Association *of*
Minnesota Counties

MACSSA
Minnesota Association of County
Social Service Administrators

To: Task Force on Priority Admissions Co-Chairs, Commissioner Jodi Harpstead and Attorney General Keith Ellison

From: Association of Minnesota Counties: Tarryl Clark, Stearns County Commissioner

Minnesota Association of County Social Service Administrators: Angela Youngerberg, Blue Earth County Human Services Director of Business Operations

Minnesota County Attorney's Association: Kevin Magnuson, Washington County Attorney

Minnesota Sheriffs' Association: Bryan Welk, Cass County Sheriff

Re: Response to Task Force Questionnaire

Date: September 8, 2023

Thank you for the opportunity to engage in the important process of assessing the current impact of the priority admissions statute, brainstorming policy and funding recommendations to improve the overall system, and most importantly, recommending options to improve the health and wellness of those subject to the statute and those whose job it is to enforce and deliver services under the statute.

We are unified in our response because, as a group, we believe the guiding principle in this conversation is ensuring solutions that address all levels of needs and services, including assisting with the challenges hospitals, jails, state agencies, and local governments are facing.

Fundamentally, the responsibility for priority admissions is grounded in a judicial order conferring jurisdiction on the State of Minnesota. Necessarily, state responsibility, leadership, and support for these issues is critical. Key to addressing the shortcomings of past policies and funding priorities for this system is capacity—we have more individuals with a variety of needs than current space and services allow which makes it difficult to ensure everyone is handled with the due care and timeliness required and deserved. It is of the utmost importance to embrace a state and regional approach utilizing partnerships between public agencies and between public and private entities. The centrality of resource and expertise sharing within this area must be remembered as we dissect the abilities of state-operated services, local step-down options, and safe movement between hospitals, and jails while managing the constitutional and humane treatment of some of our state's most vulnerable individuals.

As requested, please find below the collective answers of us, our associations, as well as outreach and input by our judicial partners to the three questions posed:

1) **From your perspective, what has been the impact of the priority admissions required under Minnesota Statutes, section 253B.10, subdivision 1, paragraph (b), on the mental health system statewide, including on community hospitals?**

The Positive Impacts of the Priority Admissions Statute

- The goal of addressing the fact that people are languishing in jails, often without treatment, was brought to the forefront.
- The statute has been the only mechanism to keep the Department of Human Services (DHS) responsive and accountable to those who need service and avoid prolonged holding periods in jails before being transferred to an appropriate facility.
- It has afforded individuals who have little other recourse critical access to judicial mechanisms to protect their civil rights and obtain appropriate treatment.
- The statute is a significant process for identifying individuals who need mental health care and for connecting them with appropriate resources. Data shows us that the number of people meeting the criteria set forth in the statute has significantly increased each year since 2013, demonstrating the continuing relevance and importance of the court assessment and commitment process in identifying individuals that need mental health and treatment resources.
- The concept behind priority admissions has also highlighted the problem of excessive delay for individuals waiting in hospitals for the appropriate level of care.

The Negative Impacts/Areas of Needed Improvement for the Priority Admissions Statute

- The current strains on the system and past policy choices have undermined the value and trust placed in DHS determinations by local authorities including many district court Judges, who make legal findings related to the needed standard of care which then may not be followed by DHS.
- Capacity issues at state facilities have not allowed a true 48-hour transfer to a state facility as the language intended. Oftentimes, people wait weeks or months to be transferred to a state hospital bed from jail.
- Jail has become the front door access to state mental health services and has perpetuated the misconception that an individual is at less mental health and medical risk because they are in a jail setting while waiting for placement in a state facility.
- The challenge with the priority admission statute is there is no one entity with oversight and support of the individual, which leads to an incomplete assessment of needs and service delivery. Social services, jails, and hospitals see these individuals at various periods, but a full picture of the needs is not clear. According to the statute, DHS is the primary care giver and should be responsible for managing comprehensive care plans.
- Emergency departments (EDs), which served as medical clearance and triage locations for access to state hospital beds, have become inundated with individuals needing care. Many smaller or more rural emergency departments simply don’t have the ability to treat or board this population at all. Hospitals continue to admit individuals they can appropriately serve, but those with security concerns of acute/commitment needs are often now boarded in EDs for weeks or months while waiting for access to a more appropriate hospital bed in the state system. The long boarding in EDs of acute or dangerous mentally ill individuals is not set up

for treatment and often leads to actions by individuals awaiting care that result in additional interactions with law enforcement, criminal charges, or placement in jail.

- Anoka Metro Regional Treatment Center (AMRTC) has the purpose of being the highest level of hospitalization for the treatment of mental illness. However, due to bed shortages and capacity issues at the state's Forensic Mental Health Hospital Program (FMHP) which serve individuals who are mentally ill and dangerous, the overflow of people who had historically been served at FMHP are now being treated/held at AMRTC while awaiting an opening at FMHP. At times, the state has reported the percentage of individuals at AMRTC who are awaiting placement at FMHP to take up 75% of the bed space at AMRTC. Both hospital programs serve individuals coming from jails, and people are not being appropriately placed due to capacity concerns at FMHP.

2) **What are your policy and funding recommendations for improvements or alternatives to the current priority admissions requirement? Recommendations must ensure that state-operated treatment programs have medical discretion to admit individuals with the highest acuity and who may pose a risk to self or others, regardless of referral path?**
   - <u>The solution is not selecting a particular priority group for access to care.</u> We should develop systemic capacity to ensure everyone has access to care when they need it.
     - Every entity that provides services deserves safeguards to address admission criteria. While DHS values medical discretion for admission to state operated services, counties and hospitals have equally valid safety and capacity concerns. We must make recommendations that address <u>all</u> needs. The strains on capacity have severely limited the positive impact of the priority admissions statute and enhanced the negative collateral effects of the statute.
     - No solution should reduce the admission time and rate of one priority group over another.
   - We must have a strategic vision for hospital bed capacity in Minnesota and begin working towards that vision on a well-documented, and fully funded, plan. There are clearly not enough hospital beds to treat the number of people with mental illness in our state.
   - Adequate funding and workforce are needed to support development of community, AMRTC capacity, and forensic capacity, so that we prevent people from needing institutional care/ or corrections involvement. The necessity of swift and timely transitions to appropriate levels of care (both increased and decreased levels) must be planned for in all systemic changes.
   - Any new admissions policy must recognize the necessity for due process on behalf of the individual and should encompass a mechanism for individuals to seek judicial relief to disputes in an appropriate manner.
   - Recommendations regarding medical discretion and admission should not assume that people in jails are "in a safe environment" or "able to access treatment" and therefore be deprioritized from state hospital admissions. Jail environments are not equipped to offer levels of treatment safely or appropriately to individuals.
   - Charging counties for "Does Not Meet Criteria" days is rooted in accountability and action. However, the current statute defining this method does not also place appropriate accountability or action on the state to create bed capacity within their own programs, for

those who are awaiting another state bed. Counties and communities are completely unable to improve this situation. This policy needs to apply to the same criteria to the state, or it should be dismissed altogether.

- The state needs to adequately fund FMHP to increase bed capacity, as AMRTC has now become a pseudo-forensic hospital. People are beginning to be discharged from FMHP earlier than they would have been historically, and thus they are now less stable when discharged. There is community concern that this may result in people needing to return to FMHP for continued care which will further exacerbate the capacity crisis.
- The state, as the responsible party, should cover per diem expenses for individuals awaiting placement in the State Operated Treatment Facilities.

3) What are your recommended options for providing treatment to individuals referred according to the priority admissions required under Minnesota Statutes, section 253B.1, subdivision 1, paragraph (b), and other individuals in the community who require treatment at state-operated treatment programs?

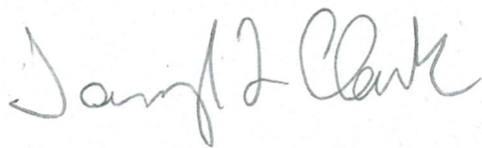
- The solution is to build capacity across the continuum of care including building additional facilities to address treatment needs and providing incentives to ensure there are staff to meet the increased needs.
- Any community-based planning should occur through enhanced funding and support of the regional Adult Mental Health Initiative structures which are already successfully functioning across the entire state. Expertise and funding are two essential components to add that would begin to strengthen the community treatment capacity for this need.
- County and local authorities cannot duplicate state resources in mental health treatment. Partnerships should be formed that recognize mental health treatment should not be expected to begin and end at a single facility and partnership is more than responsive communication; rather it is shared responsibility. Community providers are not able to independently take on the risk and liability needed with this population. The state has successfully operated two IRTS at a higher level of security and should expand to offer additional sites across Minnesota.
- Capacity concerns must be addressed at every stage of the continuum of care, from the highest level of hospital capacity to community-based care.
- The Secure IRTS RFP issued by DHS received no respondents. An analysis as to why this was the result should be made, and adjustments to the Secure IRTS concept then should be made. This would allow for a greater period of stabilization for individuals who are returning to the community, which is what is often needed for community providers to accept individuals into their homes/programs.
- Community hospitals should be financially incentivized to have mental health beds or provide psychiatric treatment in the emergency department. Hospital contract beds may be a short-term fix for this while a longer-term model is sought.
- Outside of a secure IRTS-type option, the highest level of care in a community is really a crisis stabilization bed. We should not look to make Family Adult Foster Care homes a solution to a bed capacity concern. AFC's are designed to assist with the daily cares of disabled individuals and be in and amongst the general population. It may be shortsighted to assume this is an

effective solution for the highly complex needs of this population. These Corporate Adult Foster Care homes may be a solution for some individuals, not all, but policy barriers must be addressed to make this a housing and treatment reality.

Underlying our policy and funding recommendations is the principle that increased capacity and cooperation are foundational to any solution to the priority placement crises facing jails and hospitals. The solution must be comprehensive, shortening the time and increasing the rate of admission to appropriate secure treatment facilities for both populations.

Thank you for the opportunity to share our collective input and vision on these important topics to aid our future Task Force conversations. The work of the Priority Admissions Task Force is incredibly important, and we look forward to conversations that advance a strategic vision for the State of Minnesota for this critically underserved population.

Signed:



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