Wisconsin Legislative Council Special Committee
Review of Emergency Detention and Admission of Minors under Chapter 51

John Easterday, Administrator
Division of Mental Health and Substance Abuse
Wisconsin Department of Health Services
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I want to begin by thanking the members of this Legislative Council Committee and the co-chairs, Representative Pasch and Senator Hanson, for inviting the Department of Health Services to present at your first meeting. My name is John Easterday and I am the Administrator of the Division of Mental Health and Substance Abuse Services (DMHSAS) within the Wisconsin Department of Health Services (DHS). It is my understanding that the purpose of this Legislative Council Committee, in part, is to review the emergency detention processes of Chapter 51 involving minors or those under the age of 18. The staff of the Legislative Council Committee has produced an excellent document describing the various legal and procedural requirements of the Chapter 51 process so I will not repeat those here today. To assist you with your review, today I will outline the role of the Department and other entities in the context of the application of Chapter 51, some of the recent and significant changes to Chapter 51, and end by highlighting a few areas the Committee may want to consider for further review.

The Department of Health Services Role

The mission of DHS is to protect and promote the health and safety of the people of Wisconsin and mental health is an important part of this mission. DHS reaches out to our partners who serve adults and children in need of assistance during times of crisis. Through regulation, technical assistance, and promotion of services, DHS works to promote a statewide system of services that is available and helpful during times of crisis. We work closely with partners who serve the mental health needs of Wisconsin adults and children in times of crisis and promote the development of alternative programs to reduce the need for emergency detentions.

DMHSAS operates two state mental health institutes, one at Mendota and the other at Winnebago, which are required by law to accept Chapter 51 Emergency Detentions transported by a local law enforcement agency. The Department views these facilities as the ultimate back-up to counties for children, adolescents and adults who may need involuntary treatment. Under Chapter 51, counties may also have an individual who may be in need of treatment admitted to alternative treatment facilities which each county designates. These facilities may include county operated mental health hospitals, general hospitals with psychiatric units, or crisis facilities.

The Department also promotes, regulates and funds county operated or purchased Crisis Programs, which are defined and regulated under Administrative Rule DHS 34. These services provide an immediate response by the county human service system by removing or ameliorating the conditions that led to the crisis and linking the individual

with appropriate services. This also helps avoid unnecessary and costly emergency detentions. Each county is required to operate a crisis program certified by the Department's Division of Quality Assurance but there are two levels under the Administrative Rule. At the basic level found in subchapter II of the Rule, a county may choose to operate a program that offers some form of emergency call-in, emergency appointment or mobile crisis intervention. At the higher level, found in subchapter III, additional services and supports are available including 24 hours/7 days a week coverage, mobile crisis, emergency walk-in appointments, and call-in services. A county may also include stabilization services or alternative emergency placements in this higher level. With the higher certification level, a county crisis program becomes certified and eligible for Medicaid reimbursement. The Department also provides financial support to crisis programs through the allocation of state community aids.

Over the last eight years, the Doyle Administration has actively promoted, encouraged and supported crisis intervention as means to divert individuals from the emergency detention process. The Department has encouraged more counties to make these services available by becoming certified under subchapter III and has provided a great deal of technical assistance to help county programs become eligible and certified for Medicaid reimbursement.

In 2004, the DMHSAS offered five-year crisis grants to six multi-county collaborations involving thirty-three counties. The goal was to increase a county's ability to become certified at the higher level and to encourage multi-county shared services when counties find it difficult to provide that level of service individually. The funding can be used for training, program development and multi-county collaboration. As a result of these efforts, fifty-four counties are now certified under subchapter III. In 2009 DMHSAS built on this success by awarding five regional grants which aim to reduce and divert unnecessary hospital admissions and shorten lengths of stay; certify all seventy-two counties under DHS 34 subchapter III by 2014; promote shared crisis stabilization services/supports; and promote shared/cooperative regional training with law enforcement and crisis program staff.

In addition to providing development and training funds for crisis intervention, the Department and Division also sponsors a state-wide crisis program network that involves law enforcement, counties, and other interested stakeholders. This network seeks to provide training to counties and law enforcement that promote consistent and correct adherence to the provisions of Chapter 51 as they relate to emergency detention procedures. For instance, we will be hosting our annual Crisis Network Training Conference on September 23rd and 24th in the Wisconsin Dells. I have distributed to you several announcement cards with information about this event. All are welcome to attend.

In addition to training that DHS directly or indirectly supports, there are several national training programs for law enforcement officers. Many local law enforcement programs around the state have taken advantage of these programs that promote understanding of the dynamics of mental illness, the use of crisis intervention services and how to

approach the detention process.

DHS actively engages counties, law enforcement and the mental health community in discussions to promote a greater focus on crisis intervention that allows people greater opportunity to access community-based services and helps law enforcement focus their resources on those situations where they know an emergency detention is necessary. We look forward to continuing these partnerships.

Recent Statutory Changes to Chapter 51

I would like to bring to the Committee's attention recent statutory changes that may be of importance to your work. In the current biennial budget, Governor Doyle and the Legislature approved several significant changes that should be noted regarding the emergency detention process. Unlike changes occurring in other states such as the dismantling of community programs and elimination of client eligibility, the changes in Wisconsin are intended to financially support community programs and strengthen the role of counties in the emergency detention process to seek alternatives.

In the biennial budget approximately $3 million dollars was allocated to counties to use for community support programs, crisis programs, or comprehensive community services. Not only do these programs provide alternatives to hospitalization, they are also eligible for Medicaid reimbursement and the state funds could be used at county discretion to capture additional federal funding. The biennial budget also included a provision whereby all emergency detentions must be approved by the local mental health authority before law enforcement has someone admitted to a designated treatment facility.

It is becoming increasingly clear that these changes have resulted in a drop in the number of individuals transported by a county law enforcement agency to Mendota or Winnebago. Furthermore, there is evidence to suggest that these changes are rapidly encouraging the development and use of alternative emergency placements on the part of counties and others involved in the emergency detention process. This saves money, but more importantly, people are being served to a greater degree in their own communities with positive outcomes, rather than through costly and often unnecessary emergency detentions and hospital-based services.

Issues for Review

I would like to direct your attention today to two issues you may want to consider as part of your review. The first is training. As I noted earlier, training for counties, crisis workers, hospital emergency departments, law enforcement, families, consumers and advocates is essential because of the complexity of the law, its importance for all concerned, and a need to provide as much consistency and availability of services throughout the state as possible. The emergency detention process relies heavily on the judgment of law enforcement officers, county crisis workers, hospital emergency departments and corporation counsels to interpret the statutes. This creates a wide variety of interpretation across the state. For example, there is wide variation among counties

regarding the definition of dangerous behavior that warrants an emergency detention. Some areas of the state consider it to be destruction of property, while others define it as violence toward others or self. Communicating a consistent definition through training takes significant steps toward avoiding unnecessary detentions. DHS is committed to continuing to provide training opportunities through its statewide network, but clearly additional options need to be considered to ensure the greatest level of consistent application of the statutes.

Secondly, we encourage the further development and support of crisis programs and emergency stabilization. The recent changes in law are stimulating a major interest among many local entities and interest in developing additional crisis capacity and resources. In addition to the need to have all counties join a crisis network, we need to foster facilities and programs that can provide alternatives. DHS, counties and other stakeholders are examining changes in the law that may allow community based residential facilities, shelters, and other child caring facilities to serve as alternatives to inpatient hospitalization. While the analysis is complex and on-going, I hope to see recommendations come forth from a wide coalition of interest. I would recommend that the Committee ask for input from the County Association, the Wisconsin County Human Services Agencies, and the Wisconsin Association of Family and Children's Agencies on this issue.

Again, I want to thank the Legislative Council Study Committee for inviting me here today to represent DHS and provide recommendations for issues to consider. We are prepared to provide further assistance as your proceed with your deliberations. To expedite this support we have assigned a staff person, Kenya Bright, from our Division of Mental Health and Substance Abuse Services, to serve as our liaison to the Committee. I am available to answer any questions you may have regarding this presentation. Thank you.