

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairman Jim Barnett at 1:30 p.m. on March 16, 2010, in Room 546-S of the Capitol.

All members were present.

Committee staff present:

Nobuko Folmsbee, Office of the Revisor of Statutes  
Renaë Jefferies, Office of the Revisor of Statutes  
Iraida Orr, Kansas Legislative Research Department  
Melissa Calderwood, Kansas Legislative Research Department  
Amanda Nguyen, Kansas Legislative Research Department  
Carolyn Long, Committee Assistant

Others attending:

See attached list.

Chairman Barnett thanked Carolyn Long for her assistance during the past two days.

**HB 2577 - Addictions counselor licensure act**

Chairman Barnett summarized testimony heard for **HB 2577** on March 9, 2010; Senator Barnett indicated that several questions remained concerning "diagnostic impressions" and diagnosis, therefore, a representative from Social and Rehabilitation Services, Deborah Stidham, Director, DBHS/Addiction and Prevention Services, was asked to attend.

Ms. Stidham distributed an informational sheet regarding the use of diagnostic impressions (Attachment 1). She indicated specialty-trained, credentialed counselors operate within the structure of a state-licensed facility. She described the tools used by credentialed counselors to ascertain information from clients which is ultimately used to develop a diagnostic impression to determine the level of care needed. She indicated the bill's purpose is to raise the level of professionalism, to protect consumers, and to provide oversight and regulation for counselors. Ms. Stidham, speaking on behalf of the Department of Social and Rehabilitation Services, supports the standard of care for substance use treatment services (as is used in the current system), including the use of diagnostic impressions by specialty-trained counselors in licensed facilities.

Senator Schmidt indicated that in previous testimony concerns had been raised regarding the use of "diagnostic impressions." She asked Ms. Stidham if practice changes have occurred since 2002. Ms. Stidham responded that since utilization in 2007 of ValueOptions-Kansas, the community-based managed care contractor, many practices have improved that ensure counselor and clinical practices are strong and effective to meet the needs of Kansans with substance abuse disorders.

Senator Barnett inquired about the use a "diagnostic impression" by a person not permitted to make a diagnosis. The "diagnostic impression" results in a diagnosis and charge; Senator Barnett questioned whether that constitutes a fraudulent activity/charge by CMS. Ms. Stidham reported that Centers for Medicare and Medicaid conducts review of all Medicaid state plan provisions, waiver applications, managed care contracts/amendments, Medicaid Integrity Reviews, Bi-annual Managed Care Reviews and other management reviews. According to her knowledge, there have been no issues with the programs in Kansas. However, Ms. Stidham could not speak to whether CMS has actually reviewed those elements (for example, "diagnostic impression," resulting in diagnosis and charge).

Stuart Little, Kansas Association of Addiction Professionals, reported that CMS is aware and has approved of these practices. Further, he indicated that the bill does contain exemptions for religious based treatment, and it does not infringe on the scope of practice for other mental health professionals (i.e., marriage therapists).

Senators suggested a small technical amendment which does not change or further clarify the legislation, however, chose not to amend the **HB 2577**.

## CONTINUATION SHEET

Minutes of the Senate Public Health and Welfare Committee at 1:30 p.m. on March 16, 2010, in Room 546-S of the Capitol.

Chairperson Barnett summarized the reason for hearing additional follow-up testimony was to ensure committee members and the public were aware of the concerns expressed relative to the use of a "diagnostic impression," and that professionals from Social and Rehabilitation Services and the Kansas Association of Addiction Professionals had reassured committee members there is no existing fraud or abuse with the use of a "diagnostic impression."

Upon a motion by Senator Schmidt and a second by Senator Kelsey to favorably pass out **HB 2577**, the motion passed.

The meeting was adjourned at 2:04 p.m.

Sign-In Sheet

Senate Public Health & Welfare Committee  
March 16, 2010

NAME

REPRESENTING

Marla Rhoden

KDHE

Berend Koops

Hein Law Firm

Michelle Butler

Cap. Strategies

Disability & Behavioral Health Services – Addiction And Prevention Services

***Substance Use Treatment Services – Use Of Diagnostic Impressions***

**Substance Use System Considerations – Past and Present**

The Kansas public substance use treatment system, like many across the nation, has at its core a cadre of specialty-trained, credentialed counselors operating within the structure of a state-licensed facility. Those counselors have a high degree of focused training, and practice in a narrow scope of treatment services, providing a limited array of behavioral-focused interventions for people with substance use disorders.

One of the important functions performed by those counselors is the completing of a structured assessment instrument, addresses six dimensions of a biopsychosocial evaluation. That instrument, the Kansas Clinical Placement Criteria (KCPC), is built upon national standards developed by the American Society of Addiction Medicine (ASAM), and walks the assessor through a comprehensive evaluation of the person’s current substance use-related behavior and treatment needs. As part of that structured assessment, which can only happen in state-licensed facilities, the assessor is led to the initial development of diagnostic impressions and the person’s current level of care need. Supplementing those counselors – and responsible to review the assessment conclusions and related impressions – are licensed clinicians, with full authority to issue diagnoses. Those licensed clinicians are either staff or contractors of the licensed facility, or they are licensed clinicians employed by the substance use community based managed care contractor, ValueOptions-Kansas.

**Incremental Increases in Professionalism**

The credentialed substance use counselor resource is critical to the success of Kansas’ public substance use treatment system. As part of system enhancements implemented by SRS in July 2007, with the initiation of the CMS-approved substance use managed care program, SRS contracted with ValueOptions-Kansas to supplement the existing licensed clinician resource by the presence of licensed clinicians on their staff. While seeking to increase the overall capacity and quality of care within the public substance use system, SRS recognized that system resources were not robust enough at that time to require that every licensed facility have on-site licensed clinicians.

Since the initiation of that program, SRS has continued to partner with ValueOptions-Kansas and other stakeholders to increase licensed clinician capacity across the system. At this time, the only new providers being added to the network must have on-site licensed clinician capacity. Likewise, during the next re-credentialing cycle, SRS and ValueOptions will be working

with current members of the provider network to build capacity for the presence of licensed clinicians on-site. The addition of individual substance use clinicians to the BSRB-licensed array is consistent with the overall increase of system capacity. Removing the long-standing practice of building diagnostic impressions by non-licensed credentialed counselors would unnecessarily strip the public mental health system of a resource that is critical for its ongoing success.

### **Safeguard Features – Review and Oversight of Programs**

There are numerous safeguards in place across the Kansas public substance use treatment system, which ensure that counselor and clinician practices are strong and effective to meet the needs of people with substance use disorders. Those safeguards include:

- SRS licensure of all facilities that provide substance use treatment services.
- Facility credentialing of all providers who are part of the ValueOptions-Kansas network of Medicaid or block grant funded substance use treatment system.
- SRS credentialing of all counselors performing substance use treatment services within licensed facilities.
- Pre-credentialing and ongoing continuing education requirements, resulting in significant specialized training in substance use disorders.
- Structured, comprehensive assessment system, as discussed above, resulting in a multi-layered evaluation of each person’s needs and the clinical review of findings.
- Quality assessment and program compliance reviews, covering all aspects of treatment evaluation, delivery and documentation, by both internal and external entities, including:
  - ValueOptions-Kansas’ utilization management and medical necessary reviews
  - External Quality Review Organization federally-required reviews conducted by Kansas Foundation for Medical Care, which include both clinical, administrative and health information system reviews
  - Annual on-site licensing reviews from SRS licensing staff, as well as annual on-site review of ValueOptions-Kansas by SRS contract monitoring staff
  - Referral to and cooperation with the Attorney General’s Medicaid Fraud and Abuse division, concerning any report of fraud or abuse in Medicaid-funded services
  - Centers for Medicare and Medicaid reviews, which include
    - Approval of Medicaid state plan provisions, waiver applications, and managed care contracts/amendments
    - Medicaid Integrity Reviews
    - Biannual managed care reviews
    - Biannual independent assessment reviews conducted by third party entities
    - Financial management reviews

The standard of care for substance use treatment services is well met by the current system, including the use of diagnostic impressions by specialty trained counselors in licensed facilities as part of a licensed clinician-reviewed and nationally-structured assessment process. SRS supports the continued use of that practice, even as the overall system continues to evolve toward increased use of on-site licensed clinical supervision.