TO: Members of the Legislative Council Study Committee on Emergency Detention and Civil Commitment of Minors

FROM: Kathy Markeland, Executive Director, and Emily Coddington, Associate Director

DATE: December 17, 2024

RE: **Comments and Recommendations on Preliminary Draft Legislation**

WAFCA would again like to express appreciation to the legislators, legislative staff and community members who are devoting their time and expertise to formulating draft legislation to improve our mental health systems of care for Wisconsin children and youth. It has been a privilege to be involved in the discussions and thoughtful deliberations. The draft bills that have emerged address important and complex challenges. We look forward to continuing to contribute to the advancement and refinement of all of these important proposals as the Study Committee endorses them for consideration in the coming session. For the purposes of the Committee's continuing discussion this week, we are offering specific comments on two of the bill drafts below.

LRB-0613/P3 – Psychiatric Residential Treatment Facility

This most recent bill draft provides a pathway to initiating PRTFs in Wisconsin while empowering the state to plan for regional and statewide capacity needs. In addition, the bill incorporates the option for facilities to adopt important safety measures, such as video recording and locked options that will support safer environments. Overall, the bill appears to address many of the items raised in Committee discussions. We offer a few specific items of commentary/questions for Committee consideration:

Grants and Funding. As a treatment service, PRTFs should be reimbursed through Medicaid and private health insurance. In addition, foundational funding to support the establishment and ongoing operations of PRTFs will be necessary to ensure the availability of this resource as part of our care and treatment infrastructure for youth. With this understanding in mind, the bill draft incorporates a placeholder for future allocations, however, *the bill language under 51.044 (5) appears to restrict the grants to the "establish" PRTFs and we recommend modifying the language to specify "establish and operate."*

With regard to funding, we would also ask for the Committee's prioritization of administrative funding to support the staffing resources required to develop and submit a federal waiver as well as promulgate rules. It is important to allocate resources to support this work to enable DHS to progress in a timely way that also allows for consultation and collaboration with key stakeholders including the provider community, counties and those with lived experience.

Insurance. The bill appropriately clarifies that PRTFs may bill insurance for services, however, we would note that the bill stops short of specifically mandating insurers to reimburse for services in a PRTF setting. Under state and federal mental health parity coverage requirements, we believe that mental health treatment in a PRTF should be covered equitably and, also, we note that providers and consumers continue to experience significant challenges accessing services and obtaining reimbursement for necessary mental health care. This will be an important compliance issue to monitor once PRTF services are operational in our state.

Admission criteria. One of the fundamental values that PRTF services add to our continuum of care is the ability for families to access these services on a voluntary basis and as a health care service. PRTFs are a treatment setting first, rather than a placement setting, and as such they should be accessible to any child, including those who are not on a protective services or emergency detention order. In the event a county must place a child in a PRTF, it appears that the most likely route would be via Ch. 48.207(1)(d) or (g) or their counterparts in Ch. 938 Wis. Stats. *While we understand that it will be permissible for children to be court-ordered into a PRTF, the language under 51.044(2)(c), appears to make a finding under ch. 48, 51 and 938 a condition for admission. We do not believe that this is the intent and would request clarification.*

LRB-0947/P1 – Youth behavioral health program

WAFCA appreciates the Committee's consideration of this important proposal to authorize DHS to pursue a federal Medicaid waiver and draft rules to establish a new youth behavioral health program. This inter-departmental initiative has been under development for over a year and responds to the ongoing concerns voiced by providers, hospitals, counties, our workforce, and families who struggle with uneven and inequitable access to appropriate resources. One of the fundamental charges of the Study Committee is to find better solutions for families who are not well supported or served by our current systems, and we believe that this proposal is a critical building block for the future system we need.

WAFCA understands and appreciates that this bold initiative will require a great deal of continued collaboration with all stakeholders to ensure that we are developing and delivering something better for our families, while also improving these systems for workers, providers, and, critically, county agencies. In addition, there are significant questions regarding funding that cannot be disregarded. However, the proposal before the Committee sets the stage for future action and dialogue. WAFCA believes that this initiative holds great promise for better assessing needs and wrapping services around families to prevent the trauma of family disruption and criminal justice system involvement. From WAFCA's perspective, a coordinated state-level response would fill an important system need that our providers have long seen – enabling those with targeted expertise to engage with families earlier.

Residential Care Centers and Youth Crisis Stabilization

We note that the Study Committee has not opted to address the funding and safety considerations that we raised with regard to our current 24/7 care options for youth. While we are supportive of the addition of PRTFs to our continuum of care, in the meantime, we have facilities licensed under DCF 52 (RCC), DCF 57 (group home), and DHS 50 (youth crisis stabilization facilities - YCSF) that could potentially serve more children in need of intensive services with additional regulatory and funding resources. In our provider presentations, we specifically noted the following alternatives which have been identified by stakeholder groups of providers, counties, and advocates: 1) operational funding support, 2) the ability to video record and/or invest in additional security and safety measures; and 3) liability reforms. Sustainable operational funding support for programs like Chileda, and for the expansion and ongoing viability of YCSF resources around the state is critical along with additional regulatory tools. Adequately supporting these resources will reduce the use of out of state placements today while we await the approval and creation of the PRTF option as a longer-term solution/initiative.

We hope the above information is helpful as you continue forward in your work and pursue solutions that support all of Wisconsin's children. These are complicated issues, and we look forward to supporting advancement of the array of solutions that emerge from this work. Thank you again for your time and consideration.