

## SUMMARY OF RECOMMENDATIONS FROM THE DECEMBER 14, 2009, MEETING OF THE JUDICIAL PROCESS COMMITTEE

This memorandum contains a summary of the recommendations made by the presenters at the December 14, 2009, meeting of the interim Judicial Process Committee with respect to the committee's mental health commitment procedures and availability of psychiatric services study.

### DR. EMMETT M. KENNEY JR. - PRAIRIE ST. JOHN'S

Dr. Kenney made the following recommendations:

- Modify the state commitment statutes, preferably to allow 72 hours for expert examination exclusive of weekends or holidays. In the alternative, allow the current holders of current qualified mental health professional status to initiate commitments and proceed to court hearings without requiring an additional expert examination within 24 hours.
- Allow for more access closer to home and with more engagement of aftercare resources and allocate more funding to the Department of Human Services to contract for beds in psychiatric units with community-based psychiatric centers and for larger facilities to contract for inpatient units.

### DR. ANDREW J. MCLEAN - STATE HOSPITAL

Dr. McLean made the following recommendations and observations:

- Regarding uniformity of commitment procedures, Dr. McLean recommended the simplification of commitment forms. Currently there are multiple and duplicative forms that contribute to lack of uniformity in procedures. This can be accomplished with input from stakeholders and through legal processes. Department of Human Services staff has engaged in meetings and consultation with judges and attorneys regarding commitment rules and will continue to do so.
- Dr. McLean noted a statutory language oversight from the 2009 legislative session. He recommended that to recognize a licensed addiction counselor as an expert in North Dakota Century Code Section 25-03.1-23, the last sentence of this section should read: "The petition must be accompanied by a certificate executed by a physician, psychiatrist, or psychologist, or licensed addiction counselor, within their respective areas of expertise."
- Regarding the appropriateness of detention sites while awaiting hospitalization or evaluation and the timeliness of evaluation, Dr. McLean recommended the use of telebehavioral health

technology for initial evaluation. Technology and information technology security needs to be in place, but with adequate computer/camera access, this could be accomplished almost anywhere and anytime.

- Regarding the limited availability of psychiatric services in the state, Dr. McLean noted that "[r]egardless of specialist prescriber numbers, the vast majority of psychotropic medication prescribing will continue to be done by primary care providers. In addition to telepsychiatry, the Department of Human Services is committed to the concept of primary care-behavioral health care interface. We have developed a pilot with a Federally Qualified Health Center (FQHC), and certain private providers are doing the same."

### DR. TERRY JOHNSON - NORTH DAKOTA PSYCHIATRIC SOCIETY

With respect to the mental health commitment procedures, Dr. Johnson commented that the North Dakota Psychiatric Society has not taken a position with regard to the issues being discussed. He made the following recommendations and observations:

- With respect to the availability of psychiatric services in the state for acute hospital commitment evaluations, Dr. Johnson recommended increasing the availability of psychiatric services through expansion of telemedicine and psychiatric consultation with family medicine physicians and other medically trained professionals.
- Dr. Johnson discussed that the future availability of psychiatric services can be ensured by working collaboratively with all mental health and primary care providers and by working to build incentives and opportunities for those in medical training to pursue mental health practices. There is a need to garner more psychologists, therapists, and behavioral analysts to assist in the nonmedical behavioral care of people in the state. Primary care resident physicians in the state are required to spend time in psychiatry rotations. The Fargo and Bismarck family practice residencies include an integration of psychiatry training that is built into the internal medicine residency.

### MR. GARY E. EUREN - CASS COUNTY STATE'S ATTORNEY'S OFFICE

Mr. Euren recommended because of the following potential situations the provisions of the 23-hour

timeframe and the type of professional allowed to do an examination should be reviewed:

- Some medical facilities in the state do not have wards to treat patients with mental illness or chemical dependency;
- There is a question of whether, after an emergency hold, a patient who has a serious medical condition and a diagnosis of mental illness or chemical dependency can continue to be treated in such a facility; and
- Occasionally a person presents a serious medical condition that requires inpatient medical treatment, as well as a mental illness or chemical dependency diagnosis. If the patient decides to leave against medical advice, the only way to effectively treat is to place the patient on an emergency hold.

Mr. Euren noted that the 23-hour time period is adequate in most cases, in no case should the time period be longer than 72 hours, and a 48-hour time period would be helpful.

Mr. Euren made the same recommendation as Dr. McLean with respect to Section 25-03.1-23.

**MR. TIM SAUTER -  
BADLANDS HUMAN SERVICE CENTER**

Mr. Sauter noted that because individuals cannot be held at the hospital in Dickinson, patients may have to be detained at the correctional facility until transportation can be arranged to either Bismarck or Jamestown. He noted that a request for more beds was denied by the Legislative Assembly in 2009. He said those additional beds could have been used to hold patients awaiting transport.

**DR. ELIZABETH FAUST -  
SANFORD HEALTH-MERITCARE**

Dr. Faust noted the following two problems:

- There is a lack of sufficient resources to deal with the burden of treating mental illness and chemical dependency for the citizens of our state; and
- There is a fragmented utilization of the private and public resources currently devoted to the treatment of mental illness and chemical dependency.

Dr. Faust recommended the following:

- More case management staff and more community residential options with which to work.
- The development of a new model in which the public and private sectors work collaboratively and integrate the resources currently consumed

inefficiently. There is a need to bring together community agencies, the Department of Human Services, state and local government authorities, the private sector, and law enforcement to develop a broad continuum of services and ensure that our citizens are treated in the most appropriate settings.

**MR. MIKE REITAN -  
WEST FARGO POLICE DEPARTMENT**

Mr. Reitan explained that private medical facilities and emergency responders are being overused as the gateway and a treatment option for the community-based treatment program. Because of the lack of facilities, Mr. Reitan noted that when someone is in crisis and needs assistance, the call goes to the emergency responders.

Mr. Reitan recommended the following:

- More funding for community-based programs.
- An admissions facility that is available 24 hours a day 7 days a week. The facility could either be a state facility or a contract facility with a private provider.
- An increased bed level at the State Hospital and a transition facility.

**MR. GREG RUNGE -  
ATTORNEY**

Mr. Runge's testimony included the following:

- The problem is not with the laws and mental health commitment procedures but rather the problem is the medical community and the lack of resources;
- It is not appropriate to hold a person beyond 23 hours without filing a petition;
- A detailed statistical study on this issue should be conducted on the issue;
- Changes should not be made to the legal process because the medical system is in need of more services;
- Extensions beyond the allowed time for examination may be extended by the court for just cause, such as a snowstorm or transportation issues; and
- The 23-hour time limitation is intended to protect individual rights.

**MS. TERYL OSTMO**

Ms. Ostmo opposed any change to the current 23-hour timeframe for the filing of a petition. She testified that the current requirement is vital in order to safeguard individual rights.