Joint Committee on Access and Forensic Services 2020 Annual Report

Contents

Introduction and Background

JCAFS formed in 2015 by combining two statutorily-required advisory bodies: the state bed day allocation advisory panel established pursuant to House Bill 3793, 83rd Legislature, Regular Session, 2013, and the forensic workgroup authorized by Senate Bill 1507, 84th Legislature, Regular Session, 2015. Prior to Transformation, the Department of State Health Services combined the advisory panel and workgroup to form the JCAFS because of shared membership and similar charges. The forensic workgroup's authority expired in November 2019; however, the JCAFS will not be abolished so long as its establishing legislation codified in Texas Health and Safety Code Sections 533.051 and 533.0515 remains in effect.

Currently the JCAFS is statutorily charged with developing and making recommendations to the HHSC Executive Commissioner or department, as appropriate, and monitoring the implementation of updates to a bed day allocation methodology. The methodology allocates, to each designated region, a certain number of state-funded beds in state hospitals and other inpatient mental health facilities for voluntary, civil, and forensic patients. The JCAFS is further charged with making recommendations for the implementation of a bed day utilization review protocol including a peer review process. The bed-day allocation methodology uses a poverty-weighted population to allocate state-funded beds to local authorities rather than a standard per capita formulation. The utilization review protocol includes a flexible framework that allows the process to be tailored to the specific focus of review. Rather than focusing exclusively on the number of bed days used by a local authority, the protocol is designed to understand and address the factors driving patterns of utilization.

Meetings and Activities

The JCAFS met 3 times in 2020 during the months of January, July and October. The April meeting was cancelled due to the outbreak of the COVID-19 pandemic. Following the cancellation of the April meeting the JCAFS was able to resume virtual meetings using Microsoft Teams.

The JCAFS Access subcommittee completed one cycle of utilization review in 2019. The review focused on length of stay for individuals with 46B Incompetent to Stand Trial commitments. The committee's ability to complete utilization review activities in 2020 was impacted by the COVID-19 pandemic; these activities will be carried out through fiscal year 2021. The Access subcommittee will implement a revised utilization review protocol to include 1): the use of a JCAFS data dashboard for reporting and analyzing state hospital bed day utilization; and 2) a reassessment of the utilization review studies done in 2017, 2018, and 2019 to evaluate factors that impact bed day utilization, readmissions, and length of stay.

Bed Day Allocation Methodology

The JCAFS is statutorily charged with developing and making recommendations to the HHSC Executive Commissioner or department, as appropriate, and monitoring the implementation of updates to a bed day allocation methodology. The methodology allocates, to each designated region, a certain number of state-funded beds in state hospitals and other inpatient mental health facilities for voluntary, civil, and forensic patients. The initial recommendations for an updated bed-day allocation methodology and utilization review protocol were submitted in February 2016, adopted by the executive commissioner in May 2016, and implemented in fiscal year 2017. The bed-day allocation methodology uses a poverty-weighted population to allocate state-funded beds to local authorities rather than a standard per capita formulation.

In 2018, the JCAFS recommended no changes to the bed day allocation methodology. In 2020, the JCAFS is again recommending no changes to the bed-day allocation methodology.

Utilization Review Protocol

The JCAFS 2020 recommendations related to utilization review are as follows:

1. Continue collection of data for the Hospital Bed Allocation Report (HBAR) but replace that report with the new JCAFS data dashboard as the primary tool for reporting and analyzing state hospital utilization. In addition to the data on the current data dashboard add two data points from the HBAR.

   a. LMHA's above and below their bed day allocation.

   b. Readmissions by LMHA

2. Assign responsibility for utilization review activities to the JCAFS Access subcommittee

3. The 2020 utilization review protocol will include a reassessment of the studies done in 2017, 2018, and 2019.

   a. Reassess the 2017 UR Protocol

      i. Identify the 3 LMHA's that are most above and most below their allocation and compare to those on these lists from 2017.

      ii. Identify those new on each list and ask them the same survey questions. (What have been your successful strategies, what drives your higher utilization)

      iii. Identify those LMHA's with the largest change in their utilization compared to their allocation (largest increases and largest decreases) and survey them as to what they think caused their changes.

   b. Reassess the 2018 UR Protocol

      i. Re-survey the top ten and bottom ten LMHS's in terms of readmission rates as well as each state hospital superintendent. Ask them to review and comment on the sub-committee's summary of findings from 2018 and identify any new factors contributing to high readmissions that were not identified in the previous report. Also ask them for any suggestions they have for actionable items that might help reduce readmissions.

   c. Readmission rates by LMHA. Reassess the 2019 UR Protocol

      i. Ask the State Hospital leadership team for their feedback on the 2019 recommendations for reducing length of stay in the forensic population.

      ii. Ask the state hospital team for baseline date on the timeframes in the steps in the competency restoration program recommended by Dr. Faubion and JCAFS last year.

4. Compile successful and promising strategies identified during utilization review activities for use as a statewide resource

JCAFS 2020 Recommendations

Like states across the country, Texas faces a growing crisis in effectively serving Texans with mental illnesses that are involved with the criminal justice system. The number of individuals found IST and added to Texas' waitlist for competency restoration services continues to increase, with over 1200 individuals on the forensic waitlist and 70% of state hospital beds in Texas currently utilized by the forensic population. A systematic approach to forensic and diversion services is needed to both reduce the number of individuals entering the criminal justice and more efficiently utilize resources for individuals who need them. The JCAFS recommends:

1. Create an Office of Forensic Services that is responsible for the coordination and contractual development and management of all forensic services funded by the state. At present, no central office within the HHSC coordinates forensic services across the Health and Human Services (HHS) system. A central coordinating office with input into all aspects of policy, service delivery, funding and rulemaking will ensure a comprehensive, integrated and strategic systems-level approach to the coordination and oversight of forensic and diversion services across HHS. The office would serve as a boundary spanner between state hospitals, state supported living centers (SSLCs) and community-based mental health and intellectual and developmental (IDD) services. It would also ensure that the responsibilities of S.B. 1507, 84th Legislature, Regular Session, 2015, are met. To meet the responsibilities laid out in S.B. 1507 every opportunity to strengthen the position of the Forensic Director should be taken. A list of suggestions that would strengthen the position is outlined below. To accomplish the goals outlined in this set of recommendations it is essential that this position report at an appropriate level within the agency and that it has access to appropriate personnel to support the activities of the office.

   Responsibilities of the Forensic Director and core functions of the Office of Forensic Services should include:

   a. Development of a statewide coordination plan that will address policy, services and funding needs of individuals who are justice-involved to include the forensic population;

   b. Policy and services development, implementation, analysis, and expansion;

   c. Development of special initiatives at the state and national levels;

d. Training and technical assistance to LMHAs/LBHAs, courts, jails and law enforcement, including the development of a "learning community" among these institutions to help facilitate the implementation of best practices for each region of the state.

e. Direction and coordination of data analyses to improve efficiencies and identify relevant trends related to the forensic population;

f. Provision of technical assistance and input into contract language and expected outcomes for all HHSC contracted forensic services;

g. Provision of input into the delivery of forensic services within the state hospital system by serving as a liaison to the state hospital leadership team and by serving as a member of the state hospital governing board;

h. Consultation to ensure coordination and integration between the local courts, jails, law enforcement and state hospitals;

i. Support to the Joint Committee on Access and Forensic Services in the development of policy and legislative proposals for the improvement of forensic services in the state.

2. Develop a comprehensive state-level strategic plan for the coordination and oversight of forensic services in Texas. As of October 2020, the state forensic waitlist has grown to over 1200 individuals, and there is no comprehensive and coordinated plan to address the systemic drivers of this waitlist. A strategic plan would establish priorities, programs, and processes to improve forensic and diversion services, including how to reduce and triage the forensic waitlist; identify measures for quality and effectiveness; and ensure coordination internally and with multiple system stakeholders, external partners, settings, and disciplines. This new Forensic plan should be attached to or incorporated into the Texas Statewide Behavioral Health Strategic Plan. **Given the substantial cost to counties of holding individuals in their jail while they are on this waitlist, time is of the essence in resolving the problem of this lengthy waitlist. Therefore the JCAFS would like to request that the Agency present an update on progress toward the development and implementation of this plan at its January 2021 meeting**.

3. Expand and contract for diversion programs around the state. Pre-arrest and pre-booking diversion programs have demonstrated success in preventing individuals with mental and substance use disorders from entering the criminal justice system and promoting alternatives to arrest, jails, and emergency rooms for law enforcement. First and foremost, diversion programs should consider mental health care as a medical need and be tailored to the community. Programs may include models based on The

Harris Center and Crisis Intervention Teams as well as alternative models that incorporate mental health clinicians at 911 call centers, add clinical expertise to multidisciplinary field teams, and use appropriately shared care data for decision making and care linkages. Diversion programs should also address the need for funding of crisis facilities and inpatient beds when needed at the time of diversion.

4. Expand, improve and contract for Outpatient Competency Restoration (OCR) programs around the state. To reduce the number of people who, despite diversion programs and community treatment, end up on the waiting list for competency restoration services in state hospitals, OCR and Jail Based Competency Restoration (JBCR) are alternatives. HHSC currently funds some OCR and JBCR programs and should expand capacity across the state. Rigorous analyses of performance data should be conducted to provide oversight, monitor outcomes, and ensure effectiveness. Performance improvement practices may be needed to support scaling. Additionally, standards of practice based on demonstrated successful programs should be written into contractual language for these programs.

5. Implement the JCAFS recommendations for the state hospital forensic program.

   These recommendations are:

   a. Continue and fully implement the "562 review process" which is designed to allow the state hospital team to determine whether an individual requires placement in a maximum security bed or a non-maximum security bed.

   b. Implement throughout the state hospital system the new Competency to Stand Trial report template that was approved by the System Medical Executive Committee at their November 2019 meeting.

   c. Establish and implement a mechanism to monitor the timeframes for steps in the competency restoration process for the state hospitals.

   d. Request funding to renovate and operationalize up to 180 beds that have been previously identified as currently unused and feasible to rehabilitate and utilize. In the alternative, if it is determined that it is more cost effective to construct new beds, then request funding for an equal number of new beds.

6. Implement the JCAFS recommendations for jail outreach programs. Collaborative jail outreach programs enable LMHAs/LBHAs (and other agencies providing mental health treatment) to partner with jails to start individuals on medications as soon as possible after arrest, ensure individuals

are maintained on medication while they are in jail, re-evaluate these individuals prior to transfer to the state hospital for competency restoration to make sure they are still incompetent, and provide post discharge support in jail after they are restored and returned. These programs are currently piloted at several jails and have been successful in both shortening lengths of stay in competency restoration programs and in removing individuals from the forensic waitlist who are no longer found incompetent to stand trial.

7. Contractually require a forensics and diversion coordinator from each LMHA. Locating a forensic coordinator in each LMHA/LBHA would ensure coordination with the state hospitals, courts, jails, law enforcement, community corrections and community health and mental health providers. This position would also support an efficient flow of individuals through the competency restoration process and improve continuity of care. Although ideally this would be a full-time dedicated position, budget constraints or the size and scope of forensic services within a particular LMHA/LBHA might make that difficult, at least in the near term. If a dedicated position is not already present or is not feasible, then it is recommended the LMHA assign an existing person to be the main point of contact with the new Office of Forensic Services. HHSC should consult with the Texas Correctional Office on Offenders with Medical and Mental Impairments (TCOOMMI) to ensure efforts are not duplicated with their services and that a coordinator fulfills a need not already filled by TCOOMMI staff at each LMHA/LBHA.

8. In order to get a better idea of which areas of the state are driving the growth of the waitlist, which areas have developed effective alternatives to inpatient competency restoration and where to target the expansion of alternative programing, it is recommended that the new Office of Forensic Services begin to collect and report the following metrics to the JCAFS.

Current waitlists (Maximum Security and Non-Maximum Security) broken out by County/Jail

- Number on list (beginning of each month)
- Number on waitlist as a percentage of that jail population
- Number of waitlist as a percentage of that county population
- Waitlist number broken out by charge type
- Waitlist number broken out by arresting law enforcement agency
- Waitlist broken out by available demographic information (to be determined)
- Mean time on list (for the previous month)
- Does this county/jail have any of the following;
  ‣ Jail-based CR program
  ‣ Outpatient CR program
  ‣ Diversion Program

Current waitlists (Max and Non-Max) broken out by court

- Number on list (beginning of each month)
- Waitlist number broken out by charge type
- Mean time on list (for the previous month)

Conclusion