatment purposes. Finally, if a former facility patient is in treatment in the community and the treatment provider believes the medical records from the facility will be beneficial for current treatment and the patient is not willing to sign a release, the proposed change in statute will allow the DHHS facility to provide the records per HIPAA requirements.

Current statute also makes it difficult for family members seeking information about loved ones buried at the Regional Center cemeteries. The current statute may require a court order to be obtained to release records, whereas HIPAA protects records of deceased individuals for 50 years and then allows for their release.

Removal of the rigid state statute, while complying with federal HIPAA requirements, would allow for the provision of more timely treatment to current patients and allow many family members of deceased patients to receive information on deceased family members without the cost of having to obtain a court order.

This bill also proposes to eliminate the DHHS reporting requirements summarizing annual activities related to the Children’s Behavioral Health Helpline, Family Navigator Program and the Post Adoption/Post Guardianship Services required with the passage of LB 603. Implemented in 2010, these programs are well established. The Helpline Advisory Committee continues to meet and review the Helpline and Family Navigator Programs. Boys Town, the contractor for the Family Helpline, and the Nebraska Federation of Families for Children’s Mental Health, the contractor for the Family Navigator program, produce quarterly and annual reports for the Division of Behavioral Health with data to indicate program efficiency and effectiveness. Lutheran Family Services, the contractor for Right Turn, the program for Post Adoption/Post Guardianship Services, also produces monthly and quarterly reports for the Division of Children and Family Services for program evaluation purposes.

Therefore, the reporting requirement in statute is duplicative. Contractors for these programs are already required to report their activities and outcomes to the Department. These are submitted as public reports which are also available to members of the Legislature.

I appreciate the opportunity to testify before you today regarding LB 816, which we believe will help DHHS continue our mission of helping people live better lives. I am happy to answer any questions you may have.