ERIK SEVERSON
STATE REPRESENTATIVE • 28TH ASSEMBLY DISTRICT

Testimony on Mental Health Legislation
Senate Committee on Health and Human Services

January 9, 2013

I would like to thank Chairwoman Vukmir and the members of the committee for holding this hearing on this package of mental health legislation before you today. I would also like to thank Sen. Vukmir for her leadership on this important issue.

To provide some background on the legislation that you will be hearing about today, the Speaker's Task Force on Mental Health held five public hearings throughout the state where we heard from mental health consumers, advocates, and providers about problems with the mental health delivery model and barriers to quality care. Working with my colleagues on the Task Force, we put together a report that included several recommendations for legislation to improve mental health care here in Wisconsin.

Based on the recommendations of the Speaker's Task Force on Mental Health, we have introduced the Mental Health Care Coordination Bill, SB 360, which removes barriers to care in Wisconsin law regarding coordination of care for people with a mental health diagnoses. By aligning Wisconsin's health privacy laws with federal HIPAA privacy law, we can improve the quality of care for individuals accessing mental health services.

Wisconsin's current privacy laws limit the ability of mental health professionals and primary care physicians to work together in order to provide the best quality of care for patients. By treating mental health records differently, as required by current law, we are in fact further stigmatizing patients as those records are not accessible to primary care physicians.

The Mental Health Care Coordination Bill updates Wisconsin law to be consistent with an integrated care delivery system, while still maintaining the vital privacy protections afforded to all patients through the federal HIPAA law. This legislation also requires the Department of Health Services to make available a comprehensive document outlining patients' health privacy rights. This document is required to be available both at applicable health care facilities and online.

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In addition, Sen. Vukmir and I have also introduced Senate Bill 362, which requires the Department of Health Services to award grants for mental health crisis intervention team training for law enforcement agencies and correctional officers.

Several individuals provided testimony to the Task Force in support of expanded crisis intervention teams (CIT's). CIT's are comprised of law enforcement officers who are specially trained in responding to individuals with mental health diagnosis. One CIT model, the Memphis Model, provides a 40-hour course for law enforcement to inform officers about mental illness, recognize symptoms, and utilize non-violent de-escalation techniques to reduce the possibility for harm to the individual, the officer, and the community.

Given the prevalence of mental health diagnosis among incarcerated individuals, the Task Force recommended providing training for law enforcement officers, as well as correctional officers. In Wisconsin, several counties have already implemented CIT, including Milwaukee, Brown, Winnebago, and Racine.

Thank you again Chairwoman Vukmir and committee members for taking the time to hold this public hearing and I look forward to working with you on passage of this legislation.

LEAH VUKMIR
STATE SENATOR

January 9th, 2014

Chairman, Committee members, I am proud to join Representatives Severson and Pasch today and I would like to express my sincere gratitude to you for giving Senate Bill 360 and Assembly Bill 453 this Public Hearing. As you are all aware this Bill is largely a result of the recommendations from the Speaker's Task Force on Mental Health, I applaud their efforts. This bill is an extremely important piece of legislation that seeks to bring true parity to Wisconsin's mental health care delivery system. As a result, records for both physical and mental health conditions will now be treated the same; aligning Wisconsin's mental health records statutes with what is presently allowed under HIPAA. I would also like to stress that this legislation maintains the HIPAA prohibitions regarding the sharing of psychotherapy notes without the consent of the patient.

Specifically, SB 360 and AB 453 will remove barriers that currently exist in Wisconsin law concerning the coordination of care for persons with a mental health diagnosis that do not exist for persons without such a diagnosis. There is no arguing the fact that Wisconsin's present laws were enacted decades prior to the HIPAA privacy and security laws. In fact, they place special restrictions on the communications between a patient's treating psychiatrist and other physicians and providers that offer care to that particular patient. Indeed, current Wisconsin law actually makes it more difficult for psychiatrists and other mental health professionals to work in a collaborative effort with other treating physicians for individuals with mental health needs.

I am confident that with the passage of this legislation, patients with a mental health diagnosis will see benefits from optimized care through an enhanced coordination among providers, to lower hospital readmission rates, to a reduction in the overall regulatory burden by aligning Wisconsin statutes with federal law. The updates provided by SB 360 and AB 453 will make Wisconsin's mental health statutes more consistent with modern integrated medical approaches for individuals with mental health care needs. Furthermore, I would like to reiterate that this legislation maintains important protections provided by HIPAA, notably, the restrictions regarding the disclosure of psychotherapy communications/notes, and permitting but NOT requiring disclosure of healthcare medication information for clinical purposes.

This legislation has a coalition of broad support and I feel it goes a long way to lessening the stigma often associated with patients with a mental health diagnosis and subsequent treatment. Therefore, I urge swift passage.

Thank you, Mr. Chairman and Committee members for considering SB 360 and AB 453 this morning.

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SENATE COMMITTEE ON HEALTH and Human Services

Senator, Leah Vukmir, Chair

Testimony of Pete Carlson
President, Aurora Psychiatric Hospital and Behavioral Health Services

2013 Senate Bill 360
Relating to: the uses and disclosures of protected health information
and
2013 Senate Bill 366
Relating to: the creation of a primary care and psychiatry shortage grant program, exemption from taxation amounts received from such a grant program.

411 South, State Capitol
Thursday January 9, 2014, 10:00 AM

Chairperson Vukmir and Members of the Senate Health and Human Services Committee,

Aurora Health Care supports Senate Bill 360, also known as the Mental Health Care Coordination bill, which allows health care providers subject to the Federal HIPAA health information privacy and security law to communicate patient mental health information with other providers, if the communication is made for treatment, payment or other health care operations purposes.

Wisconsin's current mental health records laws are outdated and serve as a barrier to patients with mental illness in getting coordinated, integrated care. This barrier does not exist for other illnesses and perpetuates the stigma of mental illness. According to a recent Johns Hopkins study, these barriers increase the likelihood that an individual with mental illness will need to be re-hospitalized.

The Mental Health Care Coordination proposal aligns Wisconsin's general health information privacy law with the federal HIPAA law. This alignment will ensure that physicians have access to important, relevant information about patients' diagnosis. As an integrated delivery provider, this change will better enable Aurora to provide coordinated comprehensive care to our patients.

Aurora also supports Senate Bill 366 which creates a grant program for primary care and psychiatrist physicians practicing in a medically underserved area that graduated from a Wisconsin medical school, completed a residency program in Wisconsin and applied for the grant before accepting an offer of employment in Wisconsin.

There currently exists a significant gap in outpatient access for Medicaid beneficiaries in Milwaukee due to shortages of psychiatrists, advanced practice psychiatric nurse practitioners and psychotherapists. The proposed grant program will provide much needed recruitment incentives for psychiatrists to work in historically underserved geographic areas.

Aurora is Wisconsin's largest behavioral health provider. In 2012, Aurora Psychiatric Hospital (APH) had over 3,200 inpatient admissions. Approximately one-third of the hospital inpatients were covered by the Medicaid program. Aurora Behavioral Health Services, the umbrella organization for Aurora's behavioral health programs and services, provided approximately 80,000 professional visits to nearly 15,000 residents of eastern Wisconsin, of which approximately 20% were provided to recipients of Medicaid. In 2012 the combined APH and ABHS Medicaid, charity care and bad debt losses totaled $4.5 million at cost.

As president of Aurora Psychiatric Hospital and Behavioral Health Services, I respectfully request your support of these bills that will improve coordination of care for patients with a mental health diagnosis and provide incentives for providers to work in underserved communities. Thank you in advance for your commitment to improving Wisconsin's behavioral health infrastructure.

Sincerely,

Peter E. Carlson
President, Aurora Psychiatric Hospital and Behavioral Health Services
Aurora Health Care

CC. Senate Health and Human Services Committee Members

WISCONSIN HOSPITAL ASSOCIATION, INC.

January 9, 2014

To:	**Members of the Senate Health and Human Services Committee**
From:	**Matthew Stanford, WHA VP Policy & Regulatory Affairs, Associate General Counsel** **Kyle O'Brien, VP Government Relations**
Re:	**WHA Supports Senate Bill 360/Assembly Bill 453 - the Bipartisan Mental Health Care Coordination Bill**

The Wisconsin Hospital Association (WHA) is pleased to support the bipartisan Mental Health Care Coordination Bill – Senate Bill 360/Assembly Bill 453, authored by Sens. Vukmir, Carpenter, and Shilling, and Rep. Severson and Pasch.

Because of its importance to improving outcomes for individuals with mental illness, WHA and WHA's own mental health task force have spent the past 2+ years developing and talking to stakeholders about this care coordination bill. We are pleased to see the bipartisan support for this bill, the recommendation for its enactment by the Speaker's Mental Health Task Force, and the passage of the Assembly companion bill, AB 453, by voice vote in the Assembly.

Help Wisconsin to Continue to Move Away from Outdated "Siloed" Models of Mental Health Care

The treatment, support, and understanding of mental illness have seen positive advances in recent years that have benefited many individuals with mental illness. In particular, mental health care is moving away from "siloed" models of care where physical and mental health are delivered separately, to "integrated" models of care where mental health and physical health are treated together in inter-disciplinary settings. However, many of Wisconsin's mental health laws developed in the era of "siloed" mental health care are hindering further advancements toward better coordinated, more holistic integrated mental health care.

Improve Health Outcomes for Individuals with Mental Health Needs By Enabling Better Care Coordination

To improve the health outcomes of individuals with mental health needs, the bipartisan Mental Health Care Coordination Bill updates Wisconsin law to be consistent with modern integrated medicine approaches for individuals with mental health needs. This bill removes statutory restrictions – ***restrictions that do not exist for physical illness*** - on psychiatrists and other mental health providers from coordinating a patient's care with the patient's other treating providers that has resulted in less coordinated, less integrated, and more costly care for individuals with mental illness. The bill also maintains existing special confidentiality for "psychotherapy notes," as well as patient rights to request restrictions on the disclosure of health information.

Reduce Psychiatric Hospitalizations

Recent research also supports the need for the bipartisan bill and its benefits to patients. **A January 2013 study by Johns Hopkins** suggests that the changes provided by the Mental Health Care Coordination Bill will reduce

hospital readmissions for psychiatric patients. The study found that psychiatric patients were between **30-40% less likely to be readmitted** to a hospital when non-psychiatric physicians were not restricted from accessing medical records created by a psychiatric physician.

Combat Stigma

Unlike Federal law and the Veterans Health Administration (VA Hospitals), current Wisconsin law treats mental health information significantly differently from other health information which perpetuates mental health stigma and maintains a health care system where mental health is segregated from physical health. **Assumption is a root cause of stigma, and current Wisconsin mental health law forces health care providers to make assumptions** about their patient's mental health diagnosis when the provider is restricted from seeing the treatment information underlying that mental health diagnosis. For purposes of communications for treatment, health care operations and payment, the bill ends this outdated disparate treatment of mental and physical health information.

We ask to you to vote in support of Senate Bill 360/Assembly Bill 453 – the Bipartisan Mental Health Care Coordination Bill. If you have any questions, or would like a copy of WHA's FAQ on this bill, please feel free to contact Kyle O'Brien (kobrien@wha.org) or Matthew Stanford (mstanford@wha.org) at 608-274-1820.

WISCONSIN HOSPITAL ASSOCIATION, INC.

Examples of Sharable Information Between a Patient's Providers:

Current WI Mental Health Law vs. Federal Law

- Wisconsin law generally requires written consent to disclose mental health records, but does permit certain discrete information to be disclosed to treating providers without consent (the items in peach below).
- HIPAA requires consent to disclose psychotherapy notes, but does permit the disclosure of non-psychotherapy notes and certain other specific items that may be in a psychotherapy note (the items in purple below) without consent.
- Also pursuant to HIPAA, a patient at any time may request that their health care provider limit the disclosure of information to another treating provider, and if the patient and health care provider agree to the restriction, the health care provider must adhere to that agreement.
- The table below compares the list of information that may be shared without consent between a treating mental health provider and other providers under Wisconsin law with examples of information that can be shared without consent under Federal HIPAA law. **Bolded** items in the table identify items that are different from the items that may be disclosed without consent under current Wisconsin law.
- In addition, the information in blue lists information that must be in "transitions of care summaries" created by a health care providers' EHR by 2014 pursuant to new Federal Regulations.

Key: Citations for the items listed below	
(peach)	Wisconsin Statute: s. 51.30(4)(b)8g. (Act 108)
(purple)	HIPAA: 45 CFR 164.501. Items specifically excluded from HIPAA's "psychotherapy note" treatment disclosure restrictions. **While HIPAA requires consent to disclose psychotherapy notes, HIPAA does permit the disclosure of these items without consent**.
(blue)	Current Federal Meaningful Use Regulation: Federal Register Vol. 77, No. 171. Items that at a minimum must be included in "transitions of care summaries" created by health care providers' EHR by 2014.

Current Wisconsin Law	Federal HIPAA Law
The following information may be disclosed **without consent** under current Wisconsin law.	The following is a list of examples of information that can be disclosed **without consent** under Federal HIPAA law and that are discussed in the context of other state or federal laws. (Note that some are redundant):
The individual's name, address, and date of birth;	The individual's name, address, and date of birth;
The name of the individual's provider of services for mental illness, developmental disability, alcoholism, or drug dependence;	The name of the individual's provider of services for mental illness, developmental disability, alcoholism, or drug dependence;
The date of any of those services provided;	The date of any of those services provided;

The individual's medications	The individual's medications
The individual's allergies,	The individual's allergies,
The individual's diagnosis,	The individual's diagnosis,
The individual's diagnostic test of biological parameters, but not the results of psychological or neuropsychological testing.	The individual's diagnostic of biological parameters, but not the results of psychological or neuropsychological testing.
The individual's symptoms.	The individual's symptoms.
Other relevant demographic information.	Other relevant demographic information.
	Medication prescription and **medication monitoring notes,**
	Counseling session start and stop times,
	The modalities and frequencies of treatment furnished,
	Results of clinical tests
	Any **summary** of an individual's diagnosis:
	Any **summary** of an individual's **functional status,**
	Any **summary** of an individual's **treatment plan,**
	Any **summary** of an individual's symptoms
	Any **summary** of an individual's **prognosis**
	Any **summary** of an individual's **progress to date**.
	Patient name
	Referring or transitioning provider's name and office contact information
	Procedures
	Encounter diagnosis
	Immunizations
	Laboratory test results
	Vital signs
	Smoking status
	Functional status, including activities of daily living, cognitive and disability status
	Demographic information
	Preferred language
	A care plan that defines care management actions for the patient's conditions, problems or issues and that includes the problem, goal, and any instructions that the provider has given to the patient.
	Care team including the primary care provider of record and any additional known care team members beyond the referring or transitioning provider and the receiving provider
	Discharge instructions
	Reason for referral
	Problem list, including historical problems and not just diagnoses
	Medication list
	Medication allergy list

UWHealth

TO: Senate Committee on Health & Human Services
FROM: Dr. Rick Hafer & Lisa Maroney, UW Health 265-1653
DATE: January 9, 2014
SUBJECT: SUPPORT SB 360/AB 453 Mental Health Care Coordination Bill

Chairperson Vukmir and members of the committee, thank you for the opportunity to provide written testimony on an important public policy proposal. As my role as Vice-Chair, Psychiatry Department, I observe the daily disadvantages of the current separation of medical from mental health records. I'm also keenly aware that with the proposed changes the quality of health care delivery will improve. The current system does not "protect" patients, but actually makes them more vulnerable.

Key background information and facts:

- Based on national studies, primary care physicians treat anywhere from 40%-60% of patients with mental health needs
- Patients with chronic medical conditions (e.g., diabetes) with co-morbid untreated depression, will incur medical costs three to four times those patients with successfully treated depression.
- The national trend in Accountable Care Organizations (ACO's), other medical homes, and federally qualified health centers is to address the behavioral health needs within the primary care model. Integration of medical and mental health services is a proven model to improve patient quality of care and reduce medical costs.

General scenarios:

- Hospital inpatient psychiatrists are unable to communicate key treatment information (e.g., prescriptions) to the primary care physicians that may provide the follow-up services.
- Primary care physicians cannot review specialist psychiatric provider notes related to diagnosis and treatment. This is particularly problematic in patients with histories of suicidal ideation, gestures or attempts
- Patients may not remember medications prescribed by their psychiatrist when meeting with their primary care physician leading to potentially severe consequences
- Some subset of patients seek habit forming anti-anxiety medications from both psychiatric specialists and their primary care physicians

Specific scenarios:

University of Wisconsin Medical Foundation
Faculty of the University of Wisconsin
School of Medicine and Public Health

- Bi-polar patient treatment by psychiatrist with lithium seeks consultation with dermatologist for skin condition. Medication prescribed by dermatologist (diuretic) could have fatal consequence when given with lithium. (Primary care provider unaware of lithium prescription).

- Primary care physician has long-established relationship with patient who receives mental health care for depression from a psychiatrist. PCP unaware of patient's suicidal thoughts, including past history of hallucinations. PCP feels this information should be available to periodically review patient's well-being. Patient completed suicide after command hallucinations.

- Patient discharged from inpatient psychiatric setting after treatment for suicide attempt and anxiety. Patient represents in Emergency Department with anxiety, but claims not to be suicidal. With no access to previous psychiatric treatment and history, no ability to better "probe" patients risk or safety. Patient discharged from ED and later completes suicide.

- Geriatric patient treated by psychiatrist for depression. Given anti-depressant, followed by thyroid hormone. Depression remits. Two years later evaluated by endocrinologist for hyperthyroidism. Unaware that symptoms caused by prescribed thyroid hormone. Endocrinologist orders scan, cancels after realization that hyperthyroidism caused by medication prescribed by psychiatrist.

SUMMARY:

Coordination of care, patient outcomes, and reduced costs are all improved when mental health information can be shared with primary care and specialty physicians. Thank you.

Independent Living Council of Wisconsin, Inc.
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January 9, 2014

From: Mike Bachhuber, Executive Director
Independent Living Council of Wisconsin, Inc.

To: Members of the Senate Committee on Health and Human Services

Re: SB360

Although a much small number have psychosocial disability, over a quarter of Americans experience mental illness in a given year. Almost half of Americans can expect to experience mental illness in their lives. As a result, the decision you make regarding SB360 will have broad consequences.

One of the issues people with disabilities must frequently face is discrimination. This discrimination is felt by people with psychosocial disability. Often a mere perception or diagnosis of mental illness results in discrimination. While studies clearly demonstrate that people with mental illness are less dangerous than their peers, the perception that we are dangerous is frequently amplified in the media. In fact, people diagnosed with mental illness are much more likely to be victims of crime than perpetrators.

People with mental illness experience discrimination in a number of arenas. Many report that emergency room and other medical personnel treat their complaints differently once they see information about a patient's mental diagnosis and treatment.

As a result we have been concerned about efforts that lower the shield of privacy regarding mental health treatment. Despite these concerns, the Legislature has reduced the protection these citizens receive twice in recent sessions. These reductions in protection make it easier for information about treatment to get out and increase opportunities for discrimination.

Passage of SB360 would increase this unfortunate trend reducing protections Wisconsinites have traditionally received.

The Independent Living Council of Wisconsin is responsible for planning for independent living for Wisconsin's citizens with disabilities. Its members represent a broad cross-section of the state and are appointed by the Governor.

Scott Walker
Governor

Shel Gross
Chairperson

Mary Neubauer
Vice-Chairperson

State of Wisconsin

Wisconsin Council on Mental Health

1 West Wilson Street, P.O. Box 7851
Madison, Wisconsin 53707-7851

Date: January 9, 2014

From: Shel Gross, Chair

To: Members of the Senate Committee on Health and Human Services

Re: **Support for Mental Health Bills**

The Wisconsin Council on Mental Health (WCMH) appreciates the Health and Human Services Committee consideration of a number of bills addressing mental health services and related issues. Together these bills build upon unprecedented support for expanding access to mental health treatment and intervention that began during the 2013-2015 biennial budget process. Importantly, these bills the efforts to create a stronger system of care for children and adults experiencing mental health disorders; one which supports earlier intervention and recovery.

The WCMH supports the following bills:

- SB360, Protected Health Information: The WCMH supported this bill but did so by a slim margin. This bill has been controversial within the mental health community because while people recognize the value of sharing information to improve integrated health care they differ around the degree to which this should be voluntary, as it is now. Unfortunately there have been many instances where medical providers, learning about a person's mental illness, discount what are legitimate physical health complaints; often with serious medical consequences to the individual. The WCMH recommends that if you support this bill that you also consider support for legislation that we anticipate to fund efforts to reduce stigma and discrimination against individuals due to their mental health conditions.

- SB362, Grants for Crisis Intervention Team Training: Crisis Intervention Training has enhanced law enforcement's ability to respond more appropriately to individuals with mental illnesses enhancing the likelihood for a positive outcome. Law enforcement officers who have taken the training report that it has greatly benefited them in dealing with often challenging situations.

- SB359, Child Psychiatry Consultation Program: This bill is based on a program from Massachusetts which was shown to greatly increase the ability of pediatricians and primary care providers to work with youth with emotional disturbances. Given the serious shortage of child

psychiatrists in most of Wisconsin this bill makes efficient use of existing resources to better meet the mental health needs of these young people. We support the bill as amended by the Assembly.

- SB366, Primary Care and Psychiatry Shortage Grant Program: This bill will address the extreme shortage of psychiatry services in many areas of Wisconsin by creating residency opportunities. We support the bill as amended by the Assembly.

- SB368: Grants to Establish Peer-Run Respite Centers: This bill will support the expansion of peer-run respite, a cost-effective alternative that can mitigate the need for emergency services. We support the bill as amended by the Assembly.

- SB409, Individual Placement and Support Program: This bill will support expansion of an evidence-based program for employment of people with serious mental illnesses, which in turn will support the recovery of these individuals. People with mental illnesses want to work but often need specialized supports in order to begin this process. We support the bill as amended by the Assembly.

- SB362, Grants for Mental Health Mobile Crisis Teams: This bill will support the development of mobile crisis in rural areas allowing a more effective intervention for someone in a mental health crisis, and often allowing for a response that does not involve incarceration.

SB127/AB360, Emergency Detention, Involuntary Commitment and SB126/AB435, Admission of Minors for Inpatient Treatment: These bills address a variety of changes to current statute developed by the Legislative Council Study Committee on Chapter 51. The WCMH appreciates the considerable efforts of this study committee to work through the challenging issues of balancing individual rights with timely access to treatment.

The WCMH has not taken positions on the following bills: SB369, County Performance on Providing Core Mental Health Services; SB410, Mental Health benefits and Reimbursement for services under Medicaid; AB488, involuntary commitment.

The WCMH is the statutorily-mandated, Governor-appointed advisory council on mental health concerns. The WCMH includes representation from a broad group of mental health stakeholders including persons living with mental illness, family members of such persons, advocates, providers (both private and public) and representatives from state agencies that address the needs of individuals with mental illnesses.

Copies:
Members, Wisconsin Council on Mental Health
Linda Harris, Administrator, Division of Mental Health and Substance Abuse Services
Joyce Allen, Director, Bureau of Prevention, Treatment and Recovery

JOAN BALLWEG

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WISCONSIN STATE REPRESENTATIVE

41ST ASSEMBLY DISTRICT

SB 127/AB 360: Emergency detention, involuntary commitment, and privileged communications and information.
SB 126/AB 435: Admission of minors for inpatient treatment.
Testimony of State Representative Joan Ballweg
Senate Committee on Health and Human Services
January 9, 2014

Thank you, Chair Vukmir and members of the Health and Human Services Committee for hearing Senate Bills 126 and 127. Both of these bills were part of the Legislative Council Special Committee on Chapter 51, which originally began work on this topic during the 2010 interim.

Senate Bill 127/Assembly Bill 360 does the following:

- Expands the criteria for taking an individual into emergency detention to include a determination "...that detention is the least restrictive alternative appropriate to the person's needs."
- Creates a "purpose" statement for the emergency detention statute. The statement says that the purpose of emergency detention is to provide, on an emergency basis, treatment by the least restrictive means possible, to individuals who meet all of the following criteria: (a) are mentally ill, drug dependent, or developmentally disabled; (b) evidence one of the statutory standards of dangerousness; and (c) are reasonably believed to be unable or unwilling to cooperate with voluntary treatment.
- Provides that the county department may approve the detention only if the county department reasonably believes the individual will not voluntarily consent to evaluation, diagnosis, and treatment necessary to stabilize the individual and remove a substantial probability of physical harm, impairment, or injury to himself, herself, or others.
- Modifies the emergency detention statute applicable to Milwaukee County that requires the treatment director of the facility in which the person is detained, or his or her designee, to determine within 24 hours whether the person is to be detained. The bill provides that when calculating the 24 hours, any period delaying that determination that is directly attributable to evaluation or stabilizing treatment of non-psychiatric medical conditions of the individual shall be excluded from the calculation.
- Eliminates that provision in the statutes that commitments that are based on the 4th standard of dangerousness may not continue longer than 45 days in any 365-day period.

- Repeals the provision that an involuntary commitment of an inmate in a state prison or county jail or house of correction ends on the inmate's date of release on parole or extended supervision.

Senate Bill 126/Assembly Bill 435 changes these provisions:

- Eliminates the need to file a petition for review of an admission of a minor under age 14 for treatment of mental illness, alcoholism or drug abuse, or developmental disability. A petition would still be required if a parent refused to consent to treatment; if a parent with legal custody or guardian cannot be found; or if there is no parent or guardian.
- Eliminates the need to file a petition for a minor age 14 to 17 who is voluntarily participating in inpatient treatment for mental illness. A petition would still have to be filed if the minor refused to join in the application; if the parent with legal custody or the guardian could not be found; or if there were no parent with legal custody or guardian. A petition would also still be required if the minor wanted treatment but the parent refused.
- Eliminates the petition requirement at the time that a short-term admission of 12 days expires, if the admission was voluntary on the part of the minor and the parent.
- Eliminates the provision that allows for no more than one short-term (up to 12 days) voluntary admission of a minor every 120 days.

  Creates subsection and paragraph titles within s. 51.13, Stats., to provide guidance to the reader regarding the subject matter of the subsections and paragraphs, and eliminates some redundant language in s. 51.13, Stats.

The Speaker's Task Force on Mental Health then reviewed the Legislative Council special committee and recommended legislation. As a member of the Speaker's task force, I can attest to how thoroughly we vetted the Chapter 51 Legislative Council bills. I ask for your support today to further this important legislation.

Thank you for your time and to the office of Senator Lazich for her work on this issue. I'm happy to answer any questions.

INTERGOVERNMENTAL RELATIONS
Milwaukee County

Testimony of Eric Peterson, on behalf of Milwaukee County

SB 127 & AB 360 – Emergency Detention & Involuntary Commitment

Senate Committee on Health

Thursday, January 9, 2014

Honorable Chairwoman Vukmir and members,

Thank you for taking testimony today on Senate Bill 127 and Assembly Bill 360, companion Joint Legislative Council bills on emergency detention, involuntary commitment and privileged communications. Milwaukee County supports this bill with particular emphasis of support for the provisions relating to tolling the 24 hour period in Sections 8 and 9 of the bill. The County Executive and Board extends their thanks to the members of the Joint Legislative Council's Special Committee on Review of Emergency Detention and Admission of Minors under Chapter 51 for their inclusion of this bill in their final report. We appreciate the bipartisan recommendation to approve this measure from the Speaker's Taskforce on Mental Health.

Too often under current law, the 24 hour period for a determination of an emergency detention is simply wasted while the patient receives medical care or other medical evaluation. Hence, the time actually allowed for determination for detention may be too short or in some cases, expire before a determination may begin. Tolling this period to begin following medical stabilization will allow for better evaluations for determinations for detention, release, or a community services placement.

This provision of the bill is of particular importance to the professionals in our county who work every day in this field. This provision will allow a thorough qualified determination for detention of a patient after they are stabilized for non-psychiatric conditions. Without this tolling of the time period, and due to the legal nature of an emergency detention, clinicians and law enforcement may never legally be able to address the mental health needs of the patient.

On behalf of Milwaukee County, I urge your support of this bill and am happy to answer questions as they arise. Thank you.

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WISCONSIN HOSPITAL ASSOCIATION, INC.

January 9, 2014

To: **Members of the Senate Committee on Health and Human Services**

From: **Matthew Stanford, WHA VP Policy & Regulatory Affairs, Associate General Counsel**
Kyle O'Brien, VP Government Relations

Re: **WHA Supports Assembly Bill 360, But Recommends that the Legislature Closely Monitor the Effect of the Two Provisions of the Bill Once Enacted**

The Wisconsin Hospital Association (WHA) was pleased that the Joint Legislative Council in 2010 formed the Special Committee on Review of Emergency Detention and Admission of Minors Under Chapter 51," (the "Study Committee"), and appreciates the work undertaken by the Study Committee on a challenging area of patient care, law, and public policy. Guided by a Mental Health Task Force formed by WHA in late 2008, WHA has been engaged in the work of the Study Committee, the Joint Legislative Council, the Speaker's Task Force on Mental Health and other efforts to identify and enact public policy that will increase the likelihood that individuals with mental health needs throughout Wisconsin consistently receive the right care, at the right time, and in the right setting. Assembly Bill 360 is one output of the Study Committee's work, and WHA offers the following comments on the bill for your consideration.

WHA supports Assembly Bill 360, but has previously expressed concerns that two provisions in the bill – the earlier start to the emergency detention "72 hour clock" and the new language requiring law enforcement to determine that an emergency detention is the "least restrictive" alternative - may unintentionally decrease the likelihood that individuals with urgent mental health needs consistently receive the right care, at the right time, and in the right setting. WHA has previously offered alternatives to those concerning provisions.

WHA and its member hospitals will monitor the practical results of those two provisions of AB360 once enacted. WHA recommends that the Legislature similarly monitor the implementation of AB 360 and in the future consider additional revisions to those provisions as needed to address unintended consequences of the two provisions that arise following enactment.

Area to Monitor #1 – AB 360 sets an earlier start to the emergency detention "72 hour clock," which for some patients will give mental health care providers less time to psychiatrically stabilize an individual in "imminent danger" and avoid a full, long-term commitment.

When an individual is brought to a hospital psychiatric unit under an emergency detention, the psychiatrist's goal is to work to stabilize the individual's condition so that an imminent danger no longer exists and the person can avoid long term commitment. Because of this care, many individuals on an emergency detention can be released without having to proceed to a probable cause hearing for a full, long-term commitment.

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If an individual is under an emergency detention, current law states that the emergency detention be ended or commitment proceedings must begin within 72 hours of the individual's arrival at "the emergency detention facility." Assembly Bill 360 amends Wisconsin law so that the "72 hour clock" starts earlier, at the time the individual is taken into custody by law enforcement. The practical result of this change is that health care providers will have less time to psychiatrically stabilize an individual that is subject to an emergency detention.

This change could be particularly problematic for individuals that may have life threatening physical injuries (such as from a suicide attempt) that require treatment before an individual can be transferred to an emergency detention facility for psychiatric stabilization. Further, this change will particularly impact the time available under an emergency detention to psychiatrically stabilize individuals in rural areas, as the change in the start of the "72 hour clock" does not take into account that significant travel may be required to transport an individual to an emergency detention facility.

Area to Monitor #2 –AB 360's new requirement that law enforcement determine if an emergency detention is the "least restrictive alternative" will likely result in inconsistent interpretation and practice.

One policy goal that the Study Committee discussed was to work to clarify in law a principle that individuals that truly agree to stabilizing treatment should not be subject to an emergency detention. WHA is supportive of that goal, but has raised concerns that the language used to achieve that goal unnecessarily uses legal jargon that will result in inconsistent application of the law and ultimately result in some individuals not getting the emergency help that they need.

Specifically the bill will require law enforcement, before they initiate an emergency detention, to determine "that taking the person into custody is the *least restrictive alternative* appropriate to the person's needs." While county crisis workers may be in a position to determine what is a "least restrictive alternative," WHA has concerns that law enforcement is not in the best position to make such determination. To ensure more consistent application of the law, WHA has previously recommended removing the proposed least restrictive jargon and instead amending law to **plainly state** that law enforcement may not take individuals that truly agree to stabilizing treatment into custody under an emergency detention.

If you have any questions, please feel free to contact Kyle O'Brien (kobrien@wha.org) or Matthew Stanford (mstanford@wha.org) at 608-274-1820.

Testimony to the Senate Committee on Health and Human Services
Shel Gross, Director of Public Policy

Thank you for your consideration of a number of bills addressing mental health services and related issues. Together these bills build upon unprecedented support for expanding access to mental health treatment and intervention that began during the 2013-2015 biennial budget process. Importantly, these bills build on the budget initiatives to create a stronger system of care for children and adults experiencing mental health disorders; one which supports earlier intervention and recovery.

Mental Health America of Wisconsin (MHA) did not take a position on the following bills:

- SB360, Protected Health Information: MHA recognizes the value of sharing information to improve integrated health care but has been concerned about the lack of input that consumers and family members have indicated they have had into the development of this bill. There is a strong sentiment within the mental health community that sharing of personal mental health information should remain voluntary and if there are information system limitations in exercising this right then the onus is on those information systems. Unfortunately there have been many instances where medical providers, learning about a person's mental illness, discount what are legitimate physical health complaints; often with serious medical consequences to the individual. MHA recommends that if you support this bill that you also consider support for legislation that we anticipate to fund efforts to reduce stigma and discrimination against individuals due to their mental health conditions.

- AB488, Involuntary Commitments: This bill replaced AB451 which MHA strongly opposed. While MHA is not clear that this legislation is needed we can live with the impact this bill will have.

- SB369, County Performance on Providing Core Mental Health Services.

MHA supports the following bills:

- SB362, Grants for Crisis Intervention Team Training: Crisis Intervention Training has enhanced law enforcement's ability to respond more appropriately to individuals with mental illnesses enhancing the likelihood for a positive outcome. Law enforcement officers who have taken the training report that it has greatly benefited them in dealing with often challenging situations.

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- SB359, Child Psychiatry Consultation Program: This bill is based on a program from Massachusetts which was shown to greatly increase the ability of pediatricians and primary care providers to work with youth with emotional disturbances. Given the serious shortage of child psychiatrists in most of Wisconsin this bill makes efficient use of existing resources to better meet the mental health needs of these young people. We support the bill as amended by the Assembly.

- SB366, Primary Care and Psychiatry Shortage Grant Program: This bill will address the extreme shortage of psychiatry services in many areas of Wisconsin by creating residency opportunities. We support the bill as amended by the Assembly.

- SB368: Grants to Establish Peer-Run Respite Centers: This bill will support the expansion of peer-run respite, a cost-effective alternative that can mitigate the need for emergency services. We support the bill as amended by the Assembly.

- SB409, Individual Placement and Support Program: This bill will support expansion of an evidence-based program for employment of people with serious mental illnesses, which in turn will support the recovery of these individuals. People with mental illnesses want to work but often need specialized supports in order to begin this process. We support the bill as amended by the Assembly.

- SB410, Mental Health benefits and Reimbursement for services under Medicaid: this bill addresses current prior authorization practices that are inconsistent with best practices.

- SB362, Grants for Mental Health Mobile Crisis Teams: This bill will support the development of mobile crisis in rural areas allowing a more effective intervention for someone in a mental health crisis, and often allowing for a response that does not involve incarceration.

SB127/AB360, Emergency Detention, Involuntary Commitment and SB126/AB435, Admission of Minors for Inpatient Treatment: These bills address a variety of changes to current statute developed by the Legislative Council Study Committee on Chapter 51. MHA appreciates the considerable efforts of this study committee to work through the challenging issues of balancing individual rights with timely access to treatment.

TO: **Members, Senate Committee on Health and Human Services**

FROM: **Wisconsin Psychiatric Association**

DATE: **January 9, 2014**

RE: **Support for SB 360, SB 359 and SB 366**

Wisconsin faces an ever-increasing shortage of qualified physicians to provide care to our population – a problem particularly acute in the provision of mental health care. On behalf of our psychiatrist members, we wish to express our support for Senate Bills 360, 359 and 366 that relate to Wisconsin's need to increase access to mental health care, and better utilize our existing mental healthcare resources.

SB 360 – Mental Health Care Coordination – Patient medical records are legally protected documents. The Federal Health Insurance Portability and Accountability Act (HIPAA) was intended to provide a national standard for the protection of health records, but with regard to mental health records HIPAA provides one set of standards regarding permissible disclosure to other physicians and health providers, while Wisconsin law provides another, often more stringent standard. This disparity results in making the coordination of a patient's care among various caregivers more difficult.

When psychiatrists and other therapists see patients, they maintain therapeutic notes that may describe intimate details of the conversation. HIPAA (and Wisconsin if SB 360 becomes law) does not allow disclosure of intimate therapeutic notes from each patient encounter, but the information that can be shared does provide other physicians and providers sufficient information to help avoid duplicative care/treatment, to help avoid negative interactions among different treatments/medications, and to better allow for a comprehensive care plan for patients dealing with both mental and physician health issues. The results are better care, better outcomes and reduced costs. Please support SB 360.

SB 359 – Pediatric Psychiatry Access Line – The shortage of child psychiatrists is severe in many parts of our state. Waiting lists are often very long even when emotional and behavioral challenges are acute. Primary care clinicians report growing challenges in addressing the mental health needs of their patients and their families. Estimates suggest that nearly 20% of children in U.S. suffer from some form of mental illness yet only one-fifth of these children have access to psychiatric treatment. To address this national challenge, Massachusetts, Washington State, Minnesota and a growing list of other states have instituted Pediatric Psychiatry Access Line programs to support primary care clinicians. SB 359 is modeled from those programs and will provide Wisconsin's primary care physicians and their patients access to specialized pediatric psychiatric care where none is currently available. Please support SB 359.

SB 366 – Primary Care and Psychiatry Shortage Grant Program -- Physicians complete undergraduate degrees, medical school, 3 or more years of post-medical school clinical training, and often additional years of more specialized training. As the media regularly reports, the cost of education continues to rise and physicians routinely complete school and training owing hundreds of thousands of dollars in student loans. SB 366 is a pilot program that will provide real financial incentive for Wisconsin-trained physicians to live and work in rural and underserved areas of Wisconsin, providing necessary mental health services and treatment, and do so in a way that will encourage them to settle and practice permanently in those areas. Please support SB 366.

Wisconsin Medical Society

Your Doctor. Your Health.

TO: Senate Committee on Health and Human Services
Senator Leah Vukmir, Chair

FROM: Mark Grapentine, JD
Senior Vice President - Government Relations

DATE: January 9, 2014

RE: Support for:
Senate Bill 359 – Child Psychiatry Consultation Program
Senate Bill 360 – Coordination of Mental Health Care
Senate Bill 366 – Primary Care and Psychiatry Shortage Grant Program

On behalf of more than 12,000 members statewide, the Wisconsin Medical Society thanks the committee for this opportunity to share our support for the work accomplished by the Speaker's Task Force on Mental Health and the many recommendations which are now before the State Legislature as separate bills. There are several bipartisan bills which help address the need for better and more coordinated mental health care. The bills before the committee can help start to meet our citizens' health care needs – particularly those with mental health challenges.

The Society supports the Task Force's work and this opportunity to share our specific support for three of the bills before the committee today:

Senate Bill 359 – Child Psychiatry Consultation Program
Wisconsin children with mental health needs face coverage gaps. Many counties have no child or adolescent psychiatrists within their borders and most other counties have fewer than four of these needed specialists, making it difficult to find a timely referral for a child in need. Senate Bill 359 will help start to fill this gap and give more children with mild to moderate mental health needs access to care.

The proposal mimics successful programs around the country and will help front-line providers such as pediatricians and family physicians gain needed information about caring for a patient. This type of program not only gives the physician requesting information immediate help, but can actually help prevent the need for future consultations due to the gradual, long-term learning the consultations foster.

Senate Bill 360 – Coordination of Mental Health Care
For too long, Wisconsin citizens receiving mental health care have faced a higher burden for care coordination. The Society believes Senate Bill 360 will result in better care, better outcomes and lower mental health care costs for patients who deserve the same quality of care as those who seek care for exclusively physical treatment. The Society is pleased the State Legislature is calling for an end to the barriers of mental health care coordination.

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The proposal specifically enables physicians and other health care providers to share patient health record information related to mental health care if it is already allowed under federal regulations. Any information sharing would have to be for the purposes of patient treatment, payment, or health care operations which are defined by federal regulation.

The Society supports improving state law by removing inefficient requirements limiting physician access to certain mental health records. And while remedying these limits, Senate Bill 360 still supports patient privacy: the bill maintains confidentiality of psychiatrists' psychotherapy notes. The bill allows physician access to items helpful to provide the best care: medication monitoring notes and clinical test results, summaries of the patient's symptoms and diagnosis, summaries of the patient's functional status and treatment plan, and summaries of the patient's progress and prognosis – disclosure of all which are currently allowed under federal HIPAA (Health Insurance Portability and Accountability Act) law. The Society believes SB 360 properly finds the balance between maintaining proper privacy law and allowing physicians to better coordinate care for those with mental health needs.

Senate Bill 366 – Primary Care and Psychiatry Shortage Grant Program
The looming physician workforce shortage has been well-documented. Shortages are particularly acute in certain specialties. The Society believes Senate Bill 366 is one step that can help this situation by encouraging physicians to practice primary care or psychiatric medicine in a medically underserved area of the state.

The grant funding included in the bill is divided over a three-year period among 24 physicians: $750,000 for 12 primary care physicians and $750,000 for 12 psychiatrists. The direct service grants should create a unique combination of flexibility and accountability that can ultimately steer physicians to practice in high-demand fields in underserved parts of the state. The Society believes this proposal is a useful tool to help further our state's efforts to recruit and retain physicians in health care shortage and underserved rural areas.

The Speaker's Task Force on Mental Health fostered an important discussion about the challenges patients face when they need mental health treatment and ways to empower heath care professionals to provide better care. The Society has a long history of advocating for increased attention to the state's mental health efforts; the Task Force's product and today's committee hearing are welcome developments toward this goal.

Thank you for this opportunity to share the Society's opinions on these issues. If you have further questions, please feel free to contact us at any time.