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DEPT. OF HEALTH AND HUMAN SERVICES

Executive Board of the Legislative Council
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Good afternoon, Senator Watermeier, and members of the Executive Board of the Legislative Council. My name is Jenifer Roberts Acierno (J-E-N-I-F-E-R R-O-B-E-R-T-S-A-C-I-E-R-N-O) and I am a Deputy Director in the Division of Public Health in the Department of Health and Human Services (DHHS). I am here to testify in opposition to LR 296 on behalf of the Department. My colleague, Sheri Dawson, the Director of the Division of Behavioral Health, will follow me to answer questions regarding Behavioral Health.

LR 296 proposes to create a state-licensed care facilities special investigative committee of the Legislature.

Currently the Division of Public Health (DPH) licenses 13 types of facilities[1]. DPH licenses over 4,000 facilities in the state. Before we address matter relating to behavioral health, I'd like to address what is a licensed facilities, the review process, and the role of the Department.

The Health Care Facility Licensure Act was created to protect public health and safety by providing for licensure of health care facilities and services, and for the development and enforcement of basic standards. Facilities that have achieved licensure have demonstrated compliance with regulations regarding the standards of operation, care, and treatment provided in the facility, and physical plant standards. Inspections are conducted by trained surveyors to determine a facility's compliance with the regulations specific to that facility type. State statute lays out the timelines for reviewing applications, conducting inspections, reporting findings of noncompliance, investigating complaints, and taking disciplinary action. There is often misunderstanding about the role of the Department and the timeframe in which the Department takes action. These statutory timelines are necessary because entities that operate health care facilities have due process rights. The statutory process includes timeframes that provide facilities an opportunity to correct deficiencies. In situations where people reside in a facility, the resident and/or their guardian are responsible for decisions regarding the resident's care, while the Department's role is to evaluate whether the facility is safe to operate.

The Division of Behavioral Health (DBH) currently works with, participates on, and is subject to oversight and recommendations on the system by numerous committees, including the State Behavioral Health Advisory Committee, federal onsite reviewers, and ongoing, permanent oversight by the HHS and Appropriations committees of the Legislature. Findings and recommendations provided by each of these entities are taken seriously and, consistent with state and federal requirements, we

[1] Types of licensed facilities: assisted living facilities, child care facilities, residential child caring agencies, centers for persons with developmental disabilities, health clinics, home health agencies, hospices, hospitals, intermediate care facilities for persons with developmental disabilities, mental health centers, nursing homes, community pharmacies, and substance abuse treatment centers.

continue to move forward to address issues and gaps in the system as identified. While the concern resulting in LR 296 is understood, the committee and work called for would be duplicative.

In 2016, DHHS assembled the Disability Services Stakeholder Olmstead Planning Advisory Committee pursuant to LB1033. DHHS is complying with the activities outlined in the bill. The work includes all DHHS divisions covering all populations, including people with intellectual, developmental, psychiatric and physical disabilities, aging disabilities, as well as persons at serious risk of institutionalization or segregation.

The information on the following pages describes in detail other areas of the bill that would create duplicative work for the Division of Behavioral Health.

Thank you for the opportunity to testify before you today. I'm happy to answer any questions you may have.

Behavioral Health in Nebraska covers service needs for both mental health and substance use disorders. The DBH funds treatment and support services for individuals without Medicaid and individuals without insurance or are underinsured, according to financial eligibility based on a sliding scale on income and family size. Publically funded behavioral health services are administered by the Divisions of Behavioral Health, Medicaid and Long-Term Care, and Children and Family Services within the Department. Private funding sources such as insurance companies, private businesses, also provide behavioral health services.

The regional behavioral health authority, as created in Neb. Rev. Stat. 71-808 of the Behavioral Health Service Act, is tasked to develop, maintain, and provide system planning, coordination, monitoring and leadership to a provider network in their geographical area to meet the behavioral health needs of persons eligible for the DBH's clinical and financial eligibility criteria.

DBH administers and implements contracts with six Regions to purchase services using state general funds, federal, and county funding. Each Region is governed by a Regional Governing Board consisting of one county board member from each county in the Region. The administrator of the Region is appointed by the Regional Governing Board. In addition to network management and system coordination, each region provides Housing Coordination and administers the Housing Related Assistance Program (HRA).

The HRA program is authorized by Nebraska Revised State Statute 71-812(3) for adults with serious mental illness. Housing-related assistance includes rental payments, utility payments, security and utility deposits, and other related costs. Utility deposits and payments are limited to tenant-paid gas, electric, water, sewer and garbage. Specifically excluded are cable television, telephone and tenant-caused damage to a housing unit. DBH Housing-Related Assistance program (HRA) allocated to the RBHAs in SFY2017 totaled $2,900,000. DBH funds the HRA program through the Behavioral Health Services Fund which receives revenue from the state documentary stamp tax. The total number of consumers with approved applications and receiving any type of payment from the DBH Housing Assistance program in SFY2017 was 916 adults.

The Technical Assistance Collaborative (TAC) report of 2016 reported that "there is a perception that many Nebraskans with behavioral health disorders are living in assisted living facilities and supervised, congregate residential settings…" The report recommended that work occur to determine the accuracy of that perception and better determine the housing gaps or supports necessary.

Assisted living does not serve as the primary residential option for individuals with Severe and Persistent Mental Illness (SPMI). From July 1, 2017 to December 31, 2017, DBH served 30,317 individuals. According to the central data system, approximately one-third (10,074) lived in private residences. 1,338 lived in private residences with housing assistance and 3,889 lived in private residences receiving support such as case management. 314 individuals were reported to live in 24 hour residential care (24-hour supervised setting) which can include assisted living facilities.

As referenced, in 2016, the DBH contracted with TAC to complete an environmental scan of Nebraska and to work with DHHS partners in developing a housing plan for persons with serious and persistent mental illness. The plan was completed in 2016 and recommended strategies have been incorporated into the Division of Behavioral Health 2017-2020 Strategic Plan. Below are the key strategies and activities to date:

- Initiate and lead an Olmstead planning process. Through LB 1033, an advisory committee was created and this work is underway within DHHS.

- Maximize services to support community integration[2].
- Expand data collection across populations and explore strategies to share data across agencies[3].
- Engage consumers prior to transition from institutional settings[4].
- Increase Medicaid coverage for housing related services and supports[5].

The TAC report set these, and more, as expectations necessary for system transformation and it is important to note that considerable system change work has been initiated. We take seriously that the individuals living with a serious mental illness are served well and will have a life in the community.

More public education about state licensure of facilities needs to be done- the issues raised in the resolution highlight that. Yet, in the Department's estimation, the legislative resolution is duplicative of oversight that is already conducted by a variety of entities, including standing committees in the legislature, and our efforts to educate the public can be accomplished without the formation of the special committee outlined in this resolution.

[2] Work includes:
- Identification of gaps in access to housing by populations, by geography, waitlists and capacities was addressed within the DBH 2016 Needs Assessment and is being vetted through the gap analysis via the Medicaid Innovation Accelerator project that has continued to build on both the Needs Assessment and the TAC plan.
- The Division's housing related assistance coordination work with Regions is focused on creating an inventory of supportive housing options for the consumers we serve, an inventory of housing assistance programs across systems and looking at ways to identify housing service types by occupancy rates.

[3] DBH implemented a new Centralized Data System which, in FY2017, now has the functionality to capture pertinent housing related data for persons served including supported housing access metrics. This information is tied into the Division's electronic billing system, which will now permit a greater ability to assess housing related assistance funding. A performance outcome metric for the Division in 2018 is improvements in stable housing. DBH has implemented data sharing agreements with system partners.

[4] A Peer Bridger pilot project has been implemented at the Lincoln Regional Center that serves to aid in the transition to the community through the utilization of peer mentors.

[5] DBH has partnered with NE DHHS MLTC Innovation Assistance Project (IAP) which is working to develop cross-system housing collaboration among programs that are supported by HUD and the Centers for Medicare & Medicaid Services. MLTC's IAP project accomplishments include state-level cross training regarding housing and disability policy, agencies, planning processes, services, and funding streams to build effective working partnerships; and overall training for housing agencies and Money Follows the Person (MFP) grantee disability agencies. The project activities are focused on building sustainable partnerships across all levels of government to link affordable, accessible, and integrated housing options with long-term supports and services for people with disabilities and chronic conditions. DBH and MLTC do provide a variety of services for individuals with severe and persistent mental illness. Services such as community support, day rehabilitation, Assertive Community Treatment and Psychiatric Rehabilitation Residential are designed specifically for individuals with functional impairments related to their SPMI. This past year a state plan amendment was approved for peer support services. These services support stable living and integration in the community.