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## LEGAL UPDATE

Legal Services Division



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### MENTAL HEALTH AND DISABILITY SERVICES COMMISSION MEETING — SEPTEMBER 19, 2019

**Purpose.** *Legal updates are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update is intended to provide legislators, legislative staff, and other persons interested in legislative matters with summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although an update may identify issues for consideration by the General Assembly, it should not be interpreted as advocating any particular course of action.*

**Date and Location.** The Mental Health and Disability Services (MH/DS) Commission (commission) met on September 19, 2019, at the Polk County River Place in Des Moines.

#### **Administrative Rules Regarding Chapter 25, "Disability Services Management," Iowa**

**Administrative Code.** Ms. Theresa Armstrong, Community Services and Planning Bureau Chief, Department of Human Services (DHS), presented proposed amendments to 441 IAC ch. 25 to implement the provisions of 2019 Iowa Acts, HF 690, establishing the Children's Behavioral Health System State Board. The DHS presented the rules for the commission to file a notice of intended action and allow for public comment. The proposed rules provide the framework for a children's behavioral health system requiring certain core services for children with serious emotional disturbances, and provide guidance to MH/DS regions in developing the new core services. The proposed rules also make changes to the MH/DS regional governance structure and reporting requirements.

The proposed revisions include the addition of definitions for "behavioral health inpatient treatment" or "mental health inpatient treatment," "behavioral health outpatient therapy," "child" or "children," "children's behavioral health services," "children's behavioral health system" or "children's system," "early identification," "early intervention," "education services," "mental health inpatient treatment" or "behavioral health inpatient treatment," "prevention," "serious emotional disturbance," and "state board."

The proposed revisions provide that MH/DS regions shall ensure the following core services are available for children in a region: assessment and evaluation relating to eligibility for services, behavioral health inpatient treatment, behavioral health outpatient therapy, crisis stabilization community-based services, crisis stabilization residential services, early intervention, early identification, educational services, medication prescribing and management, mobile response, and prevention. Certain of these required behavioral health core services must be implemented by July 1, 2020, and must meet access standards on or before July 1, 2021. The remaining required core services must be implemented, and access standards met, by July 1, 2021.

The proposed revisions establish new access standards and service availability criteria. The proposed revisions include revisions to MH/DS Regional Service System standards and definitions including provisions requiring a governing board to comply with the provisions of Iowa Code section 331.390, Iowa Code chapter 69, and other applicable laws; provisions regarding the membership of a governing board; provisions regarding a regional administrative entity staff including one or more coordinators of children's behavioral health services; and provisions for required formation and assigned responsibilities for one or more regional advisory committees for children's behavioral health services. The proposed revisions also establish eligibility requirements for children's behavioral health services including financial eligibility requirements and requirements for a region's annual service and budget plan and annual report.

The commission approved the proposed rules for filing a notice of intended action.

**Discussion of Managed Care Executive Summary.** Mr. John Parmeter, Chairperson, presented a draft MH/DS Commission Executive Summary, which provides information regarding the deliberations of the commission relating to Medicaid managed care. The summary also includes a list of areas of concern identified by the commission that require continued efforts by the DHS and Medicaid managed care organizations.

The commission voted to make suggested changes to the draft and send the executive summary to DHS.

**Update on Children’s Behavioral Health System State Board.** Mr. Parmeter provided an update on the first meeting of the Children’s Behavioral Health System State Board, held on August 27, 2019. See [www.legis.iowa.gov/docs/publications/LU/1069348.pdf](http://www.legis.iowa.gov/docs/publications/LU/1069348.pdf).

**MH/DS Update.** Ms. Armstrong reported that Governor Kim Reynolds has appointed Ms. Kelly Kennedy Garcia, currently the Deputy Executive Commissioner of the Texas Health and Human Services Commission, as Director of the Iowa Department of Human Services (DHS). Ms. Garcia will be relocating from Austin, Texas, and will begin her new role on November 1, 2019. Ms. Armstrong also reported that the DHS Council approved the FY 2021 DHS budget request, and it will be submitted to the Governor.

**State Resource Center Barriers to Integration Report.** Ms. Marsha Edgington, Superintendent, Woodward Resource Center, presented the 2018 Glenwood and Woodward Resource Centers Annual Report of Barriers to Integration. The report contains data about identified barriers for all persons residing in a resource center intermediate care facility for Individuals with Intellectual Disabilities (ICF/IDs) as of December 31, 2018, who have been identified as having at least one barrier to moving from a resource center campus to a community setting. Barriers are defined as “what prevents an individual from living in the community.” Identified barriers include:

- Interfering behavior that makes it difficult to ensure safety for self and/or others.
- Underdeveloped social skills.
- Health and safety.
- Individual, family, or guardian reluctance.

The report is available at [dhs.iowa.gov/sites/default/files/Barrier-Report-Calendar-Year-2018-Final.pdf?092320191713](http://dhs.iowa.gov/sites/default/files/Barrier-Report-Calendar-Year-2018-Final.pdf?092320191713).

**Administrative Rules for Licensed Master Social Workers.** Representative Mark Smith spoke to the commission regarding the licensure and supervision of master’s degree level social workers. He believes that there is a conflict between the current administrative rules and Iowa Code chapter 154C concerning the supervision of Licensed Master Social Workers (LMSW) who do not seek to become Licensed Independent Social Workers (LISW). Representative Smith stated the rules require that a LMSW be supervised by a LISW, but the Code does not require that level of supervision. Representative Smith believes this creates a reduced workforce problem, and makes it more difficult for agencies utilizing LMSWs who do not have LISWs on staff. He requested that the commission monitor this issue and review the emails and notes he has received and forwarded to commission members since looking into the issue beginning in March 2019. This concern affects a Medicaid rule that would need to be changed. The commission will look into the issue and place it on the agenda for the next commission meeting in October.

**Regional Dashboard Quarterly Update.** Ms. Rose Kim, MH/DS Quality Improvement Analyst, DHS, presented the Quarterly MH/DS Region Report: (4th Quarter FY 2019). The report details regional core service access standards, access to evidence-based practices, the implementation of new, required MH/DS core services, and the implementation of additional, but not required, MH/DS core mental health and disability services.

The report is available at [dhs.iowa.gov/sites/default/files/MH/DS-Regions-Statewide-Dashboard-Quarter-4.docx.pdf?092320191713](http://dhs.iowa.gov/sites/default/files/MH/DS-Regions-Statewide-Dashboard-Quarter-4.docx.pdf?092320191713).

**Legislative Priorities Committee.** The Legislative Priorities Committee met and discussed the need to improve workforce availability for MH/DS services, including both professional and para-professional workforce staff.

**Planning for Future Meetings.** Topics for future meetings include a presentation by mental health regions regarding services provided, the licensure and supervision of LMSWs, and additional legislative priorities.

**Public Comment.** Ms. Teresa Bomhoff, Chairperson, Mental Health Planning and Advisory Council (council), raised questions about which topics will be covered in the October joint meeting between the commission and the council.

**Next Meeting.** The next commission meeting will take place on October 17, 2019, at Polk County River Place.

**Mental Health and Disability Services Commission material is available at:** [dhs.iowa.gov/about/MH/DS-advisory-groups/commission](https://dhs.iowa.gov/about/MH/DS-advisory-groups/commission).

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