

Healthcare and Regulatory Subcommittee Meeting

Tuesday, August 27, 2019

Contents

Agenda2
Meeting Minutes4
Study Timeline8
Agency Overview10
 Snapshot.....10
Agency Recommendations11

AGENDA

South Carolina House of Representatives



Legislative Oversight Committee

HEALTHCARE AND REGULATORY SUBCOMMITTEE

Chairman John Taliaferro (Jay) West, IV

The Honorable Robert L. Ridgeway, III

The Honorable Bill Taylor

The Honorable Chris Wooten

Tuesday, August 27, 2019

10:00 a.m.

Room 427 - Blatt Building

Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming whenever technologically feasible.

AMENDED AGENDA

- I. Approval of Minutes**
- II. Discussion of study of the Department of Mental Health**
- III. Adjournment**

MEETING MINUTES

Chair Wm. Weston J. Newton

*First Vice-Chair:
Laurie Slade Funderburk*

Legislative Oversight Committee

*Micajah P. (Micah) Caskey, IV
Neal A. Collins
Patricia Moore (Pat) Henegan
William M. (Bill) Hixon
Jeffrey E. (Jeff) Johnson
Marvin R. Pendarvis
Tommy M. Stringer
Bill Taylor
Robert Q. Williams*



South Carolina House of Representatives

*Gary E. Clary
Chandra E. Dillard
Lee Hewitt
Joseph H. Jefferson, Jr.
Mandy Powers Norrell
Robert L. Ridgeway, III
Edward R. Tallon, Sr.
John Taliaferro (Jay) West, IV
Chris Wooten*

*Jennifer L. Dobson
Research Director*

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*Carmen J. McCutcheon Simon
Research Analyst/Auditor*

*Kendra H. Wilkerson
Fiscal/Research Analyst*

**Healthcare and Regulatory Subcommittee Meeting
Monday, August 12, 2019, at 1:00 pm
Blatt Building Room 410**

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access an archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

Attendance

- I. Chair Jay West calls the Healthcare and Regulatory Subcommittee to order on Monday, August 12, 2019, in Room 410 of the Blatt Building. All members of the Subcommittee are present for all or a portion of the meeting, with the exception of Representative Bill Taylor. Representative Micah Caskey is also present for the meeting.

Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings, but the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.

- II. Representative Ridgeway moves to approve the meeting minutes from the July 23, 2019, meeting. The motion passes.

Representative Ridgeway's motion to approve the meeting minutes from the July 23, 2019, meeting.	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Robert Ridgeway	✓			
Rep. Bill Taylor			✓	
Rep. Chris Wooten	✓			
Rep. Jay West	✓			

Meeting

- I. Chair West explains that this is the Subcommittee's eleventh meeting with the Department of Mental Health, and that the purpose is to hear the agency's requests for recommendations.
- II. Chair West makes a statement regarding the purpose of oversight studies and explains that all testimony given to this subcommittee, which is an investigating committee, must be under oath. He reminds those sworn in during prior meetings that they remain under oath.
- III. Jane B. Simpson, mental health advocate from Lexington County, is sworn in and provides testimony about her interactions with DMH staff throughout the years.
- IV. Mark Binkley (Interim Director) provides testimony about the following agency recommendations:
 - a. Amend the Sexually Violent Predator Act
 - b. Amend Title 44, Chapter 23 regarding commitments of defendants for treatment services to restore capacity to stand trial
 - c. Amend Title 44, Chapter 23 regarding defendants found to lack capacity to stand trial and further found to be unlikely to be able to be restored
 - d. Consider coverage in the South Carolina Torts Claims Act for contractors providing services on behalf of a state agency
 - e. Amend Section 44-22-40 to make the list of individuals who may provide substitute consent consistent with recent changes to the list of individuals in the Adult Healthcare Consent Act
 - f. Amend Act No. 65 of 2019, which amended Section 44-53-360(j), to require practitioners to electronically prescribe controlled substances unless exempted from the subsection, to add an exemption for SCDMH practitioners and facilities.
 - g. Transfer of pass-through funds not directly related to the mission of the agency
- V. Subcommittee members ask, and agency staff respond to questions about the following subjects:
 - a. Sexually violent predator treatment program improvements;
 - b. Forensic evaluations;
 - c. Agency inpatient capacity;
 - d. Medical services;
 - e. Organizational structure;

- f. Opioid prescribing rules; and
- g. Medication bid process.

There being no further business, the meeting is adjourned.

STUDY TIMELINE

Legislative Oversight Committee Actions

- May 3, 2018 - Prioritizes the agency for study
- May 9, 2018 - Provides the agency with notice about the oversight process
- July 17 – August 20, 2018 - Solicits input from the public about the agency in the form of an online survey
- January 14, 2019 - Holds **Meeting 1** to **obtain public input** about the agency

Healthcare and Regulatory Subcommittee Actions

- February 5, 2019- Holds **Meeting 2** with the agency to receive an overview of the agency's **history, mission, organization, products, and services**
- February 19, 2019 – Holds **Meeting 3** with the agency to receive testimony about the **Inpatient Services Division**
- March 5, 2019 – Holds **Meeting 4** with the agency to receive further testimony about the **Inpatient Services Division**
- March 19, 2019- Holds **Meeting 5** with the agency to receive further testimony about the **Inpatient Services Division**, and discuss responses to earlier-asked questions
- April 2, 2019 – Holds **Meeting 6** with the agency to receive testimony about **Community Mental Health Services**
- April 23, 2019 – Holds **Meeting 7** with the agency to receive testimony about **Community Mental Health Services**
- May 7, 2019 – Holds **Meeting 8** with the agency to receive testimony about **Community Mental Health Services** staffing and **facility deferred maintenance**
- June 20, 2019 – Holds **Meeting 9** with the agency to receive testimony about **Community Mental Health Services**
- July 8, 2019 – Holds **Meeting 10** with the agency to receive testimony about **Budget, Medical Affairs, and Administrative Services**
- July 23, 2019 – Holds **Meeting 11** with the agency to receive testimony about **Administrative Services**
- August 12, 2019 – Holds **Meeting 12** with the agency to receive testimony about **Agency Recommendations**

Department of Mental Health Actions

- March 11, 2015- Submits its **Annual Restructuring and Seven-Year Plan Report**
- January 8, 2016- Submits its **2016 Annual Restructuring Report**
- September 2016- Submits its **FY 2015-16 Accountability Report/Annual Restructuring Report**

- September 2017- Submits its **FY 2016-17 Accountability Report/Annual Restructuring Report**
- September 2018 – Submits it **FY 2017-18 Accountability Report/Annual Restructuring Report**
- November 19, 2018- Submits its **Program Evaluation Report**
- February- TBD 2019- Meets with and **responds to Subcommittee inquiries**

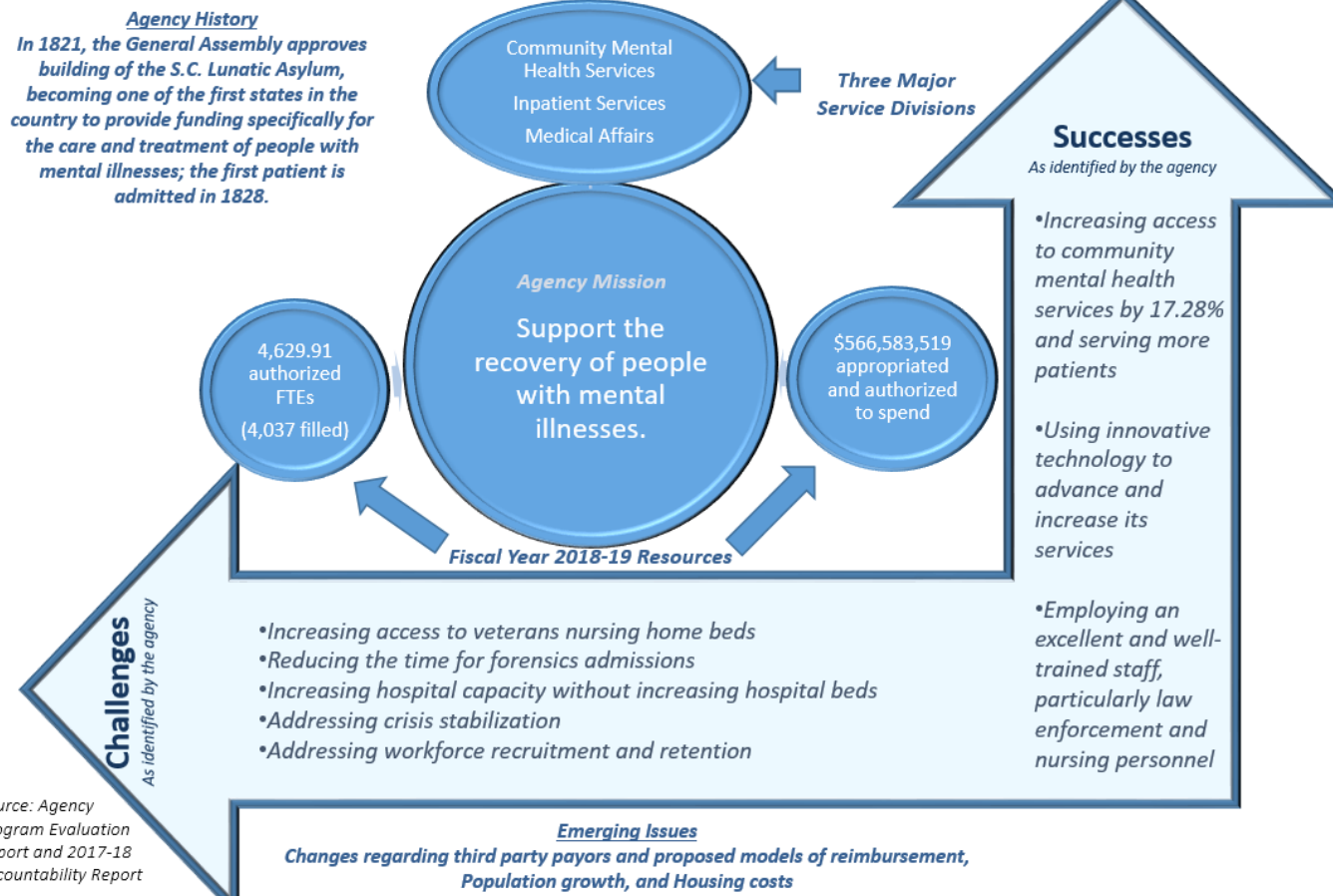
Public's Actions

- July 17 – August 20, 2018 - Provides input about the agency via an **online public survey**
- January 14, 2019 – Provides testimony at public input meeting

AGENCY OVERVIEW

Snapshot

Department of Mental Health



Source: Agency Program Evaluation Report and 2017-18 Accountability Report

AGENCY RECOMMENDATIONS

Agency Recommendation	
1	Consider amending S.C. Code Ann. §44-48-10 <i>et seq.</i> (Sexually Violent Predator Act) per Senate Bill 797, as introduced in 2019.
2	Consider amending S.C. Code Ann. § 44-23-430, regarding commitments of defendants for treatment services to restore capacity to stand trial, to allow for restoration in a place other than an inpatient facility, if appropriate.
3	Consider amending S.C. Code Ann. § 44-23-430, regarding defendants found to lack capacity to stand trial and further found to be unlikely to be able to be restored, to allow at least 180 days for defendants to be restored.
4	Consider amending S.C. Code Ann. § 15-78-10 <i>et seq.</i> (Tort Claims Act) to provide the same limits on the tort liability of contractors providing services on behalf of state agency, as those in existence for state agencies.
5	Consider amending S.C. Code Ann. § 44-22-40 to make the priority list of people who may provide substitute consent consistent with recent changes to the priority list of relationships in S.C. Code § 44-66-30 (Adult Healthcare Consent Act).
6	Consider amending the statutory subsection created by Section 6 of Act 65 of 2019, which amended Section 44-53-360(j) to require practitioners to electronically prescribe controlled substances unless exempted from the subsection, to add an exemption specifically for DMH practitioners and facilities.
7	Consider removing the pass through of funds to the Alzheimer's Disease and Related Disorders Association (Proviso 35.3 - 2019), Department of Social Services (Proviso 117.53 – 2019) and the Department of Children's Advocacy (Proviso 35.1 – 2019 referring to the Continuum of Care) from the Department of Mental Health's section of the General Appropriations Act and include those funds in the most-applicable Department's section.