

# INTERIM JOINT COMMITTEE ON HEALTH, WELFARE, AND FAMILY SERVICES

## Minutes of the 2nd Meeting of the 2022 Interim

July 20, 2022

### Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Health, Welfare, and Family Services was held on Wednesday, July 20, 2022, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ralph Alvarado, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Kimberly Poore Moser, Co-Chair; Senators Julie Raque Adams, Karen Berg, Danny Carroll, David P. Givens, Denise Harper Angel, Jason Howell, Alice Forgy Kerr, Stephen Meredith, Michael J. Nemes, and Max Wise; Representatives Danny Bentley, Adam Bowling, Josh Bray, Tom Burch, Ryan Dotson, Daniel Elliott, Ken Fleming, Deanna Frazier Gordon, Mary Lou Marzian, Melinda Gibbons Prunty, Josie Raymond, Steve Riley, Scott Sharp, Nancy Tate, Russell Webber, and Lisa Willner.

Guests: Wendy Morris, Commissioner, Vestena Robbins, Executive Advisor, Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services; Eric Embry, Chief Executive Officer, Pennyroyal Community Mental Health Center; Jennifer Willis, Chief Executive Officer, Pathways Community Mental Health Center; Promod Bishnoi, Chief Executive Officer, Mountain Comprehensive Care; Representative Ken Fleming; Martha Mather, Chief Executive Officer, Peace Hospital, University of Louisville Health; Rachel Lucynski, Director, Community Crisis Services, University of Utah Health, SafeUT, Salt Lake City, Utah; Representative Josh Calloway; Mac Haddow, Senior Fellow, Public Policy, American Kratom Association; Dr. Alan Shultz, Chief Executive Officer, New Day Recovery Center; Nancy Galvagni, President, Kentucky Hospital Association; Betsy Johnson, President, Kentucky Association of Health Care Facilities; Lyndsey Blair, PhD, Senior Community Epidemiologist, Lincoln Trail District Health Department; Julie Brooks, Regulations Coordinator, Jessica Davenport, Environmental Health Program Inspection Evaluator, Department for Public Health, Cabinet for Health and Family Services; and Leslie Hoffman, Deputy Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services.

LRC Staff: DeeAnn Wenk, Ben Payne, Chris Joffrion, Samir Nasir, and Becky Lancaster.

### **Approval of Minutes**

A motion to approve the minutes of the June 2, 2022 meeting was made by Senator Berg, seconded by Senator Wise, and approved by voice vote.

### **Consideration of Referred Administrative Regulations**

The following referred administrative regulation was placed on the agenda for consideration: **201 KAR 002:440 Proposed** - Legend drug repository; **201 KAR 006:040 Proposed** - Renewal, reinstatement, and reactivation of license; **201 KAR 017:110 Proposed** - Telehealth and tele practice; **201 KAR 020:220 Proposed** - Nursing continuing education provider approval; **201 KAR 020:260 Emergency** - Organization and administration standards for prelicensure registered nurse or practical nurse programs of nursing; **201 KAR 020:280 Proposed** - Standards for developmental status, initial status, and approval of prelicensure registered nurse and practical nurse programs; **201 KAR 020:360 Proposed** - Continuing approval and periodic evaluation of prelicensure registered nursing and licensed practical nursing programs; **201 KAR 020:480 Proposed** - Licensure of graduates of foreign nursing schools; **201 KAR 020:480 Emergency** - Licensure of graduates of foreign nursing schools; **201 KAR 022:001 Proposed** - Definitions for 201 KAR Chapter 22; **201 KAR 022:020 Proposed** - Eligibility and credentialing procedure; **201 KAR 022:053 Proposed** - Code of ethical standards and standards of practice for physical therapists and physical therapist assistants; **201 KAR 022:070 Proposed** - Requirements for foreign-educated physical therapists and physical therapist assistants; **201 KAR 022:170 Proposed** - Physical Therapy Compact Commission; **201 KAR 033:015 Proposed** - Application; approved programs; **201 KAR 035:070 Proposed** - Supervision experience; **201 KAR 046:020 Proposed** - Fees; **201 KAR 046:060 Proposed** - Continuing education requirements; **900 KAR 013:010 Proposed** - Guaranteed Acceptance Program (GAP) reporting requirements; **902 KAR 010:121 Proposed** - Plan review, annual permitting, and inspection fees for public swimming and bathing facilities, including splash pads operated by local governments; **902 KAR 010:190 Proposed** - Splash pads operated by local governments; **908 KAR 003:010 Emergency** - Patient's rights; **922 KAR 001:360 Proposed** - Private child care placement, levels of care, and payment; **922 KAR 001:470 Proposed** - Central registry; **922 KAR 001:530 Proposed** - Post-adoption placement stabilization services; and **922 KAR 002:280 Proposed** - Background checks for child care staff members, reporting requirements, and appeals. The administrative regulations above were reviewed by the committee.

The following referred administrative regulation was placed on the agenda for consideration: **902 KAR 010:120 Proposed** - Kentucky public swimming and bathing facilities; There was an agency amendment offered by the Cabinet for Health and Family Services, Julie Brooks, Regulations Coordinator, Department for Public Health (DPH),

Cabinet for Health and Family Services, discussed the regulation's public comment period, concerns raised by legislative committee members regarding the regulation, and the previous amendments made to the regulation. Ms. Brooks explained how the agency amendment would change the regulation. In response to questions and comments from Representative Moser, Ms. Brooks stated that the DPH allows flexibility of lifeguard requirements at state park beaches but not state park swimming pools. A motion to accept the agency amendment was made by Representative Burch and seconded by Representative Moser, and approved by voice vote.

### **Community Mental Health Centers and Behavioral Health Services Organizations**

Wendy Morris, Commissioner, Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID), Cabinet for Health and Family Services, gave an overview of the Community Mental Health Centers (CMHCs) and Behavioral Health Service Organizations (BHSOs), the differences in who the CMHCs and BHSOs serve, the services provided, and the contracts and funding. She discussed other statutory, service, and program requirements for CMHCs and reviewed the number of BHSOs in each of the 14 CMHC regions.

Vestena Robbins, Executive Advisor, Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services, reviewed the key elements of the Centers for Medicare & Medicaid Services (CMS) Certified Community Behavioral Health Clinic (CCBHC), services provided by a CCBHC, and an update on Kentucky's CCBHC demonstration status.

In response to questions and comments from Senator Alvarado, Commissioner Morris stated that the CMHCs' regions are set in statute. She stated that an organization can be both a CMHC and BHSO but the organization would need to be credentialed separately because the reimbursement rates are different for CMHCs and BHSOs.

In response to questions and comments from Representative Willner, Commissioner Morris stated that when a CMHC is practicing outside of its region, for practical purposes, it is functioning as a BHSO but with the added perks of being a CMHC.

In response to questions and comments from Senator Adams, Commissioner Morris stated that she would follow up with information regarding the Substance Abuse and Mental Health Services Administration (SAMHSA) funds and how the funds are distributed.

In response to questions and comments from Representative Dotson, Commissioner Morris stated that CHFS calls upon the local CMHCs to make sure mental health services are available to people when dealing with a natural disaster or school crisis in a community.

In response to questions and comments from Representative Moser, Commissioner Morris stated that there have been success stories with integrated behavioral and physical health programs at CCBHC with more evidence-based practices with a focus on excellence and outcomes. Leslie Hoffman, Deputy Commissioner, Department for Medicaid Services (DMS), Cabinet for Health and Family Services, stated that DMS partners with DBHDID for the CCBHC demonstration and includes an outreach to Veterans. She stated that DMS chose to go with the Prospective Payment System (PPS) 1 rate methodology that is approved by CMS with a daily per encounter PPS 1 rate. DMS does a cost analysis, cost reporting, and a wrap payment.

In response to questions and comments from Senator Berg, Deputy Commissioner Hoffman stated that each individual has a different encounter rate amount based on their cost report and projections.

### **2022 Regular Session House Bill 349 - Regional Service Areas for Mental Health or Individuals with an Intellectual Disability**

Jennifer Willis, Chief Executive Officer, Pathways Community Mental Health Center, discussed that support of 2022 Regular Session House Bill 349 is needed to maintain the safety net for CMHCs. Eric Embry, Chief Executive Officer, Pennyroyal Community Mental Health Center, discussed how CMHCs' serve people with substance use disorder, mental illnesses, and intellectual disabilities, the difference between CMHCs and BHSOs, and the social services available to communities. Ms. Willis discussed why CMHCs have a different pay scale than BHSOs and why a CMHC working outside of its region may improve its profits while not having to provide services that may lose money for another CMHC working within its region. She discussed how CMHCs are designed to work with BHSOs for crisis services, that 27 counties have CMHCs outside of their region functioning in the same county with local CMHCs, the difference in the required level of education for staff, and the 2022 Regular Session House Bill 349 requirements for CMHCs that provided services outside of its region.

Promod Bishnoi, Chief Executive Officer, Mountain Comprehensive Care, gave a brief overview of Mountain Comprehensive Care Center's (MCCC) organization, licenses, accreditations, service area, partnerships, facilities, and staff that provide services. He discussed the CMHCs' safety net services, need for increased rates for safety net services provided under contract with DBHDID, barriers that would have been created by 2022 Regular Session House Bill 349, and the results to communities if restrictions are created for CMHCs.

In response to questions and comments from Senator Alvarado, Mr. Bishnoi stated that MCCC takes care of the clinics that they serve, if in crisis there is an 1-800 number on all brochures, forms, and websites. He stated that MCCC provides after-hours services to individuals who are serviced outside of the region. Mr. Embry stated that the contract between MCCC and the Christian County Board of Education states MCCC is not

Kentucky's provider in Western Kentucky for crisis or emergency responses and that other CMHCs' phone numbers are listed but not MCCC's. He stated that Christian County Board of Education contracts with local CMHCs also.

In response to questions and comments from Senator Givens, Mr. Embry stated that Christian County Board of Education would contract with another provider because the priority is mental health and wellbeing of the students because the school need the help to care for students. Ms. Willis stated that Pathways Community Mental Health Center is in each school district in ten counties with multiple providers because the schools are desperate for assistance and the problems are with the required licensure and regulations. Commissioner Morris stated that a CMHC working outside of its region proposes some level of threat to the behavioral health safety net and that CMHCs have distinctly different missions and obligations than BHSOs but are a vital part of the continuum of care. She stated that a CMHC's contract with DBHDID only covers services provided in their region.

In response to questions and comments from Senator Carroll, Commissioner Morris stated that Seven Counties Services are also licensed as a BHSO and CMHC.

In response to questions and comments from Senator Berg, Commissioner Morris stated that all providers in all areas are struggling with workforce issues and there may be waiting lists in some areas for specific services.

In response to questions and comments from Representative Moser, Commissioner Morris stated that CHFS would prefer the CMHCs to work collaboratively to make sure all needs are met for the community.

In response to questions and comments from Senator Meredith, Commissioner Morris stated that DBHDID is an advocate for the people served by the department, people should have a choice in providers, and some of the prescriptive language in the contracts with the CMHCs comes from the federal block grants for auditing requirements.

In response to questions and comments from Representative Bray, Commissioner Morris stated that local CMHCs are responsible for handling the 202A process for a patient in crisis.

In response to questions and comments from Representative Tate, Mr. Bishnoi stated that Mountain Comprehensive Care Center's board members are from each the five counties in the Big Sandy area development district.

## **2022 Regular Session House Bill 569 - Consumer Protections Relating to Kratom**

Representative Josh Calloway, discussed the main objectives of Regular Session House Bill 569 proposed in 2022. Mac Haddow, Senior Fellow, Public Policy, American Kratom Association, discussed the origins of kratom, the history regarding the scheduling of kratom, the legality of kratom in six states, and the studies researching the benefits of kratom for addiction recovery. Lyndsey Blair, PhD, Independent Researcher, Senior Community Epidemiologist, Lincoln Trail District Health Department, discussed the opposing views of kratom, how assessments of the effects of kratom bans and subsequent opioid overdose mortality were completed along with the results, and the FDA warnings of heavy metal in kratom and dangers of using kratom not in its pure, unadulterated form.

Dr. Alan Shultz, Chief Executive Officer, New Day Recovery Center, discussed how problems with kratom were caused by impurities, differences in the amount of kratom previously used by indigenous people versus people today, countries that control kratom, uses of kratom, and the addictiveness of kratom.

In response to questions from Representative Bentley, Mr. Shultz stated that a patient that has severe toxicity from kratom would be treated by naltrexone or narcan and clarified that an opioid agonist causes pleasure. Dr. Blair stated that kratom does not give the same euphoria as an opioid and pure kratom is more effective at low doses. Dr. Shultz stated that suboxone is also more effective in lower doses.

In response to questions and comments from Senator Berg, Mr. Haddow stated that manufacturers of kratom in an unregulated setting do not test for contaminants but under the federal Kratom Consumer Protection Act manufacturers would be required to test for all contaminants and meet requirements the Food and Drug Administration (FDA).

In response to questions from Representative Moser, Mr. Shultz stated that 16 million kratom users and the large market of kratom is keeping the FDA from deciding to schedule or not schedule kratom. He stated that Suboxone is a partial agonist identical to kratom and it is controlled. Mr. Haddow stated that the outcome of the science concerning kratom, not pressure from any advocacy group or group of consumers, is keeping the FDA from deciding to schedule or not schedule kratom.

In response to questions and comments from Senator Carroll, Representative Calloway stated that when someone is under the influence of kratom the symptoms exhibited demonstrate that the product had been adulterated and unadulterated symptoms are similar to caffeine.

### **SafeKY - Mental Healthcare**

Representative Ken Fleming discussed SafeKY working as a pilot project to provide students, teachers, and parents 24-hour access to mental health professionals and reports to schools of any safety concerns, similar to the SafeUT application. Martha Mather, Chief Executive Officer, Peace Hospital, University of Louisville Health, gave a brief overview

of what the SafeKY application would offer to families and educators, staff available for assistance, safety features available, and process for implementation. Rachel Lucynski, Director, Community Crisis Services, University of Utah Health, SafeUT, Salt Lake City, Utah, discussed how SafeUT originated, services provided by the application, and the number of services and interventions made by SafeUT in the past year.

In response to questions and comments from Representative Bentley, Representative Fleming stated that the initial funding and personnel assistance will come from local foundations. Funding will be requested in an upcoming bill to complete the implementation. He stated that University of Louisville Peace Hospital will provide the mental health professionals to work on the application. Ms. Mather stated that while working with the University of Utah and building the application for Kentucky, there would be a licensed therapist on duty 24-hours, 7 days-a-week, to answer calls, texts, or chats.

In response to questions and comments from Senator Alvarado, Representative Fleming stated that there have been discussions regarding working with and complimenting the 988 phone number for mental health issues.

### **Health Care Workforce Shortages**

Nancy Galvagni, President, Kentucky Hospital Association (KHA), discussed KHA's workforce shortage survey results, the national nursing and hospital worker shortage, amounts spent on premium pay and nursing contract labor, long-term solutions to enroll and employ new nursing students. Betsy Johnson, President, Kentucky Association of Health Care Facilities, discussed the causes for the struggling workforce, additional contributing issues providers are dealing with, declining number of nursing home employees, the percentage of change in the healthcare sector post-pandemic, and recommendations on how to strengthen the nursing workforce.

In response to questions and comments from Senator Danny Carroll, Ms. Galvagni stated that with an aging population there is a demand for more services and hospitals are opening additional clinics to meet the patients' needs.

### **Adjournment**

There being no further business, the meeting was adjourned at 3:26 PM.