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MEMORANDUM

TO: Robert Stivers, President of the Senate
David Osborne, Speaker of the House
Members of the Legislative Research Commission

From: Senator Ralph Alvarado, Co-chair
Representative Russell Webber, Co-chair
Substance Use Recovery Task Force

Subject: Findings and Recommendations of the Substance Use Recovery Task Force

Date: November 24, 2020

In a memorandum dated June 12, 2020, the Legislative Research Commission established the Substance Use Recovery Task Force. The task force was established to 1) examine the University of Kentucky HEALing grant, the Kentucky Opioid Response Efforts, and any other substance use recovery grants or efforts in the Commonwealth; 2) examine the capacity for Medicaid funds to be used for addiction treatment while incarcerated; and 3) make recommendations to the Legislative Research Commission, the Cabinet for Health and Family Services, the Justice and Public Safety Cabinet, and the Education Workforce Development Cabinet to establish pathways for reentry of substance-involved individuals that may include engagement by social workers, peer support, health care connections, and workforce development supports.

The eight-member task force began meeting on July 14, 2020, and convened six times during the 2020 Interim. The task force heard testimony from more than 30 individuals, state agencies, law enforcement, university researchers, business organizations, and treatment centers on various topics.

In accordance with the June 12, 2020, memorandum, the task force submits the following findings and recommendations to the Legislative Research Commission for consideration. These

findings and recommendations are based on the testimony provided to the task force during the 2020 Interim. This memorandum serves as the final work product of the task force.

Findings

1. **A significant number of incarcerated individuals have a substance use disorder, and many of those individuals are incarcerated for crimes related to their substance use disorder. The ability to effectively treat these inmates, while incarcerated or in post release in Kentucky jails and correction facilities, in substance use disorder programs is not adequate because of barriers in the referral process that prevent Kentucky jails and correction facilities from taking full advantage of every treatment option available.** A part of this inadequacy is that there are not proper levels of funding for these programs from federal, state, and local governments. The task force heard testimony from state and local corrections officials who reported that approximately 21,000 individuals are incarcerated in Kentucky's jails and prisons. There are an additional 50,000 individuals under some sort of supervision through probation and parole. Information was given stating that research shows 60 percent to 70 percent of those individuals have some form of a substance use disorder (SUD) and are in need of treatment and an assessment. Kentucky state and local corrections agencies are trying to serve this segment of the corrections population, but they reported that there are not enough funds to operate the necessary treatment services and programs. Kentucky should seek approval from the Centers for Medicaid Services (CMS) for an amendment to its Medicaid substance use disorder 1115 waiver to authorize federal Medicaid matching funds for the provision of SUD treatment to eligible incarcerated individuals. The Kentucky Department for Medicaid Services submitted the application to CMS and is awaiting a determination.

2. **Over $400 million has been awarded to the University of Kentucky in grants and programs to conduct research in the field of substance use disorders.** The field of SUD research is a growing and dynamic area of institutional university research. UK is using this funding to establish, operate, and monitor SUD research and treatment programs throughout the Commonwealth such as the Helping to End Addiction Long-term Communities Study, the Justice Community Opioid Innovation Network, the Kentucky Communities and Researchers Engaging to Halt the Opioid Epidemic, syringe service programs, the Kentucky Opioid Response Effort, bridge clinics, and the Perinatal Assistance and Treatment Home program.

3. **Private business owners in Kentucky have made a calculated decision to discover how to positively employ individuals who are in one of the three main stages of SUD: still actively abusing substances, in current treatment for SUD, or in post treatment.** Business owners and business advocacy organizations like Chambers of Commerce have been working in the area of creating positive employment opportunities for individuals who suffer from SUD for many years. A lot of this work has come to fruition in the last few years. The task force heard testimony from businesses about their individual efforts to actively employ individuals with SUD. The Kentucky Chamber of Commerce reported on statistics that show work on a database of employers in Kentucky who have nearly 90,000 job opportunities for individuals with SUD. The Kentucky

General Assembly has been working in the field of trying to create more positive employment opportunities for individuals with SUD. In the 2020 Regular Session Senate, Bill 191 was enacted that calls on the Cabinet for Health and Family Services to establish a framework for fair chance employers to adapt, and in return they receive protection from certain liabilities related to negligent hiring, retention, and supervision.

4. **The reduction of the supply of opioids on the market in Kentucky has helped to reduce the number of individuals in the Commonwealth who suffer from SUD.** The Kentucky General Assembly has enacted several bills in the last 10 years that have helped to reduce the number of illicit opioids in Kentucky. House Bill 1 of the 2012 Extraordinary Session, commonly referred to as the pill mill bill, was aimed at the prescribing of opioids for chronic pain. Senate Bill 192, from the 2015 Regular Session, which was called the Heroin bill, created some harm reduction measures, such as a Good Samaritan provision, greater access to Naloxone, allowance for syringe services, and tougher penalties for heroin and fentanyl offenses. House Bill 333 from the 2017 Regular Session addressed prescribing for acute pain and created harsher penalties for trafficking heroin. The Kentucky Office of Drug Control Policy reported to the task force additional steps beyond legislation to combat SUD such as creating opportunities for treatment, stable housing, medication assisted support, and peer supports.

5. **More SUD treatment programs now exist and successfully operate in all regions of Kentucky and offer inpatient and outpatient treatment and short-term and long-term supports to individuals with SUD.** The task force heard testimony from five private treatment programs that operate throughout the Commonwealth. Nationally in 2019, there were 70,466 overdose deaths in the United States. Of those deaths, 1,316 were in Kentucky. So far in 2020, there has been a 5 percent increase over the 2019 numbers in overdose deaths. One in five people who are incarcerated are incarcerated for a drug offense. Approximately 29 percent to 50 percent of workers reported substance abuse issues for alcohol, or recreational and prescription drugs. These statistics show the need for active treatment programs in Kentucky. The programs in Kentucky offer various treatment and support modalities for individuals with SUD. Most all of the programs offer peer support, case management services, life skills and job support training, vocational and academic education opportunities, guaranteed opportunities for employment, transportation assistance, medical and psychosocial therapies, and housing supports. Some programs serve a few hundred individuals a year and some programs have the capacity to have monthly contact with over 1,000 individuals. Different SUD treatment programs in Kentucky offer differing models for length of treatment. Depending on the SUD that is being treated, some programs have success in a few months and other programs believe that successful treatment of SUD is a participation in a multi-year program.

6. **The Substance Abuse and Mental Health Services Administration which is a part of the United States Department of Health and Human Services, has awarded Kentucky $78.8 million in federal funds from October 2018 to September 2021 to be used toward the response effort to SUD.** Kentucky is using this money to increase access to medications for opioid use disorder, reduce the unmet treatment need, reduce

opioid overdose-related deaths, and expand evidence-based services to address stimulant misuse and use disorders. Testimony was given to the task force related to state training for individuals on how to properly use overdose reversal medications. The task force also heard from private companies urging the awareness of alternative medications, technology, and injectables related to the treatment of SUD.

Recommendations

The task force recommends that the Kentucky General Assembly take the following actions during the 2021 Regular Session:

1. Through the adoption of a concurrent resolution, encourage the Education and Workforce Development Cabinet to encourage Kentucky businesses to create career paths for individuals who are in need of second chances and encourage Kentucky businesses to not have "zero tolerance" polices for employees related to substance use disorder.

2. Through the adoption of a joint resolution, direct the Cabinet for Health and Family Services to establish a work group to create written recommendations for distribution throughout Kentucky for individuals who suffer from substance use disorder related to ways to reduce the barriers those individuals experience when attempting to access opioid disorder treatment programs.

3. Through the adoption of legislation, expand the use of telehealth for counseling, behavioral therapy, medication assisted treatment, and general medical care for individuals with substance use disorder and require that private insurance and the Kentucky Medicaid program provide coverage for these expanded services.

4. Through the adoption of a joint resolution, direct the Cabinet for Health and Family Services and the Justice and Public Safety Cabinet to work together to create recommendations for the legislature related to partnerships for decriminalization, diversion programs, and funding of drug courts, and to submit those recommendations to the Legislative Research Commission by December 1, 2021.

5. Through the adoption of legislation, remove the barriers of prior authorization requirements for medication assisted treatment related to United States Food and Drug Administration approved treatments.

6. Through the adoption of a concurrent resolution, encourage the Cabinet for Health and Family Services and Medicaid managed care organizations to permit coverage of United States Food and Drug Administration-approved digital therapeutics in order to provide more therapy options and improve compliance and outcomes for individuals going through substance use disorder recovery.

7. Through the adoption of a joint resolution, encourage the Cabinet for Health and Family Services to work with substance use disorder treatment providers to establish a pilot program to fully fund post-inpatient treatment housing and transitional living in a limited setting for individuals with substance use disorder.

8. Through the adoption of a concurrent resolution, encourage the United States Congress to continue to provide state funding that supports the Kentucky Opioid Response Effort and other programs that provide support to individuals with substance use disorder.

9. Through the adoption of a concurrent resolution, support the Cabinet for Health and Family Service's 1115 waiver application for Medicaid funds to be permitted to be used for addiction treatment for incarcerated individuals and encourage the United States Centers for Medicaid Services to approve the Commonwealth's waiver application.

10. Through the adoption of a joint resolution, direct the Cabinet for Health and Family Services to study the issue of why individuals do not seek treatment for a substance use disorder prior to an individual becoming involved in the family court system or the child welfare system, to identify barriers to treatment, and to develop strategies for access to treatment, and to submit the findings to the Legislative Research Commission by December 1, 2021.

11. Through the adoption of a joint resolution, direct the Justice and Public Safety Cabinet to study the issue of why individuals do not seek continued treatment for a substance use disorder after release from incarceration, to identify barriers to finding a treatment program, and to develop strategies for access to a treatment program, and to submit the findings to the Legislative Research Commission by December 1, 2021.

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