Mental and Behavioral Health Bills and Budget Enhancements
2019 Legislative Session

Mental and behavioral health are key to overall health, but for the one in five adult Nevadans who has a mental illness, accessing appropriate care can be challenging. We considered numerous bills to improve various aspects of and access to mental and behavioral health care in Nevada.

Mental and Behavioral Health Bills

Regional Behavioral Health Policy Board Bills

Four bills were proposed by the state's Regional Behavioral Health Policy Boards, which were created by the 2017 Legislature to give local leaders an active voice in mental and behavioral health policy decisions.

ASSEMBLY BILL 76, proposed by the Southern Regional Behavioral Health Policy Board, revises the 2017 law that created the boards. It increases the number of boards from four to five—adding a Clark County board—and revises the geographic regions of most of the other boards. In addition, AB 76 revises board membership, appointing authority, and duties, and it authorizes the Commission on Behavioral Health to employ an administrative assistant and a data analyst to assist the policy boards in carrying out their duties.

ASSEMBLY BILL 66, proposed by the Washoe Regional Behavioral Health Policy Board, authorizes the Department of Health and Human Services (DHHS) to issue a "crisis stabilization center" endorsement to psychiatric hospitals that meet certain requirements. These centers must provide crisis stabilization services such as de-escalating or stabilizing behavioral crisis and avoiding admission to an inpatient mental health facility or hospital. The bill also requires the State Board of Health to adopt regulations to license and regulate providers of nonemergency secure behavioral health transport services, which are nonambulance and nonemergency response services designed to transport individuals with mental illness or other behavioral health conditions in certain circumstances.

The Northern Regional Behavioral Health Policy Board proposed ASSEMBLY BILL 85, which addresses the involuntary and emergency admission of a person experiencing a mental health crisis who likely presents a serious risk of harm to self or others. As you know, this is an extremely complex and challenging issue that has raised concerns for years. The time and effort the Northern Board put into this bill is evident in the consensus achieved among numerous stakeholders, and Nevadans in a mental health crisis will be better off because of this bill.

Specifically, the bill:

- Replaces the term "person with mental illness," as used in provisions concerning admission to a mental health facility or hospital, with the term "person in a mental health crisis" and defines this term to mean any person who has a mental illness and has a diminished capacity that presents a substantial likelihood of serious harm to himself or herself or others;

- Requires a person who was voluntarily admitted to a mental health facility to be released immediately upon his or her request, rather than within 24 hours of the request;

- Prohibits detaining a person for longer than 72 hours after an application for emergency admission to a mental health facility or hospital or after a change in status (from voluntary to emergency admission). The only exception to this time period is if a written petition for the involuntary court-ordered admission of a person previously admitted on an emergency basis is filed with the clerk of the district court before 72 hours expire;

- Requires the State Board of Health to adopt regulations prescribing a procedure to ensure that the statutorily required medical examination of a person alleged to be a person with mental illness occur before a person is admitted to a mental health facility;

- Requires a person admitted under an emergency admission be asked for permission to notify the person's family, friend, or other person of the admission. If permission is not given, such notification is generally prohibited. However, if the person is incapable of giving permission, notification must be provided if it is in his or her best interest. Upon emergency admission, a person's guardian, durable power of attorney for health care, or attorney-in-fact must be notified;

- Revises the number of days within which a district judge must set a hearing on a petition for the involuntary, court-ordered admission of a person to a mental health facility or community-based outpatient services from five to six judicial days;

- Requires the court, upon finding that a person admitted on an emergency admission is not in mental health crisis, to order the facility or hospital to release the person within 24 hours unless the person remains there voluntarily; and

- Authorizes the disclosure of certain information concerning the patient to a provider of health care to assist with his or her treatment.

The Rural Regional Behavioral Health Policy Board proposed ASSEMBLY BILL 47, which ultimately was not successful. It would have required DHHS to establish a pilot program to help respond to people suffering from mental health crises in certain sparsely populated counties. This bill was heard, amended, and passed out of the Assembly Committee on Health and Human Services. It was rereferred to the Assembly Committee on Ways and Means, but did not receive a hearing.

As evidenced by the issues considered, the consensus achieved, and the progress made, the Regional Behavioral Health Policy Boards are successfully achieving the desired outcomes—identifying and prioritizing regional behavioral health needs to better serve Nevadans.

Emergency Mental Health Admissions for Minors

We also passed ASSEMBLY BILL 378, which addresses emergency admissions for minors. The bill clarifies that a mental health facility or hospital may accept for emergency admission any person deemed to be a threat to him or herself or others, as long as a proper application is made, regardless of whether the person's parent or legal guardian has consented to the admission.
A person who applies for emergency admission must attempt to obtain the consent of a parent or guardian of a person less than 18 years of age when practicable and must maintain documentation of each attempt. The bill also clarifies that provisions of AB 85, related to asking for permission from a person admitted on an emergency basis to notify a family member, only apply to individuals who are at least 18 years of age. Mental health facilities and hospitals must notify a parent or guardian of a person less than 18 years old within 24 hours of his or her emergency admission.

Finally, AB 378 requires Nevada's Department of Education (NDE) to include in its model plan for the management of an emergency, crisis, or suicide, a procedure for responding to a student who is determined to be a threat to him or herself or others.

Suicide Prevention

The Legislature passed SENATE BILL 483 to help address the unwarranted number of suicides in Nevada. The bill expands the list of people to whom the existing Statewide Program for Suicide Prevention must provide training, to include family members of veterans, members of the military, and other persons at risk of suicide. The more people who know about how to prevent suicide, the better off we will be as a state.

In addition, SENATE BILL 204 requires NDE's model plan for the management of a suicide, crisis, or emergency to include procedures for responding to a suicide. The board of trustees of a school district, the governing body of a university school for the profoundly gifted, and the governing body of a charter or private school that provides instruction to students in grades 7 through 12, must adopt a suicide prevention policy. The bill also requires school resource officers and school police officers to receive suicide prevention training, and it requires this training to be made available to all school district and school personnel.

Relinquishment of Custody of Children to Receive Mental Health Services

ASSEMBLY BILL 387 requires the director of DHHS to establish a task force to develop a program to prevent the relinquishment of custody of children to a child welfare agency or the voluntary placement of children with a public or private agency solely to allow the children to receive services to address a mental illness or emotional disturbance.

The director of DHHS must establish one or more clinical teams to review the cases of children at risk of relinquishment of custody and the team(s) must develop a plan of care for each such child and arrange for the provision of certain services. The bill also requires annual reports to DHHS and the Legislature on this issue.

Autism Spectrum Disorder

In recent years, we have heard more about—and from—Nevadans whose children or family members have autism spectrum disorder. Many of these citizens have faced frustration and challenges due to recent changes to Medicaid and the state's Autism Treatment Assistance Program (ATAP), a shortage of providers of autism intervention services, and low reimbursement rates for these providers.

To ensure services provided by state agencies are delivered appropriately to individuals with autism, **SENATE BILL 174** requires the legislative auditor to examine DHHS's delivery of evidence-based services for individuals with autism. The audit—to be conducted during the 2019–2021 Biennium—will provide information on workforce capacity, wait times, and other barriers that inhibit access to services. It will also review funds that have been appropriated to these services since July 1, 2015. The audit results will inform future policies and help us better serve individuals with autism in Nevada.

We will also benefit from the input of the Nevada Commission on Autism Spectrum Disorder. Originally created in 2008 through executive order of Governor Jim Gibbons, the Commission has continued by executive order until now. **SENATE BILL 216** establishes the Commission in statute and requires it to make recommendations to the governor regarding the needs of individuals with autism and their families, as well as the availability, delivery, and coordination of related services. The bill also addresses an existing gap in care as young people transition from autism-related services for children to similar services for adults. Specifically, the bill requires ATAP to ensure participants receive appropriate care after reaching 20 years of age.

In another effort to reduce barriers to receiving services, **SENATE BILL 202** aims to streamline autism assessments by requiring the Commission on Autism Spectrum Disorder to study the processes used to evaluate a child with autism for the purposes of Medicaid, education, and ATAP. The Commission must report its recommendations for standardizing these processes by September 1, 2020. Senate Bill 202 also requires charter schools and school districts to report certain information regarding students with disabilities to NDE.

Finally, **SENATE BILL 258** builds on 2017 legislation related to the autism intervention workforce. The bill makes several changes to who can provide applied behavior analysis services to individuals with autism and how those providers are regulated.

Community-Based Living Arrangements

During the 2017–2018 Interim, new challenges with residential and community-based care were brought to light—especially among facilities serving individuals with mental illness. Initially, a performance audit found serious issues and poor living conditions in adult mental health services and community-based living arrangement homes, or CBLAs. In addition, a 2016–2017 legislative study of congregate care living arrangements for individuals with mental illness in Nevada identified various challenges for such homes, including inconsistencies in the level of services provided, the amount of regulation, and reimbursement rates. The study found that the continuum of mental health housing services in Nevada is not clearly delineated, and disparities

exist between an individual's level of need and the level of services provided. The report also noted inconsistencies in funding mechanisms available to help serve individuals with an intellectual disability, the frail elderly, and those with a mental health condition.

To address many of these challenges, the Legislature enacted a bundle of measures related to residential and community-based facilities and services.

One of our priorities in fixing the existing system was improving the regulation of CBLAs. To this end, ASSEMBLY BILL 131 repeals provisions governing CBLA services and instead requires a provider of CBLA services to be licensed and regulated as a facility for the dependent—essentially bringing CBLAs under an existing regulatory framework that we know works for regulating similar types of facilities. The bill gives recipients of CBLA services the same rights as recipients of services from other facilities for the dependent. Further, it maintains requirements that providers, employees, and contractors of CBLA services receive criminal background checks, and it prohibits a person from serving in these capacities if convicted of certain crimes. The measure requires certain inspections of CBLA service providers and requires providers to notify a service recipient, his or her parent or guardian, or another designated person regarding certain deficiencies. Assembly Bill 131 also authorizes the state fire marshal or a designee to enter and inspect facilities where CBLA services are provided.

To ensure individuals seeking in-home care in Nevada have the same protections, AB 131 clarifies that an employment agency that contracts to provide nonmedical personal care services in a client's home is required to obtain a license from the State Board of Health, regardless of where the employment agency is located, if the services are provided in Nevada.

In addition, the bill requires the current system that provides nonemergency information and referrals to the general public to include information concerning the licensing status of any medical facility or facility for the dependent and certain other entities. The Department of Health and Human Services must review and update this information at least quarterly.

Finally, to determine appropriate standards of training for certain personnel, the measure requires the Legislative Committee on Health Care to conduct a study regarding nonmedical personal care providers. The study must compare standards of training required by different entities and determine whether employees and contractors of such entities should be required to complete certain training. This study continues work begun during the last interim.

We also passed two measures to clarify which clients certain providers may serve.
First, ASSEMBLY BILL 252 makes various changes related to CBLA providers. It authorizes the holder of a certificate to provide CBLA services to serve people with a primary diagnosis of mental illness, while prohibiting CBLA certificate holders from serving people with a primary diagnosis of developmental disabilities if they are not certified to provide supported living arrangement services.

The bill requires employees who supervise or provide support to recipients of CBLA services to be able to communicate with those recipients, and it requires CBLA providers to make qualified licensed professionals available to recipients in order to provide appropriate supportive and

habilitative services. The bill also prohibits children who are under the age of 18 from residing in a building in which CBLA services are provided.

Second, ASSEMBLY BILL 471 authorizes the holder of a certificate to provide supported living arrangement services to provide such services to any person with a primary diagnosis of an intellectual disability or developmental disability, as well as to any person who has a secondary diagnosis other than an intellectual disability or developmental disability.

Another area the 2019 Legislature addressed is agencies that provide housing referrals. SENATE BILL 92 expands the requirement for who must obtain a license to operate a business that provides referrals to certain group housing to apply to those who provide referrals not only to residential facilities for groups, but also to any other group housing arrangement that provides assistance, food, shelter, or limited supervision to a person with a mental illness, intellectual disability, developmental disability, or physical disability, or who is aged or infirm.

The bill also requires the Division of Public and Behavioral Health, DHHS, to review unlicensed group housing arrangements that provide assistance, food, shelter, or limited supervision to such individuals to determine whether regulating unlicensed group house arrangements is advisable to protect the health and safety of their occupants.

The standards established and clarification provided with passage of these measures will ensure that Nevadans with mental illness or developmental disabilities are able to live as independently as possible in safe and stable homes.

Other Bills that may be of Interest

We passed numerous other bills that, while not directly related to mental and behavioral health, may affect individuals with these conditions. These include bills relate to:

- Homelessness (SB 270 and AB 133);
- The Patient Protection Commission (SB 544);
- Preexisting condition protections (AB 170); and
- Requiring the State Plan for Medicaid to pursue an option to provide certain additional home and community-based services through a 1915i waiver (SB 425).

Major Behavioral Health Budget Enhancements

Mobile Crisis Response Teams

Mobile crisis response teams (MCRTs) provide a medical treatment intervention and rapid response, stabilization, and hospital diversion services for individuals experiencing a behavioral

health crisis. The MCRT links individuals to contracted mental health professionals primarily utilizing telehealth services to reduce emergency room visits and hospitalizations when appropriate. Calls can be initiated by schools, community agencies, family members, or youth themselves. If psychiatric hospitalization is required, the MCRT team will assist with arranging services. If crisis stabilization is achieved, follow-up services are provided to assist individuals in locating mental health services in the community, applying for health care benefits, and obtaining psychotherapy as needed. Follow-up services may be provided via phone, video consultation, or in person at specific rural clinics locations. The MCRT continues working with individuals until they are connected to services.

In 2019, the Legislature approved:

- Replacing expiring federal System of Care grant funds with tobacco settlement funds totaling $638,076 over the 2019–2021 Biennium to continue funding *youth* MCRT services.

- Expanding MCRT services to *adults* living in rural and frontier Nevada by approving the transfer of tobacco settlement funds totaling $780,662 over the 2019–2021 Biennium. Services will be available for any adult in rural or frontier Nevada seven days a week between the hours of 9 a.m. and 6 p.m. The division provided statistics from Nevada Rural Hospital Partners that identified at least 578 individuals on legal holds in emergency rooms in rural Nevada in 2018 who may have benefited from MCRT services.

Mobile Outreach Safety Teams

In 2017, the Legislature passed SB 192, providing $2.8 million in State General Fund appropriations over the 2017–2019 Biennium to expand mobile mental health services in Clark and Washoe Counties. This appropriation funded mobile outreach safety team (MOST) operations from 8 a.m. to 12 a.m., seven days a week, in Clark and Washoe Counties.

In 2019, the Legislature approved:

- Transferring $150,000 in each year of the 2019–2021 Biennium from the Fund for a Healthy Nevada (tobacco settlement funds) to expand the MOST program in Washoe County so that services are available 24 hours a day, 7 days a week;

- Transferring $150,000 in each year of the 2019–2021 Biennium from the Fund for a Healthy Nevada to expand the MOST program in southern Nevada so that services are available 24 hours a day, 7 days a week in the downtown station area of Las Vegas; and

- Providing State General Fund appropriations totaling $346,349 over the upcoming biennium to fund a demonstration project utilizing video telemedicine to fund a contract emergency physician to provide real-time medical clearances for the southern Nevada MOST program.

Certified Community Behavioral Health Clinics

Nevada's certified community behavioral health clinics provide 24-hour mobile crisis, outpatient mental health and substance use treatment, case management, and recovery supports. They were initially established as part of a federal demonstration project, which expired on June 30, 2019. The 2019 Legislature approved extending and expanding the operation of these clinics through a Section 1115(a) Medicaid Demonstration Waiver, which will expand the number of clinics from three to ten.

Approved funding includes:

- Approximately $17.3 million in FY 2020, of which $3,490,583 is General Fund, $63,306 in federal Title XXI receipts, and $13,780,977 in federal Title XIX receipts; and

- Approximately $21.6 million in FY 2021, of which $4,585,067 is General Fund, $68,470 in federal Title XXI receipts, and $16,950,504 in federal Title XIX receipts.

Behavioral Health Staffing Increases

The 2019 Legislature also approved a variety of behavioral health staffing increases.
These include:

- General Fund appropriations of $1.9 million over the 2019–2021 Biennium to fund six new full-time state Psychiatric Nurse positions and six new full-time Mental Health Technician positions to provide higher-acuity inpatient civil psychiatric care at Dini-Townsend Hospital;

- General Fund appropriation of $1 million over the biennium to fund five new full-time Psychiatric Nurse positions to provide necessary staffing to oversee and manage the higher-acuity inpatient civil psychiatric care experienced at Rawson-Neal Psychiatric Hospital;

- Increased funding of $210,549 over the biennium, including General Fund appropriations of $191,129, to fund one new Psychiatric Nurse position to support revised outpatient Medication Clinic caseload projections on the Northern Nevada Adult Mental Health Services campus;

- General Fund appropriations of $1 million over the biennium to fund a two-grade salary increase for 88 Forensic Specialist positions that staff the forensic units within Stein and Rawson
Neal Hospitals;

- General Fund appropriations totaling $720,042 over the biennium to fund a two-grade salary increase for 57 Forensic Specialist positions staffing the forensic facility at Lake's Crossing in order to improve recruitment and retention;

- $511,357 to fund three new Mental Health Counselor positions to eliminate the outpatient service waitlist for the Rural Clinics program; and

- $221,686 over the biennium, including $142,594 in General Fund appropriations, to fund one Psychiatric Nurse 3 position to improve supervisory caseload ratios of Psychiatric Nurse 3 to Psychiatric Nurse 2 positions for the Rural Clinics Program from 1:15 to 1:7, respectively, and to redirect a Psychiatric Nurse 2 position, who had been temporarily assisting with supervisory responsibilities, back to providing direct patient services.