

**Joint Committee on Access and Forensic Services  
Meeting #1 Meeting Minutes  
Tuesday, December 15, 2015  
9:00 a.m. to 3:00 p.m.**

**Austin State Hospital Campus  
Building 552  
Training Room 125  
909 West 45<sup>th</sup> St.  
Austin, TX 78714**

**Agenda Item 1: Introduction**

The Joint Committee on Access and Forensic Services (JCAFS) meeting commenced at 9:05 a.m. Ms. Lauren Lacefield-Lewis welcomed everyone to the meeting.

Ms. Cassandra Marx announced that the meeting was being conducted in accordance with the Texas Open Meetings Act, and noted that a quorum was present for the meeting. Table 1 notes Committee member attendance.

Table 1: The Joint Committee on Access and Forensic Services member attendance at the Tuesday, December 15, 2015 meeting.

MEMBER NAME	YES	NO	MEMBER NAME	YES	NO
Allison, Jim	X		Lewis, Kathryn	X	
Burkeen, Honorable Daniel	P		McLaughlin, Darlene MD		X
Cusumano, Sherry	X		Oncken, Denise	X	
Davis, Lorie	X		Schnee, Steven PhD	P	
Davis, Mike	X		Smith, Shelley	X	
Desai, Tushar MD	X		Smith, James	X	
Faubion, Matthew MD	X		Suiter, Honorable Wes		X
Gentry, Michael	X		Switzer, Gyl	X	
Gray, Anna	X		Taylor, Sally MD	P	
Hall, Jerry		X	Wilson, Sheriff Dennis	X	
Holcomb, Valerie	X		Wilson, Stacy JD	X	
Lee, Donald	X		Zamora, April		X

Yes: Indicates attended the meeting  
P: Indicates phone conference call

No: Indicates did not attend the meeting

**Agenda Item 2: Review of Legislation (Senate Bill 1507, 84<sup>th</sup> Legislature, Regular Session, 2015)**

Ms. Tamara Allen, Adult Mental Health Services, Department of State Health Services (DSHS), referenced the handouts of the presentation *Senate Bill 1507* and the bill and provided a review of the legislation.

Highlights of discussion included:

- Ms. Lynda Frost, Director of Planning and Programs, Hogg Foundation for Mental Health, referenced a position paper published by the Hogg Foundation identifying a need for a fulltime forensic director position in Texas.
- Mr. Jim Smith, superintendent of North Texas State Hospital, has been representing Texas in national meetings for state forensic directors.

- Katharine Ligon with the Center for Public Policy Priorities (CPPP) was instrumental in helping legislators develop the legislation. During this process, it became clear that Texas could benefit from a comprehensive plan for coordinating forensic services. That was added to the draft bill, along with some of the Sunset provisions for DSHS which also included hospital allocations.
- Mr. Donald Lee, Texas Conference for Urban Counties, provided information about the allocation and utilization review part of the bill. Utilization is driven by many factors, and LMHAs do not have full control over the use of their bed day allocations. Rather than penalizing the local mental health authorities (LMHAs) for using more than their allocated bed days, a peer-review process was proposed to identify factors contributing to the utilization patterns and determine which individuals would be better served in the community system.
- Mr. Lee Johnson, Deputy Director, Texas Council of Community Centers, noted that various factors can impact bed utilization, such as the acuity of the population, prevalence of mental illness, and availability of alternative resources in a community. Instead of sending all commitments to the state hospital system, those communities with alternative crisis stabilization facilities can serve many individuals closer to home, where they have access to natural supports and family. The peer review process was intended to produce data to inform the allocation methodology and to provide better care for people.
- The vision for the peer review process is to involve all stakeholders and decision-makers, including judges, district attorneys, physicians, and LMHAs.
- In developing what the peer review process looks like, the challenges faced by individuals who have been in the forensic system need to be part of the conversation.
- Through the Health and Human Services Commission, work is underway on a strategic plan developed by 14 state agencies, and the work on forensic issues will be important to consider when the JCAFS considers recommendations relating to services for forensic patients.
- The Joint Committee needs to vote on recommendations for the allocation methodology and utilization review protocol in January 2016 in order to submit them to the HHSC Executive Commissioner by March 1, 2016 for consideration.

**Agenda Item 3: Logistics for subsequent meetings of the Joint Committee and subcommittees**

The Committee will meet monthly for approximately six months until the initial deliverables are completed, and will then move to quarterly meetings.

**Action Item:**

- Ms. Tamra Boyd will poll members for available dates for future meetings.

Two subcommittees or working groups will review and discuss the data: the Forensic Services Subcommittee and the Allocation and Utilization Review Subcommittee.

**Forensic Services Subcommittee**

The legislation specifically identifies some categories of members of the Forensic Subcommittee. It is recommended that the subcommittee also include a consumer and a family member with forensic experience, a judge, a representative from the District Attorneys Association, and Mr. Mike Davis (Mexia). Ms. Gray would like to have a chance to look for a consumer with lived experience. In addition, it would be helpful to include a number of individuals who are not part of the JCAFS to provide additional expertise.

**Decision:**

The Forensic Subcommittee will be comprised of members of the JCAFS identified in the legislation, Mr. Mike Davis, and Ms. Denise Oncken. In addition, the members of JCAFS accepted the recommendation to invite representatives from the following organizations to serve on the Forensics Subcommittee: The Hogg Foundation, The Appleseed Network, the Commission on Jail Standards, the Texas College of Probate Judges, the Municipal Courts Association, and Chris Lopez, an Attorney with DSHS who has great expertise with forensic issues. In addition, efforts will continue to identify a judge and an individual with lived experience or a family member of a person with lived experience to participate.

**Action Item:**

Ms. Boyd will send an email to members of the JCAFS with the list of forensic subcommittee members for review.

**Allocation, Utilization and Review Subcommittee**

Mr. Bill Manlove, Director of Decision Support, HHSC, pulled together four LMHAs in February 2015, to discuss their issues and concerns. That group included Ms. Shelley Smith and Dr. Steven Schnee who are members of this Committee, along with Mr. Terry Crocker from Tropical Texas Behavioral Health, and Ms. Diane Lowrance from Behavioral Health Center of Nueces County. They proposed a set of principles to guide an allocation methodology that are included in the handout provided to members, entitled, *Allocation Principles*.

**Action Item:**

Ms. Stacy Wilson, Ms. Anna Gray, Ms. Gyl Switzer, Ms. Kathryn Lewis, and a consumer will join with the four LMHAs above to be part of the Allocation, Utilization and Review Subcommittee. Ms. Boyd will send an email to members of the JCAFS with the list of allocation subcommittee members for review.

Ms. Allen noted that the Joint Committee will elect a chair at the next meeting.

**Action Items:**

- Ms. Boyd will send out an email regarding the role of the chair.

**Agenda Item 4: Overview of the Mental Health and Substance Abuse (MHSA) service system****a. Community services overview**

Ms. Allen, and Dr. Courtney Harvey, Adult MH Services, DSHS, referenced the handout entitled '*Mental Health Community Services Overview*'.

Highlights of the discussion included:

- The 84<sup>th</sup> Legislature revised the methodology used to compare equity across local service areas, moving from a calculation using the total population to one using a weighted population that "counts" the population at or below 200% of the federal poverty level twice.
- The 1115 Transformation Waiver has provided funds to serve an increased population.
- Several LMHAs have brought in more people from the homeless population.
- Individuals often fear losing services if they get well. It is important to build in some flexibility so that individuals can maintain the services and supports they need as they improve.

- The H.B 3793 Advisory Panel pointed out the need for more inpatient capacity but also more rapid access to crisis intervention.
- Texas is challenged by population growth and changing demographics, and is also one of the states with the highest number of uninsured persons.
- To view the presentation, go to: <http://www.dshs.state.tx.us/mhsa/SB1507/SB-1507.aspx>

**Action Items:**

- Dr. Harvey will discuss the assessment process and potential options with Ms. Amanda Vasquez.

**b. State hospitals system overview**

Ms. Boyd provided an overview of the State Hospital system. Reference the handout entitled '*Overview of the State Hospital System*' in the member packet.

Highlights of the discussion included:

- A few community-contracted facilities have beds for forensic commitments.
- A civil commitment (either temporary or extended) cannot be pursued on a patient who has pending charges that involve serious bodily injury. This includes 3G offenses.
- When in the best interests of the patient, and when the person lacks the capacity to consent, a court order can be obtained for administration of medication. LMHA staff work closely with State Hospital staff to ensure continuity of care upon discharge from a state hospital.
- While it is true that few patients come in on a voluntary basis, many come in on an emergency detention, and if they have the capacity to consent and are willing and agreeing to treatment, their commitment status can be changed to voluntary.
- To view the presentation, go to: <http://www.dshs.state.tx.us/mhsa/SB1507/SB-1507.aspx>

**Action Item:**

- Mr. Logan Hopkins will provide the number of civil and voluntary admissions to the state hospitals for a designated period of time, e.g., FY2016.

**c. Forensic services overview**

Ms. Kerry Raymond, Assistant Director of Hospitals Section, DSHS, referenced the handout entitled '*Presentation of the Forensic System*' in the member packet.

Highlights of the discussion included:

- The term forensic applies to persons acquitted not guilty by reason of insanity (NGRI) or found incompetent to stand trial (IST). It does not refer to persons/patients who have criminal charges pending but have not been found IST or acquitted NGRI.
- The Committee should consider whether or not a state hospital is the best place to treat patients with advanced dementia and mental illness who have been found IST but, because of his/her diagnosis, is unlikely to regain competency. Sheriff Dennis Wilson stated his concern that individuals needing treatment are in county jails for long periods of time while waiting for a hospital bed. Rather than a number on a waiting list, he would like to be given a date that he is able to take the person to the state hospital. Ms.

Raymond stated that there are different ways to access and use the waiting list and she would discuss with him further.

- To view the presentation, go to: <http://www.dshs.state.tx.us/mhsa/SB1507/SB-1507.aspx>

**Action Item:**

- Ms. Raymond will work with Sherriff Wilson on concerns about the waiting list for state hospitals.

**d. Forensic Services System: Outpatient Programs**

Dr. Harvey referenced the handout entitled '*Forensic Services System: Outpatient Programs*' in the member packet and provided an overview on the forensic services outpatient programs.

Highlights of the discussion included:

- Of individuals served in OCR programs in fiscal year 2015, 43% were successfully restored, 19% had charges dropped, and 1% were not restored and returned to inpatient commitment. The remaining percentages of outcomes consist of unknown variables.
  - If the plan is to expand outpatient service programs, an accurate estimate of successful restorations is important.
  - Earlier this year, The Hogg Foundation conducted an evaluation of the OCR program data from the 11 sites, which will be made available to members.
  - For eligibility as a provider of Jail-based competency restoration pilot programs, the legislation does not state a requirement for an applicant to have a history of successful services in Texas.
  - It is critical to involve jail administration and jail staff when working on jail-based restoration pilot programs.
- To view the presentation, go to: <http://www.dshs.state.tx.us/mhsa/SB1507/SB-1507.aspx>

**Action Items:**

- Dr. Harvey will provide Ms. Boyd with the number of persons that are not included in the OCR programs percentages for 2015 to send to members.
- Ms. Frost will provide Ms. Boyd with a link to the data from the evaluation of the 11 OCR programs.

**Lunch**

The Committee recessed for lunch at 12:35 p.m. and reconvened 12:46 p.m.

**Agenda Item 5: Preliminary discussion of allocation methodology and utilization review process**

**a. Overview of current utilization review activities**

Nina Jo Muse, M.D., MHSA Interim Medical Director, DSHS, referenced the handout entitled '*Utilization Review Activities State Hospitals*' in the member packet and provided an overview of utilization review activities.

Highlights of the discussion included:

- Each facility has a utilization management plan that includes auditing charts, insurance authorizations, and, at the central office level, reviews of stays longer than 365 days.
- Clinical performance improvement reviews are performed by internal and external review teams to improve processes as part of the Patient Safety work product.
- The state hospitals are about to join a Patient Safety Organization (PSO) and, due to confidentiality, some data may be public but other data may not be available.

**Action Items:**

- Nina Jo Muse, M.D. will make the clinical performance instruments available to members.
- Ms. Boyd will send out the link to the online Hospital Indicators to members.

**b. Data review**

Mr. Logan Hopkins, Office of Division Support, DSHS, referenced the handout entitled '*DSHS Hospital Capacity Presentation to SB 1507 Joint Committee on Access and Forensic Services*' in the member packet and presented a review of the state hospital section data.

Highlights of the member discussion included:

- Some state hospital beds were reclassified from civil to forensic beds in order to increase forensic capacity.
- Surveys will be sent out to LMHAs to ask questions about the use of the Inpatient Care Waitlist, which is a waitlist for non-forensic persons needing an inpatient level of care.
- NGRI patients used to be fairly rare, but there has been an increase in NGRIs. Kerrville State Hospital is specializing in this population and has been successful in transitioning many NGRI patients to the community.
- As the use of contracted community hospital beds has expanded, the population served by the state hospitals has been increasing in acuity, with greater numbers of individuals with more serious medical problems, as well as individuals more prone to violence and aggression.
- There is no consensus in Texas, or nationally, for the ideal number of beds.
- It is unreasonable to wait for people to go into crisis or commit a crime before assistance is provided. Some people need hospitalization, but there is a need to look at how appropriate clinical intervention in the community can avoid forensic involvement, which is better for the individual and less expensive.
- Mr. Smith stated that at North Texas State Hospital patients are directed at admission into a half dozen programs where they will be able to get the best services. Also, approximately 85% of patients admitted for competency restoration regain competency and are able to return to court to stand trial for the charges against him/her.
- There is a shortage of capacity in the system for individuals with a substance abuse diagnosis, impacting inpatient services, outpatient services, and discharge.
- The written recommendations from the Joint Committee will be sent to the HHSC Executive Commissioner for consideration when adopting the allocation methodology and utilization review protocol.

**c. Discussion**

During the meeting, a number of issues were identified that will need further discussion in the months ahead:

- Insufficient bed capacity, including MSU capacity.
- Timely access to community services.
- Access to other services and supports including substance abuse, housing, medical, peer support and transportation.
- Outpatient capacity by level of care.
- Community "back door" so people can transition out of the DSHS service system.
- Medical clearance for individuals in crisis.
- Alternatives to hospitalization at the front door and back door.
- The impact of long-term forensics and repeated recommitment of competency restoration patients.
- Use of the ICW by LMHAs.

**Action Items:**

- Mr. Hopkins will provide members with the breakdown of numbers in other restoration categories and the numbers in MSUs and the length of time people are waiting for MSUs.
- Ms. Boyd will send out a link to the Joint Committee webpage to all members.

**Agenda Item 6: Public Comment**

No public comments were provided.

**Agenda Item 7: Adjourn**

The meeting adjourned at 2:50 p.m.