THE 85TH TEXAS LEGISLATURE:
A SUMMARY OF MENTAL HEALTH LEGISLATION
Mental Health and the 85th Legislature

While there were differences of opinion on many fronts, one topic that Texas legislators agreed on during the 85th Texas legislative session was that mental health is one of Texas’ most critical areas of concern to address.

The groundwork for this session was laid in November 2015 when House Speaker Joe Straus (R-San Antonio) created the Select Committee on Mental Health and appointed Representative Four Price (R-Amarillo) as chair and Representative Joe Moody (D-El Paso) as vice chair. The committee was charged to develop a plan to reassess the state’s approach to mental health care. Committee members studied the mental health systems in Texas and produced a report that highlighted gaps and opportunities. Several funding decisions and bills were passed that captured the recommendations of the committee.

**BUDGET**

In a tightfisted budget process when most areas saw cuts in spending, behavioral health spending was kept intact. Senator Jane Nelson (R-Flower Mound) and Rep. John Zerwas (R-Fulshear) led the budgeting process in the 85th session. Both legislators have been supporters of mental health. Below are the key budget increases for mental health. Note that there are funding decisions related to mental health in just about every Article of the state budget because mental health touches on some areas such as criminal justice and education.

Budget victories for items related to outpatient mental health services include additional funds as follows:

- $62.6 million to increase access to community services
- $3.4 million for peer services related to HB 1486
- $2 million grant program to provide rehabilitative services for high-needs children in foster care
- $30 million for local collaborative matching grants related to HB 13
- $1.74 million for recovery focused clubhouses
- $7.8 million to fund additional treatment slots for children in the child protective service system needing residential treatment

Budget victories for inpatient mental health treatment services include additional funds as follows:

- $300 million directing HHSC to develop plans for state hospital construction and neuropsychiatric health-care planning in partnership with private or public entities
- $38 million additional funds to maintain current inpatient capacity.
- $10.3 million to increase maximum security bed capacity
- $20.7 million to purchase additional community beds
- $160 million in Economic Stabilization Funds (Rainy Day) for deferred maintenance at state hospitals and state-supported living centers.
SOME KEY ISSUES ADDRESSED

There are a number of bills passed that will support the prevention and treatment of mental illness. Among them are several bills aimed at addressing the shortage of mental health care providers by:

- Making telehealth services reimbursable in specific situations;
- Fast tracking licensing for psychiatrists who want to move to Texas;
- Adding Licensed Chemical Dependency Counselors and Licensed Marriage and Family Therapists to the list mental health professionals who are eligible to be reimbursed under some circumstances; and
- Including peer services as a Medicaid reimbursable service

One great victory for Texans is legislation that ensures that health insurers in Texas provide comparable benefits for mental and physical health issues (HB 10, Price).

There are some key changes related to law enforcement and mental health, including better screening and access to mental health care for those with mental illness who are in custody.

Mental Health Bills That Passed

ACCESS TO CARE

Several bills were passed this session that are aimed at improving access to mental health. Here are highlights from those bills.

**House Bill 10** (Rep. Price) strengthens the state’s ability to ensure that health insurers provide comparable benefits for mental and physical health issues. Sen. Judith Zaffirini, D-Laredo, sponsored the bill in the Senate.

**HB 13** (Rep. Price) provides matching grants to communities to fill gaps in mental health services. Sen. Charles Schwertner, R-Georgetown was the Senate sponsor.

**HB 1486** (Rep. Price) requires the Texas Health and Human Services to develop rules and a stakeholder group regarding peer services in Texas and then to include peer services as a Medicaid reimbursable service to the extent allowed by federal law. Peer services extend and enhance traditional medical services, which can be particularly helpful in bridging the gap of mental health provider shortages. Sen. Schwertner sponsored the bill in the Senate.

**HB 1600** (Rep. Senfronia Thompson, D-Houston) provides reimbursement for adolescent mental health screenings at Texas Health Steps annual medical exams. Sen. Kirk Watson, D-Austin, was the Senate sponsor.
HB 2466 (Rep. Sarah Davis, R-Houston) allows for postpartum depression screening as a covered service for an enrollee’s mother under the Children’s Health Insurance Program (CHIP) and children’s Medicaid, regardless of whether the mother also was an enrollee in Medicaid. Sen. Joan Huffman, R-Houston sponsored the bill in the Senate.

Two bills add to the types mental health professionals whose loans can be partially reimbursed if they serve in certain locations or settings. HB 3083 (Rep. Price/Sen. Chuy Hinojosa, D-McAllen) relates to chemical dependency counselors. HB 3808 (Rep. Travis Clardy, R-Nacogdoches; Sen. José Menéndez, D-San Antonio) adds Licensed Marriage and Family.

Senate Bill 74 (Sen. Nelson) helps children with serious mental health needs by streamlining the state credentialing process so more providers can provide services. Rep. Price was the House sponsor and filed an initial companion bill.

SB 674 (Sen. Schwertner) fast tracks licensing for psychiatrists who want to move to Texas. The bill intends to help address the state’s shortage of practicing psychiatrists. Rep. Sarah Davis sponsored this bill in the House.

SB 922 (Sen. Buckingham) permits reimbursement under Medicaid and the Children’s Health Insurance Program for telemedicine and telehealth services provided through the schools to children with special health care needs. Rep. Larry Gonzales, R-Round Rock, was the House sponsor.

SB 1107 (Sen. Schwertner) makes it easier for telehealth and telemedicine services to be provided in Texas. Rep. Price sponsored the bill on the House side.

MENTAL HEALTH AND THE CRIMINAL JUSTICE SYSTEM

HB 337 (Rep. Nicole Collier, D-Fort Worth) aims to reduce repeat involvement with the criminal justice system and save money by suspending (instead of terminating) Medicaid benefits during confinement in county jails, and in most cases, reinstating benefits upon release. Individuals who leave jail with medical benefits are much more likely to seek medical supports and work to wellness rather than being ill and perhaps returning to the criminal justice system. Sen. José Menéndez, D-San Antonio, sponsored the bill in the Senate.

SB 1849 (Sen. Whitmire) also known as the Sandra Bland Act, makes key changes for those with mental illness who are in law enforcement custody, including better screening for mental illness, a focus on diversion into treatment for low-level offenses, and the ability to access mental health professionals at the jail through telemental health services. Rep. Coleman who championed the legislation, was the House sponsor.
MENTAL HEALTH AND EDUCATION

Two bills that relate to mental health at universities include HB 2895 (Rep. Price) which requires that public universities post mental health resources on the institution’s website. Sen. Kel Seliger, R-Amarillo sponsored HB 2895 in the Senate. [Effective on 9/1/17.] HB 4237 (Rep. Moody) expands the list of eligible employees for Community Mental Health Mental Centers to train in Mental Health First aid to include university employees. Sen. José Rodríguez, D-El Paso had the companion bill in the Senate.

HB 4056 (Rep. Toni Rose, D-Dallas) amends current law relating to certain research-based practices for use by public school personnel. It encourages the use of best practices to improve academic outcomes for students with mental health concerns by broadening the base of program topics covered by the list developed by The Department of State Health Services (DSHS) and the Texas Education Agency (TEA). These additional existing programs, which will be provided as an optional resource, will help schools better reach these students. Sen. Eddie Lucio, D-Harlingen was the Senate sponsor.

PROTECTING INDIVIDUALS WITH A MENTAL HEALTH DISORDER

HB 435 (Rep. Ken King, R-Canadian) contains a section that allows state mental health hospitals to prohibit a handgun from the state hospital premises. Sen. Charles Perry, R-Lubbock was the Senate sponsor of the bill.

HB 3019 (Rep. Cindy Burkett, R-Sunnyvale) provides the ability to prosecute an owner, operator, or employee of a boarding home who causes bodily injury or serious mental injury to a child, elderly, or disabled individual. Sen. Menéndez sponsored the bill in the Senate.

SB 292 (Senators Huffman, Nelson and Schwertner) creates a matching grant program for local communities to help divert individuals with mental illness from the criminal justice system. Rep. Price sponsored it in the House.

Two bills that require sensible measures to protect the health of individuals taking prescription medication will help people with serious mental illness. HB 1296 (Rep. John Frullo, R-Lubbock) requires health plans to allow prescription drug renewal dates to be synchronized for patients taking more than one prescription. Medication synchronization seeks to increase patient adherence to prescribed drug therapies by having all the patient’s prescriptions ready on the same date each month in order to minimize the disruption of treatment through delayed or missed refills. [Signed by the Governor. Effective on 9/1/17.] Sen. Dawn Buckingham R-Lakeway was the Senate sponsor for the bill. HB 1464 (Rep. Greg Bonnen, R-Friendswood) limits the use of step therapy used by health benefit plans that require a patient to first try a similar, lower cost drug before the plan will cover the prescribed drug. Sen. Kelly Hancock, R-North Richland Hills, had the companion bill in the Senate.

HB 1983 (Rep. John Wray, R-Waxahachie) allows for fire fighters and peace officers to be eligible for workers’ compensation for Post-Traumatic Stress Disorder. Sen. John Whitmire, D-Houston was the Senate sponsor.
SUICIDE PREVENTION

SB 578 (Sen. Lucio) calls for a veteran suicide prevention action plan developed by relevant state agencies. Rep. Roland Gutierrez, D-San Antonio, was the House sponsor.

SUBSTANCE USE DISORDER

SB 584 (Sen. Royce West, D-Dallas) directs the Texas Medical Board (TMB) to adopt guidelines for prescription of opioid antagonists (drugs that can prevent an opioid overdose). The guidelines will address prescribing an opioid antagonist to a patient to whom an opioid medication is also prescribed. They will also address identifying patients at risk of an opioid-related drug overdose and prescribing an opioid antagonist to that patient or to a person in a position to administer the opioid antagonist to that patient. Rep. Rose sponsored the bill in the House.

MORE WORK TO DO

Some important work remains to be done:

The prevention and treatment of mental health services are still significantly under-funded. Efficiencies and innovation can address only a portion of the funding gap. The prevention and treatment of mental health services are still significantly under-funded. Healthcare costs increase at a higher rate than most other costs and combined with Texas' growing population, efficiencies and innovation can address only a portion of the funding gap. Too many Texans still have no access to mental health care and the majority of the new budget allocations will only help current inpatient and outpatient services to be maintained—not expanded.

The Legislature has not made the serious investment needed to assure mental health for all Texans. One example of a huge opportunity missed is the refusal of Texas to opt in to Medicaid expansion. Another is the rider in the 2017 budget that calls for a reduction in state dollars of $450 million for health and human services agencies. The reduction is to be found through contract cost containment—in effect a demand for savings in services that are funded.

State mental health hospitals have been neglected and underfunded for many years. While the new appropriations can only help, significant resources need to be carefully expended on inpatient mental health care. The Texas Legislature has funded at least two studies of the state hospital system in the past several years. In both the 2103 and 2015 sessions there were special committees established to work on the state hospital issue yet our state hospitals are still out of date and underequipped with staff and other resources. The appropriations this session will not change that in the near term and, if past experience is telling, the needed wholesale focus on and funding of state hospitals has been indefinitely postponed.

Some stakeholders made the argument that the Legislature should tap the Economic Stabilization Fund (Rainy Day Fund) for one time, significant expenses such as major investment in the state hospitals system—tear down and construction of hospitals, and wholesale redesign of the system for the current status of mental health care.
However, the Legislature elected to spend only $160 million from the stabilization fund that currently exceeds $10 billion.

An important part of addressing treatment and recovery needs is a continuity of care among all service providers for people in the mental health system. This includes treatment protocols, prescription medications, and support services that follow the person. Electronic medical records would facilitate the continuity of care. In addition, too many people with mental illness spend time in the criminal justice system. Mental health treatment in many jails is poor to non-existent. The Legislature has made some attempts to correct these continuity of care issues but they are largely unaddressed.

The lack of affordable and permanent supportive housing for people with serious mental illness is a huge barrier to recovery. An estimated 25% of the homeless population in the United States suffers from some form of severe mental illness, compared to only 6% of the general population. More opportunities need to be created.

Substance use disorder, including opioid addiction, seriously affects the lives of individuals, families, communities and our state. Texas’s Medicaid program authorizes substance use disorder treatment for a narrow population. Even within the narrow population, according to the Legislative Budget Board, only 2.2 percent of eligible persons receive treatment. Lack of providers is a huge stumbling block. Texas needs a comprehensive approach and funding for substance use disorder prevention and treatment.

The mental health workforce in Texas is insufficient in many parts of the State and while steps have been taken to remedy this, not enough has been accomplished to assure access to care. In 2016, more than 17 percent of the Texas population lived in 166 counties with mental health workforce shortages. Underserved areas, populations, and settings exist in every county in Texas.

Much progress has been made but we still have a long way to go to ensure that prevention and early intervention are the cornerstone of the system, and that all Texans who need mental health treatment have access to affordable, quality care.
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