

**North Dakota  
Children's Behavioral Health Task Force  
July 16, 2018**

**Meeting Minutes, Approved**

**Task Force Members Attending:** *Chris Jones, Chairperson*, (Executive Director, ND Department of Human Services); *Erica Wondrasek, Designee* (Judicial Systems Administrator, ND Indian Affairs Commission); *Robin Lang* (Assistant Director, Safe & Healthy Schools, ND Department of Public Instruction); *Mylynn Tufte* (ND State Health Officer, ND Department of Health); *Lisa Bjergaard* (Director, Division of Juvenile Services, ND Department of Corrections & Rehabilitation); and *Pam Mack* (Director of Program Services, ND Protection & Advocacy Project).

*Pamela Sagness, Designee Assistant to Chairperson Jones* (Behavioral Health Division Director, ND Department of Human Services).

**Recorders:** Rose Stoller, Executive Director, and Greg Gallagher, Program and Research Director, The Consensus Council, Inc.

**Call to Order and Welcome:** Chris Jones, Chairperson, called the meeting to order at 1:03 p.m., CT, and welcomed Task Force members and guests to the meeting. Task Force members introduced themselves.

**Quorum:** With all members present, a quorum was recorded.

**Approval of June 19, 2018 Meeting Minutes:** PAM MACK MADE AND LISA BJERGAARD SECONDED A MOTION TO APPROVE THE MEETING MINUTES OF JUNE 19, 2018. MOTION PASSED UNANIMOUSLY.

**Acceptance of Agenda.** Chairperson Jones accepted the July 16, 2018, meeting agenda as presented.

**Conversations with Legislators on Behavioral Health Study Recommendations:** Chairperson Jones invited Representative Kathy Hogan, Chairperson, Interim Human Services Committee, to provide opening comments regarding her assessment of the state's behavioral health system, following the release of the recent North Dakota Behavioral Health System Study (NDBHSS), released in April 2018 (<https://www.nd.gov/dhs/info/pubs/docs/mhsa/2018-4-nd-behavioral-health-system-study-final-report-hsri.pdf>).

Representative Hogan thanked the CBHTF for its invitation to provide comments on the findings and recommendations of the NDBHSS and extended encouragement to the CBHTF to proceed proactively in its development of initiatives that might move the state forward in resolving its longstanding behavioral health needs, especially regarding children and youth. Rep. Hogan distributed presentation notes providing an overview of recent studies and legislation that have focused on addressing the state's behavioral health needs (<https://www.nd.gov/dhs/services/mentalhealth/children-bh-taskforce/docs/7-16-rep-hogan-presentation-part2.pdf>). In 2013 the independent Behavioral Health Stakeholder Group formed, consisting of eight members and effectively expanding its outreach to over 400 interested individuals statewide, including education, human service, and corrections professionals. The

Legislative Council initiated studies to assess the state's behavioral health system, which eventually resulted in the drafting of the Schulte Report. In 2015, the Legislative Assembly began to enact various statutes on behavioral health that attempted to engage various state agencies in a cooperative effort. Medicaid expansion in 2015 marked a milestone moment by enhancing services to adults and children. Interim Committees identified the need to reform the evident siloed system that impacted the care for children and youth, which led to the enactment of the CBHTF. The CBHTF has the ability to bring together the various stakeholders to develop meaningful proposals that will serve everyone's interests. In 2017, the Legislative Assembly advanced policies concerning behavioral health teacher training, social and emotional learning, trauma, suicide prevention, and bullying, in addition to initiating a restructuring of the state's human service system and agencies. Behavioral health has emerged as a prominent public policy matter.

The Interim Legislative Committees have been assessing the implications of the NDBHSS. Where the Schulte Report provided a foundational model for program improvement, the NDBHSS now provides a meaningful detailed outline for program reform, centering on the continuum of care as a unifying principle. The CBHTF holds great influence in defining and structuring collaborative, interagency initiatives that can further reform the system of care for children and youth. The progress made in schools' training and support efforts and the Insurance Department's recent decision to expand autism coverage mark additional important steps in securing people's services.

Rep. Hogan emphasized the need to facilitate and secure stable, collaborative networks where discussions among stakeholders can occur and find some level of permanence. Since the Behavioral Health Stakeholders Group may dissolve, there is a need for some type of replacement vehicle. Rep. Hogan encouraged the CBHTF to consider revisiting a structure like the former Children's Services Coordinating Committee (CSCC), as authorized under NDCC 54-56-01. The CSCC originally consisted of a central state-level committee and separate regional committees, dedicated to interagency and interdisciplinary planning and support. Although the CSCC has been dormant for several years because of a loss of funding, some regional committees, such as in Fargo, still exist. Members expressed an interest in learning more about the origin, structure, purpose, funding and operations of the CSCC to assess if its structure might offer a benefit to the CBHTF's focus. Interagency agreements, based on regionally developed plans, may offer a means to move the agenda forward with clarity of purpose and shared activities, especially when services may not exist uniformly statewide.

Members described the struggle that exists in providing for a balanced system that can support prevention and still provide sufficient treatment when funding is limited. Rep. Hogan emphasized that any proposals need to address clear outcomes and demonstrate a unified, interagency commitment. Rep. Hogan encouraged the CBHTF to commit to the continuum of care, to facilitate ongoing collaboration among stakeholders, to focus on two or three key initiatives springing from the NDBHSS, and to consider reestablishing a statewide system of regional interagency committees dedicated to human services, with attention placed on children and youth behavioral health needs. The CBHTF should make proposals for statewide services, being mindful that many legislators do not have a common vision or understanding of children's behavioral health.

**Reviewing Agency Program and Legislative Initiatives.** Chairperson Jones invited Lisa Bjergaard, Director, Division of Juvenile Services, ND Department of Corrections & Rehabilitation, to present the program and legislative initiatives being considered by the Division of Juvenile Services. Ms. Bjergaard distributed copies of SB 2046

<https://www.nd.gov/dhs/services/mentalhealth/children-bh-taskforce/docs/7-16-rep-hogan-presentation-part3.pdf>), a legislative proposal previously submitted unsuccessfully because of fiscal concerns but deserving reconsideration. SB 2046 sought to establish a pilot program under which the Department of Corrections and Rehabilitation could negotiate and enter into a memorandum of understanding with tribal governments to provide for the custody, care, and treatment of tribal juveniles who have been adjudicated in tribal court. The Department, with the assistance of the Indian Affairs Commission, hopes to resubmit this proposal in the next legislative session. This proposal fits the recommendations put forth within the NDBHSS. Members observed that Native American families feel forced to leave their Indian Reservation home to access services. This legislative proposal moves to address this issue.

Ms. Bjergaard identified the need to address the issue of child maltreatment and the supports that child protection services can provide to families. Ms. Bjergaard distributed a document that provided an overview of child maltreatment (<https://www.nd.gov/dhs/services/mentalhealth/children-bh-taskforce/docs/7-16-rep-hogan-presentation-part1.pdf>). If child protection services cannot count on the courts to enforce appropriate services identified from child maltreatment findings, then the agency is restricted in its options to assist families in their recovery. Many times, maltreated children end up in the juvenile justice system. The rate of reported child maltreatment cases has increased in recent years (<https://www.nd.gov/dhs/services/mentalhealth/children-bh-taskforce/docs/changing-landscape-child-maltreatment-and-drug-sse.pdf>), averaging five new cases daily. The Attorney General's Uniform Crime Report provides additional evidence of increasing rates, oftentimes directly affected by substance use. These data also correlate with data collected by the Department of Public Instruction. Ms. Bjergaard distributed a report on the long-term consequences of child abuse and neglect (<https://www.nd.gov/dhs/services/mentalhealth/children-bh-taskforce/docs/long-term-consequences-of-child-abuse.pdf>). Children's social-emotional development is directly, negatively impacted by maltreatment. The current standards for building a child maltreatment case, based on clear and convincing versus preponderance levels of evidence, introduces difficulties for child protection professionals. Professionals are required to become experts in drafting affidavits to document a credible case. Prosecutors and child protection services workers, among others, would benefit from more effective options to engage with families in their homes, something that legislators historically resist. What has evolved are the current juvenile court definitions and rules for the management of child maltreatment, including the current registry or index of identified abusers, that introduce circular penalties, which can inappropriately impact the affected children and destroy the identified adults' prospects for restitution and recovery. We may need to revisit the current ten-year registry standard to allow for incentives for identified adults. We may need to consider a "Safe Baby Court," applied to opioid cases, allowing child protection services to consider more flexible options to support the addiction-treated parent. Measures such as providing non-aggressive parenting skills offers appropriate, targeted training for parents. Ms. Bjergaard recommended that the CBHTF consider reviewing the state's current child abuse and neglect statutes against the Uniform Juvenile Court Act to ensure that all county workers are appropriately supported in their work.

Chairperson Jones invited Marlys Baker, Child Protection Services Administrator, Department of Human Services, to provide background information regarding the child protection system. Ms. Baker stated that cases follow a protocol, involving a report and assessment of services required determination, requiring a preponderance of evidence (>50%). These findings are oftentimes countered by the parents. The courts then apply a higher clear and convincing evidence standard, thereby introducing a conflict between service and legal standards for evidence. Whether a service is compelled is determined by this evidence rule. The state and the tribes

maintain their own independent systems, including data reporting. This difference in state and tribal systems is something the CBHTF should consider. Members also suggested that the difference in evidentiary rules could be considered a housekeeping bill before the Legislative Assembly. Members stated that the issue of evidence, among other assessment matters, becomes difficult to demonstrate when addressing the reality of significant psychological harm and maltreatment.

Chairperson Jones invited Cory Peterson, Juvenile Court Administrator, Department of Corrections and Rehabilitation, to provide additional background information regarding the juvenile court system's management of intervention services. Mr. Peterson identified that defense attorneys attend carefully, in the defense of their clients, to the definitions of evidentiary standards and services required. Mr. Peterson recommended that Travis Fink, a Jamestown-based defense attorney, be consulted as a possible resource expert for assessing defense attorney issues. States attorneys also may need to be consulted to better gauge their perspective on these matters. Mr. Peterson recommended that the CBHTF review and offer recommendations regarding the current court registry, concentrating on how to mitigate the registry's significant effects on identified parents who are constructively moving forward. Members observed that the Uniform Juvenile Code may need to be updated to address conflicting requirements with those of the child protection system, reconciling (1) the court system's definitions (such as the terms "services required," "abuse and neglect," and "deprived child"), (2) evidentiary standards (i.e., preponderance versus clear and convincing), and (3) determination processes. Members observed that the current system appears to need a more nuanced determination of findings and care required.

Chairperson Jones requested that Ms. Bjergaard act as lead member to prepare a plan of action and set of recommendations, especially in light of the NDBHSS study recommendations, for consideration by the CBHTF.

Chairperson Jones invited Erica Wondrasek, Judicial Systems Administrator, ND Indian Affairs Commission, to provide background information regarding legislative initiatives being considered by the ND Indian Affairs Commission. Ms. Wondrasek stated that the Commission supports revisiting SB 2046 during the 2019 Legislative Assembly. The Commission is also assessing funding levels for Title IV-E, the effects of tax reform, the effects of the Family First Prevention Act, and the management of tribal service data. The Commission staff have limited access to various data sources, both county and tribal, which makes certain outreach efforts with other agencies more critical. The Commission sees children's behavioral health issues as central to the tribes' emerging agendas. The state may benefit from initiating a health care statute to complement the federal Indian Child Welfare Act, introducing a coherent blend of policy and service components, including the management of data. The Commission has worked to re-establish the Tribal-State Court Affairs Committee as a means to improve the use of memoranda of agreement to improve access to various resources, such as data sharing. Members observed that Title IV-E, Family First, and National Child Welfare Association offer different avenues to centralize the management of data. Members observed that the use of Section 638 activities within the Community Health Workers bill may offer significant opportunities for improving children's behavioral health initiatives.

Chairperson Jones invited Pam Sagness, Behavioral Health Division Director, Department of Human Services to provide an update on Department activities. Ms. Sagness reported that statewide training on trauma screening is scheduled to begin in mid-July 2018. Mid-level trauma trainings, centered on addiction, are scheduled for late-August 2018 in Bismarck, Fargo, Grand Forks, and Minot, with additional webinar opportunities. The Behavioral Health Conference and

Recovery Reinvented are scheduled for September 4-7, 2018, in Fargo. These meetings are directed to multi-disciplinary professionals, parents and advocates. Ms. Sagness stated that seclusion and restraint needs to be revisited, updating policy provisions and best practices from other states. Members expressed support for moving forward with seclusion and restraint proposals and provided background on the previous effort to finalize these proposals. Any future proposal might include U.S. Department of Education guidelines and those from other states to underscore the national attention on this topic. Members stated that the previous policy was sound in its structure and limited in its demands, requiring only that schools adopt local policies. Prospects may be better now for the adoption of a statewide policy, given the passage of time and the benefit of previous exposure to the need.

Chairperson Jones appointed Pam Mack to act as lead person to prepare any seclusion and restraint proposals to be considered by the CBHTF.

Chairperson Jones raised the prospects of the state establishing a longer-term policy or advisory committee body or cabinet to replace or complement the CBHTF. Any resulting structure should assume a kid-first, not an agency-first perspective. Members observed that there may be a need to introduce both a state-level structure and regional-level (sub-level) structures to bring forth the best local planning efforts from across a broader group of stakeholders. Some activities, including a dedicated statewide committee or cabinet, may be accomplished without the need for legislation, using interagency agreements.

**Identify Task Force Priority Initiatives for Legislative Consideration.** Chairperson Jones invited CBHTF members to propose initiatives that may be appropriate for the CBHTF to pursue. CBHTF members identified several prospective policy initiatives that the CBHTF might advance, either through legislative proposals during the 2019 Legislative Assembly or interagency collaboration. The following topics emerged from CBHTF discussions.

**A. Adoption of School Seclusion and Restraint Policy and Practices Guidelines.**

The CBHTF has identified the need for the state to require local school districts and schools to adopt student seclusion and restraint policy and practices guidelines, including a requirement for all local school districts and schools to adopt and implement plans of action. The CBHTF has stated its interest in initiating the revision of previously studied seclusion and restraint policies by further adapting and incorporating national best-practice policies. Any resulting guidelines should secure the safety and wellbeing of students and school staff, ensure effective yet flexible expressions of best practices, eliminate the prospects of student or staff harm, and reduce unnecessary legal exposure. The CBHTF supports the reconvening of statewide stakeholders to complete the development of these policies and to agree upon a mechanism that ensures the implementation of these policies through legislative mandate, established school improvement or compliance rules, or other means of effective adoption.

**B. Formation of a State-level Children's Services Committee or Cabinet, with Supportive Regional Subcommittees.**

The CBHTF is assessing the prospects of (re)constituting a state-level children's services committee or cabinet, supported by similarly structured regional committees, which would be dedicated to coordinating the development and implementation of policies and practices driving children's services. The focus of this children's committee might center on (1) ensuring the coordinated, efficient provision of continuum-of-care services across all

public institutions and (2) advocating for the wellbeing of children and youth statewide across all service areas. Such a committee/cabinet structure might potentially replicate the design and purpose of the former Children’s Services Coordinating Committee, provided for under N.D.C.C. 54-56-01 and subsequently repealed. A combined state- and regional-level committee structure balances the interests of ensuring uniform service accessibility and accommodating unique local program implementation. This committee structure would allow for an interdisciplinary service focus, addressing the state’s behavioral health challenges, including early identification and intervention, within the context of other, wider socio-economic service needs. The Children’s Behavioral Health Task Force will assess how any (re)constitution of a state-level committee/cabinet might proceed within current interagency agreements or require legislative action.

**C. Suicide Prevention.**

The CBHTF is assessing how improved interagency coordination and communication might make suicide prevention and response efforts more effective. The CBHTF is evaluating if any changes in agencies’ protocols might require additional interagency agreement or legislative action.

**D. Bullying Prevention and Intervention**

The CBHTF has identified a need to (1) evaluate the effectiveness of current bullying prevention and intervention practices, especially within schools, and (2) assess if bullying policies might need to be revised to address the impact of technology use, including social media exposure and media-based bullying, on student wellbeing. The CBHTF will benefit from the activities of the State Superintendent’s Student Advisory Committee, as the Advisory Committee conducts its independent review of bullying policies and provides its findings to the CBHTF. The CBHTF will evaluate if any changes in agencies’ policies might require additional interagency agreement or legislative action.

**E. Young Drivers and Traumatic Brain Injury**

The ND Department of Health has raised the issues of young drivers and traumatic brain injury as two independent issues that may require the consideration of the CBHTF for interagency collaboration. The CBHTF will compile information on how each agency touches each of these issues and how cooperation among agencies might improve overall outcomes.

**F. Taxation Policy: Dedicated Sales Tax Increases and Revenue Use**

The CBHTF is assessing the prospects of developing legislative proposals to increase dedicated sales taxes on alcohol, tobacco, and recreational marijuana, pending its approval, and applying all or a portion of derived revenue to behavioral health initiatives statewide, across the breadth of the continuum of care. The CBHTF seeks to produce clear policy aims and distribution formulas that ensure the appropriate coverage of continuum-of-care programs.

**G. Expanded Emergency Care Resources**

The CBHTF has identified a critical shortage of financial resources to support clients and/or families during crisis or emergency events, affecting their abilities to secure proper housing

arrangements, out-of-home placements, or other supervisory responsibilities. The CBHTF will evaluate if any changes in agencies' policies or appropriation-levels might require additional interagency agreement or legislative action.

#### H. **Juvenile Court Rules for Maltreatment**

The CBHTF is assessing how current juvenile court definitions and rules for the management of child maltreatment, including the current registry or index of identified abusers, might introduce circular penalties that can inappropriately impact the affected children and destroy the identified adults' prospects for restitution and recovery. The CBHTF will evaluate if any changes in agency policies might require additional interagency agreement or legislative action.

#### I. **State and Tribal Service Collaboration**

The CBHTF is assessing current practices of exchanging appropriate client service information across jurisdictions (e.g., state, tribe, regional human service centers, counties, cities) to improve access to service programs. The CBHTF will evaluate if any changes in agencies' policies might require additional interagency agreement or legislative action.

**Finalize Agenda for Next Meeting, Requests for Supplemental Reports and Presentations.** Chairperson Jones announced the scheduled dates for forthcoming meetings.

- Monday, August 20, 2018, 1:00 – 4:00 p.m., CT, in the Sakakawea Room, State Capitol;
- Friday, September 21, 2018, 10:00 a.m. – 1:00 p.m., CT, in the Sakakawea Room, State Capitol;
- Tuesday, October 16, 2018, 1:00 – 4:00 p.m., CT, in the Missouri River Room, State Capitol; and
- Thursday, November 15, 2018, 1:00 – 4:00 p.m., CT, in the Sakakawea Room, State Capitol.

Members recommended that the August 20, 2018, CBHTF meeting agenda include (1) a report on the CBHTF presentation before the Interim Health Services Committee and Interim Human Services Committee and any resulting feedback that may influence the CBHTF's planned initiatives; (2) a structured review and priority setting of the NDBHSS's recommendations, reconciling how the CBHTF might design its recommendations to reflect those of the study; (3) a report from the Consensus Council on initial results from its survey of interagency behavioral health services; and (4) the drafting of formal CBHTF initiatives with a plan of action to move these initiatives forward through either legislative proposals or interagency agreements. Chairperson Jones instructed the Consensus Council to prepare a manageable agenda to meet these objectives, considering also any outstanding issues from the CBHTF's issue bin. Members expressed an interest in inviting different legislative leaders to forthcoming meetings to introduce them to the issues, process, and direction of the CBHTF.

Prospective Agenda Issue Bin for Forthcoming Meetings. Issues identified by the Task Force for consideration at forthcoming meetings include home-, school-, and community-based services; social services; child welfare and tribal services, including jurisdictional issues; health and wellness checks (including EPSDT, screenings); health integration; peer, family and community

supports; complex, fragile medical needs; how the behavioral health and developmental disabilities systems are or are not connected; and a review of primary and secondary payors in the behavioral health system.

Members discussed if the CBHTF might establish or gain access to a currently established youth advisory committee, for the purposes of soliciting comments on possible youth behavioral health initiatives. Members observed that the State Superintendent's student advisory committee and Protection and Advocacy's outreach efforts, among other agency feedback committees, might provide that opportunity. Members deferred further consideration at this time.

MYLYNN TUFTE MADE AND ROBIN LANG SECONDED A MOTION THAT PAM SAGNESS REPRESENT THE CBHTF AND PROVIDE TESTIMONY REGARDING THE PROCEEDINGS OF THE CBHTF BEFORE THE INTERIM HEALTH SERVICES COMMITTEE, ON JULY 26, 2018, AND THE INTERIM HUMAN SERVICES COMMITTEE, ON JULY 27, 2018. THE MOTION PASSED UNANIMOUSLY.

The Consensus Council will provide to Ms. Sagness a summary list of the initiatives agreed upon thus far by the CBHTF to support her testimony preparations.

**Public Comment:** Chairperson Jones invited any members of the public to provide comments for the Task Force. No members of the public stepped forward to testify.

**Adjournment:** Having completed the meeting's agenda and hearing no further comments from the Task Force, Chairperson Jones entertained a motion to adjourn the Task Force meeting.

MYLYNN TUFTE MADE AND PAM MACK SECONDED A MOTION TO ADJOURN.

Chairperson Jones declared the meeting adjourned at 4:47 p.m. CT.

Respectfully submitted,  
Greg Gallagher  
Consensus Council, Inc.