PROPOSAL TO CREATE
THE MILWAUKEE COUNTY MENTAL HEALTH BOARD
TO OVERSEE AND DIRECT
THE DELIVERY AND FINANCING OF MENTAL HEALTH SERVICES
IN MILWAUKEE COUNTY

by

Rep. Joe Sanfelippo

Senator Leah Vukmir

February 12, 2014

PROBLEM DEFINITION

The problems and challenges faced by Milwaukee County in carrying out its statutory mandate to provide mental health services have been widely discussed, analyzed and documented by various stakeholders including consumers, advocacy groups, government officials, and the local media. In particular the *Milwaukee Journal Sentinel* has published a series of award-winning articles by its investigative journalists since 2006 revealing a system that is broken and in need of an overhaul. Reporter Meg Kissinger, in a November 5, 2013 article, summarized the mental healthcare crisis as follows:

> Despite decades of calls for change, Milwaukee County still has the most lopsided mental health system in the country, pouring more money into expensive and inefficient hospital care instead of into programs that can help more people. That's the opposite of what a healthy system looks like.
>
> The outdated Mental Health Complex drains the budget, leaving little left for more effective care such as walk-in clinics and wrap-around services that would let thousands of people with illnesses that affect the way they think stay in their homes with support.
>
> Politicians have promised reforms for 40 years. While the community awaits improvements, people are dying of abuse and neglect. Thousands more who need care are not getting it and are suffering. Other cities have shown there is a better way. http://www.jsonline.com/news/milwaukee/chronic-crisis-how-can-milwaukee-countys-broken-mental-health-system-be-fixed-229974841.html.)

Disability Rights Wisconsin, a federally mandated watchdog group, commissioned a board certified psychiatrist in the spring of 2013 to investigate six 2012 deaths that occurred at the county's mental health hospital. The two excerpts below are from Journal Sentinel Chronic Crisis Series stories printed on January 14, 2014 and January 21, 2014 respectively.

"An independent doctor, hired last spring to examine six 2012 deaths at the Milwaukee County Mental Health Complex, found that medical treatment there was so poor, the place should be closed". http://www.jsonline.com/news/milwaukee/poor-care-called-factor-in-four-deaths-at-mental-health-complex-b99183920z1-240225111.html

William Knoedler, the psychiatrist who conducted the review of the six deaths from 2012, said he is "appalled at how the people of Milwaukee have tolerated" the poor quality of care at the complex. http://www.jsonline.com/news/milwaukee/mental-health-complex-cited-in-another-death-b99188903z1-241390981.html

Compounding the problem in Milwaukee is the extreme financial pressure placed upon the county

by a state-directed funding mechanism that puts critical services such as mental healthcare in competition for scarce resources against other county-provided programs and services. This problem is not unique to Milwaukee County. The state's fragmented model of delivering mental health services through the counties is negatively affecting all Wisconsin counties and is unsustainable.

BACKGROUND

In its March 2013 report entitled "Assessing the Financial Outlook of Milwaukee County's Behavioral Health Division", the Public Policy Forum writes:

"BHD provides a variety of inpatient, emergency and community-based care and treatment to children and adults with mental health and substance abuse disorders. The county's role is dictated primarily by the Wisconsin Statutes, which specifically assign to Milwaukee County government responsibility for the "management, operation, maintenance and improvement of human services" in the county, including mental health treatment and alcohol and substance abuse services (Section 46.21).

Section 51.42 of the Wisconsin Statutes lays out more specifically the mandated role for Milwaukee County pertaining to the provision of behavioral health services:

"The county board of supervisors has the primary responsibility for the well-being, treatment and care of the mentally ill, developmentally disabled, alcoholic and other drug dependent citizens residing within its county and for ensuring that those individuals in need of such emergency services found within its county receive immediate emergency services. This primary responsibility is limited to the programs, services and resources that the county board of supervisors is reasonably able to provide within the limits of available state and federal funds and of county funds required to be appropriated to match state funds."

The county has interpreted this language as a legal requirement to provide immediate emergency services for persons with mental illness and substance abuse disorders. That interpretation, in turn, has been defined as a requirement that the county also provide a broad range of inpatient, long-term care and outpatient services to indigent persons in order to curtail the need for emergency services and meet the more general statutory language pertaining to well-being, treatment and care. Notably, private health systems and hospitals also have taken into account this interpretation and have considered it to be Milwaukee County's ultimate responsibility to provide for the care of indigent individuals with mental health and substance abuse disorders.

At its Mental Health Complex, Milwaukee County owns and runs an inpatient hospital consisting of five licensed units (one of which is for children and adolescents); two nursing home facilities (a 70-bed nursing home for individuals with complex needs who require long-term treatment and a 72-bed facility for individuals diagnosed with both developmental disability and serious behavioral health needs); a Psychiatric Crisis Service (PCS) that serves persons in need of emergency mental health treatment, more than 60% of whom typically are brought in by law enforcement on an Emergency Detention; a mental health Access Clinic; and an Observation Unit. It also contracts for a wide variety of community-based services, including targeted case management, community support programs, community residential services, outpatient treatment,

substance abuse treatment and recovery support, crisis respite, and specialized services for children and adolescents.

The total expenditure budget for BHD in 2012 is $188 million, making it the second largest organizational unit in Milwaukee County government after the Family Care program's Care Management Organization (CMO). BHD's 2012 property tax levy is $61 million, again ranking it second after the Office of the Sheriff. Other key revenue sources are state/federal revenue and direct reimbursement from patient care.

BHD also is one of the county's largest functions in terms of individuals served. For example, on an annual basis, BHD typically handles close to 4,000 inpatient and 13,000 PCS admissions, provides or administers services to more than 2,000 individuals in case management programs, and administers community-based substance abuse services to more than 4,500 individuals.

Finally, BHD is the second largest county organizational unit in terms of its number of employees (first is the sheriff), with 810 full-time equivalent employees (FTEs) budgeted in 2012." (Retrieved from:http://county.milwaukee.gov/ImageLibrary/Groups/cntyHHS/BHD/MH-Redesign/Resources/AssessingtheFinancialOutlookof.pdf.)

PROPOSED SOLUTION

Legislation shall be enacted to create a statutory board with responsibility for overseeing and directing the delivery and financing of mental health services in Milwaukee County required to be provided under Section 51.42, Wis. Stats. The board shall be managed by an active 11-member Board of Directors along with two representatives of academia in an *ex-officio* capacity to be known as "The Milwaukee County Mental Health Board" (MCMHB). The mission of the Board shall be:

The Milwaukee County Mental Health Board shall oversee the provision of mental health and related services to and for the citizens of Milwaukee County, as required under Section 51.42, Wis. Stats. The Board shall have executive level responsibility to conceptualize, plan, direct and implement on an ongoing basis a mental health delivery and financing system ("System") that relies on (a) evidence-based best practices in order to provide high-quality, compassionate and individualized care for patients, and (b) sound business practices in order to ensure that the overall cost of the care, on a per-unit or other quantifiable basis, is the least amount that is required to provide the foregoing care.

In carrying out its mission, the Board shall be guided by the following principles:

1. The System shall seek to protect the personal liberty and dignity of mental health patients by treating them in the least restrictive environment to the maximum extent possible.
2. The System shall be community-based and recovery-oriented. Services shall be provided in community-based non-institutional settings to the maximum extent feasible. Admission to an

inpatient psychiatric hospital shall be limited to severe episodic cases where such admission is required for the health and safety of the patient; such admission shall be monitored daily, shall be viewed as a short term solution, and the client shall be discharged to a community-based option as soon as that can be done safely.

3. The System shall promote screening and early intervention strategies in order to identify persons at-risk for mental health illnesses and refer them for treatment. These strategies shall include training programs for treatment providers in crisis intervention, and the creation of crisis mobile teams.
4. The System shall be case-management driven. Each client shall be assigned a case manager whose responsibility will be to manage the care of the client on an ongoing, regular basis. The use of innovative technology, including telehealthcare and home monitoring systems, shall be embraced where appropriate.
5. The System shall seek to divert persons suffering from mental illnesses from the Correctional system where appropriate.
6. The System shall promote not simply maintenance but recovery, with the goal of reintegrating patients into the community enabling them to become productive members of society.

PROPOSED BOARD COMPOSITION

The Milwaukee County Mental Health Board (MCMHB) shall be composed of 13 members who collectively possess the professional credentials, expertise and experience required to effectively and efficiently manage the System ("Members"). The Members shall be appointed to staggered 4-year terms. The agencies listed below shall each be responsible for recommending Members to the Governor for his nomination with confirmation by the Senate.

1. A psychiatrist or psychologist who is suggested by the Milwaukee County board of supervisors. The Milwaukee County board of supervisors shall solicit suggestions for psychiatrists and psychologists from organizations including the Wisconsin Medical Society, Medical Society of Milwaukee, the Wisconsin Psychological Association and Wisconsin Association of Family and Children's Agencies (WFAFCA) for individuals who specialize in a full continuum of behavioral health services for children and adolescents. The Milwaukee County board of supervisors shall suggest to the governor 4 psychiatrists and psychologists for this board membership position.

2. A psychiatrist or psychologist who is suggested by the Milwaukee County board of supervisors. The Milwaukee County board of supervisors shall solicit suggestions for psychiatrists and psychologists from organizations including the Wisconsin Medical Society, Medical Society of Milwaukee, the Wisconsin Psychological Association and the Milwaukee Co-occurring Competency Cadre (MC3) for individuals who specialize in a full continuum of behavioral health services for adults. The Milwaukee County board of supervisors shall suggest to the governor 4 psychiatrists and psychologists for this board membership position.

   At least one of the two above positions nominated by the Governor must be a psychologist.

3. A representative of the community who is a consumer suggested by the Milwaukee County board of supervisors. The chairperson of the Milwaukee County board of supervisors shall solicit suggestions for individuals who have lived with mental illness, substance abuse or co-occurring from organizations including Warmline, Milwaukee Mental Health Task Force and the Milwaukee Co-occurring Competency Cadre (MC3). The Milwaukee County board of supervisors shall suggest to the governor 4 representatives of the community for this board membership position. (could be consumer, advocate or family member)

4. A medical director who is suggested by the Milwaukee County executive. The Milwaukee County executive shall solicit suggestions from organizations including the Wisconsin Hospitals Association for individuals who specialize in a full continuum of behavioral health and medical services including emergency detention, inpatient, residential, transitional, partial hospitalization, intensive outpatient, and wraparound community–based services. The Milwaukee County executive shall suggest to the governor 4 medical directors for this board membership position.

5. An individual specializing in finance and administration suggested by the Milwaukee County executive. The Milwaukee County executive shall solicit suggestions from organizations including the Wisconsin Hospitals Association, Wisconsin County Human Services Association and Public Policy Forum for individuals with experience in analyzing healthcare operating expenses, revenues, and reimbursement and expertise in financial restructuring for sustainability. The Milwaukee County executive shall suggest to the governor 4 individuals specializing in finance and administration for this board membership position.

6. A clinician with experience in the delivery of substance abuse services (AODA) who is suggested by the Milwaukee County executive. The Milwaukee County executive shall solicit suggestions from organizations including the Milwaukee Co-occurring Competency Cadre (MC3) specializing in providing AODA services.

7. An individual with legal expertise. The governor shall solicit suggestions from organizations including the Legal Aid Society of Milwaukee or Legal Action Wisconsin, Community Justice Counsel, and Disability Rights WI for 4 individuals who have legal expertise specializing in emergency detention regulatory requirements including policies, procedures, provider responsibilities, and patient rights including judges, lawyers, crisis intervention team police officers, and other service providers.

8. A clinician representing community-based mental health service providers. The governor shall solicit suggestions from organizations including the Milwaukee Healthcare Partnership and the Milwaukee Mental Health Task Force and the Milwaukee Co-occurring Competency Cadre (MC3), specializing in Community–based, recovery–oriented, mental health systems.

9. An individual who is a consumer or family member representing community-based mental health service providers. The governor shall solicit suggestions from organizations including the Milwaukee Healthcare Partnership and the Milwaukee Mental Health Task Force and the Milwaukee Co-occurring Competency Cadre (MC3), specializing in Community–based, recovery–oriented, mental health systems.

10. An employee of the department of health services who has direct knowledge of funding and systems, oversees the state mental health institutes, and is the official contact for the federal government on behavioral health issues or, if this individual is unavailable to serve on the board, the secretary of the department of health services or his or her designee.

11. The Milwaukee Mental Health Task Force Chairperson or his or her designee.

12. NON-VOTING MEMBER A member of academia who is a clinician. The Governor shall solicit suggestions only from the Medical College of WI specializing in community–based recovery–oriented mental health systems, maximizing comprehensive community–based services, prioritizing access to community–based services and reducing reliance on institutional and inpatient care, protecting the personal liberty of individuals experiencing mental illness so that they may be treated in the least restrictive environment to the greatest extent possible, providing early intervention to minimize the length and depth of psychotic and other mental health episodes, diverting people experiencing mental illness from the corrections system, when appropriate, or maximizing use of mobile crisis units and crisis intervention training.

13. NON-VOTING MEMBER A member of academia who is a clinician. The Governor shall solicit suggestions only from the University of Wisconsin – Madison specializing in community–based recovery–oriented mental health systems, maximizing comprehensive community–based services, prioritizing access to community–based services and reducing reliance on institutional and inpatient care, protecting the personal liberty of individuals experiencing mental illness so that they may be treated in the least restrictive environment to the greatest extent possible, providing early intervention to minimize the length and depth of psychotic and other mental health episodes, diverting people experiencing mental illness from the corrections system, when appropriate, or maximizing use of mobile crisis units and crisis intervention training. (permanent member)

ADMINISTRATOR

The day-to-day affairs of the MCMHB shall be delegated to an "Administrator", who shall be nominated by the County Executive and approved by the Board. The administrator will be accountable to and serve at the pleasure of the Board and the Executive, outside any civil service mechanism to maximize accountability to the policy makers. The qualifications of the Administrator should include:

1. At least a baccalaureate degree in business administration or healthcare administration from an accredited University.

2. At least seven years of experience in (a) direct supervision and management, (b) budgeting and finance, and (c) behavioral healthcare.
3. A proven track record implementing new programs and services.
4. Experience and expertise in the role of technology (including home-monitoring systems and telehealthcare) in delivering healthcare services.
5. Experience in working with multiple stakeholders, including community organizations, advocacy groups, government agencies, health care systems, insurance companies, mental healthcare professionals, and clients with mental illnesses.
6. A personal commitment to protecting the rights and dignity of persons suffering from mental illnesses.

PROGRAMS AND SERVICES

The MCHMB would have jurisdiction over and responsibility for all programs and services currently under the Milwaukee County Behavioral Health Division. A summary can be found in the county's annual budget under org unit 6300.
http://county.milwaukee.gov/MilwaukeeCountyBudget

OTHER STATUTORY REQUIREMENTS

The proposal requires the MCMHB to provide an annual report to the Department of Health Services, the Legislature and county describing how money is spent, what programs and services are being provided and how service to the community has improved over the past year. The report is directed to be made readily available to public. As with other county departments, the independent County Comptroller will have oversight of spending which includes audit authority.

The state Legislative Audit Bureau is also directed to conduct financial and performance audits of the MCMHB with reporting requirements similar as outlined above.

The Board is also directed to study alternative methods of funding mental health services to ensure long-term sustainability and to report the findings to the State and County.

CONCLUSION

The reform plan put forth in this proposal is aimed at addressing the immediate, well documented threats to patient safety in Milwaukee, as well as piloting new methods for oversight and financing a mental health system that could be used as a model for other counties or regions around the state in the future.

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February 11, 2014

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RE: Comments on AB 718 on the Creation of the Milwaukee County Mental Health Board.

I am writing you today to express concerns that I have regarding proposed Wisconsin Bill AB 718 on the establishment of the Milwaukee County Mental Health Board (MCMHB). As the elected Milwaukee County Comptroller I serve as the Chief Financial Officer for Milwaukee County. My main concern is that AB 718, as drafted, will have adverse affects on the County's financial condition. I have included a more detailed discussion below of the items that will impact the County along with suggestions to mitigate the financial issues presented.

In general, the proposed funding structure for the services provided under MCMHB will have an adverse effect both on the tax levy allocated to other departments in Milwaukee County and on the County's general financial health. There are two major areas of concern:

- The bill provides no limit on the amount of tax levy required to fund the services provided by the MCMHB.

- There is no ability by Milwaukee County to hold any surplus of the MCMHB in trust to offset any future deficits incurred by the MCMHB.

As an aside, it is our understanding that the MCMHB would still be subject to the same financial controls of any department of Milwaukee County, even though their policy direction would come from the MCMHB. If this understanding is not correct, please let me know.

<u>Required Minimum Expenditure Budget for the MCMHB:</u>

The proposed language in AB 718 places a requirement that the minimum expenditure budget for mental health services be $177,425,000, but does not place any limit on the amount of tax levy

funding for mental health services. As a result, any declines in Federal or State grants funding, patient revenues or any other revenues, would require an equal increase in Milwaukee County tax apportioned to mental health services. Therefore the tax levy for mental health services of $56.9 million for 2014 would increase, requiring either a decrease in tax levy funding for other County functions or an increase in the property taxes paid by residents.

Further, any across the board savings provisions instituted by the County such as employee benefit changes, while saving expenditures for the MCMHB, would simply allow MCMHB to increase other expenditure categories since its expenditure base cannot be decreased.

Additionally, AB 718 allows total expenditures to rise for MCMHB by the lesser of the increase in the Consumer Price Index, or the annual increase in the County tax levy. While the statute would allow for an increase in expenditure authority, there is no limit on the annual increase in MCMHB tax levy by a proportional percentage. As written, the entire increase in expenditure authority for MCMHB, could be funded by tax levy, thus disproportionately benefiting MCMHB, versus the rest of the County.

It could occur, that the County's annual increase in tax levy is simply due to an increase in debt, thus providing an increase in tax levy for the MCMHB, when the full tax levy increase was intended for debt payments.

A possible solution to this would be to change the minimum funding from an expenditure commitment to a property tax levy commitment, or place a limit on both expenditures and tax levy commitment. An additional issue could occur with an expenditure limit, in that MCMHB is able to find additional funding sources for existing programs, but cannot increase the expenditure authority due to the limitations.

MCMHB Reserve

Under the bill, the MCMHB would be allowed to maintain any year end surplus it generates in a reserve to help increase expenditures authority in subsequent years. The surplus would be required to be used in the subsequent budget cycle and would result in an increase in expenditure authority for MCMHB for that subsequent budget cycle. The additional expenditure authority, under the current draft of AB 718, would then be removed the following year, thus creating swings in operating costs. However, any deficits incurred by the MCMHB would have to be absorbed by Milwaukee County. As the Chief Financial Officer, this scenario creates a dynamic that is difficult to manage and could have repercussions on the County's and MCMHB's ongoing finances should the MCMHB have swings in its year end results.

Further, because the MCMHB is not responsible for any deficits, there is no incentive for the managers of mental health services to control costs.

A solution to this issue would be to allow any surplus in MCMHB to still be placed in a reserve, but be used to offset deficits. The reserve could be used in emergencies for MCMHB operations upon the achievement of a minimum reserve balance. This would be similar to a program in place for Milwaukee County Family Care Operations, who is required to maintain certain

minimum reserves. The reserve would **not** be available to create additional expenditure authority during the annual budget cycle.

Please feel free to contact me at 414.278.4199 to discuss these issues and proposed solutions. Thank you for your consideration.

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Dean Cady, Clerk of Committee, Senate Committee on Health and Human Services
AJ Scholz, Clerk of Committee, Assembly Committee on Health
Chris Abele, County Executive of Milwaukee County
Marina Dimitrijevic, County Chair of Milwaukee County

State of Wisconsin
Department of Health Services

Scott Walker, Governor
Kitty Rhoades, Secretary

Department of Health Services Testimony on AB 718 and SB 565
Related to the Mental Health Functions, Programs and Services in Milwaukee County
February 12, 2014

Thank you Chair Vukmir and Chair Severson for the opportunity to testify today on Assembly Bill 718 and Senate Bill 565 related to the mental health functions, programs and services in Milwaukee County. My name is Kevin Moore, and I am the Deputy Secretary for the Department of Health Services.

The Department of Health Services provides mental health services to residents of Wisconsin in a number of different ways. The Division of Mental Health and Substance Abuse Services is organized in two areas, one focusing on service delivery in the community and the other managing four of the Department's seven 24/7 facilities. The Wisconsin Resource Center provides mental health treatment to individuals in the state's correctional system. The Sand Ridge Secure Treatment Center provides specialized treatment services for persons committed under Wisconsin's sexually violent persons law, Chapter 980.

The Department also owns and operates two psychiatric hospitals. The Mendota Mental Health Institute (opened in 1860) specializes in serving patients with complex psychiatric conditions, often combined with certain problem behaviors. Mendota provides a secure setting to meet the legal and behavioral needs of our patients. Mendota also operates outpatient treatment services for individuals in the community. Winnebago Mental Health Institute (opened in 1873) specializes in serving both male and female children, adolescents and adults with complex psychiatric conditions that are often combined with challenging behaviors. Winnebago provides a secure setting to meet the legal, behavioral, treatment and recovery needs of mental health care consumers.

Both the Mendota Mental Health Institute and the Winnebago Mental Health Institute are accredited by the Joint Commission and are two of four Joint Commission Accredited psychiatric hospitals in the state.

The Department has evaluated this legislation as it would impact the finances of and the liability to the state and the Department of Health Services. This should not be viewed as commentary on the need for reforms in the delivery of quality mental health services in Milwaukee County. However, the Department of Health Services serves as the regulator of mental health facilities, the provider of care for those who are committed to a state-operated mental health institution and the payer for care for people with mental health needs through the state's Medical Assistance program and other community-based programs. It is because of these many roles the Department holds that there are concerns

related to the financial responsibility of the Department in relation to the new Board as well as concerns about the Department's membership to the board.

As mentioned earlier, a core function of the Department is the regulation of health care facilities, including psychiatric hospitals. Under the bill, the newly created Board would have the Secretary of the Department of Health Services or her designee serve as a Board member. There are concerns that the Department's membership to the Board will result in a conflict of interest, and would force the Department's representative to abstain in the Board's decision-making process.

Furthermore, the Department of Health Services holds multiple contracts with Milwaukee County. Under the bill, no member of the Board may be a contractor with Milwaukee County. It is unclear if these contracts would inhibit the ability to have a Department representative on the Board.

Finally, the Department is responsible for the regulation of mental health facilities in Wisconsin, including the Milwaukee County Behavioral Health Complex. As reviews by state surveyors are conducted, there are concerns that any action taken by the state or federal government to ensure compliance with state and federal regulations would create an additional conflict of interest for the Department's Board member and the Department itself.

To address this issue, the Department would suggest removing the requirement that an employee of the Department of Health Services be appointed to the Board and allow an additional community member to serve the Board.

The Department would also like to mention the Department's potential financial responsibility in relation to the Board. As is mentioned in the Department's fiscal note, it is unclear if the Department of Health Services would be financially liable for costs that are incurred that are above the $177 million set aside in the legislation. Language to address this issue would help clarify the state's financial responsibility.

While these issues are cause for concern for the Department, we would like to reiterate our support for reforming the current system to put an emphasis on providing services to mental health consumers in the community. As was highlighted in Governor Walker's 2013-15 budget and the bipartisan initiatives from the Speaker's Task Force, Wisconsin is moving in the right direction in providing access to care in the community to reduce the need for institutional care. We remain committed to working with the Legislature in meeting this objective.

Thank you for your time on this important issue. We would be happy to answer any questions you might have.

The Milwaukee Mental Health Task Force is committed to being a leader in identifying issues faced by all people affected by mental illness, facilitating improvements in mental health services, giving consumers and families a strong voice, reducing stigma, and implementing recovery principles.

Questions and Analysis Regarding AB 718/ SB 565 – Milwaukee County Mental Health Board
February 12, 2014

A proposal for a Milwaukee County Mental Health Board was introduced on February 3rd, sponsored by Rep. Joe Sanfelippo and Sen. Leah Vukmir. We appreciated the opportunity for members of the Milwaukee Mental Health Task Force (MMHTF)Steering Committee to meet with Rep. Sanfelippo in January to provide input for proposed legislation to create a specialized board in Milwaukee County to direct decisions about the structure, service array, and delivery of publicly funded mental health and substance abuse services.

The MMHTF endorses the need for positive change in publicly funded mental health services in Milwaukee County, and is very interested in working collaboratively with policy makers to consider an improved oversight model. The proposed legislation (AB 7178/ SB 565) is lengthy and complex. Members of the Steering Committee have been reviewing the legislation and it will be a topic at the February 11th Mental Health Task Force meeting. This document lists some of our initial questions and response to the bill.

1. STAKEHOLDER INPUT AND TIMELINE

- There is a great deal of complexity to this lengthy proposal and we all want to ensure it is as successful as possible- stakeholder input and broad support are key success factors. We understand that the only planned public hearing will be held in Madison this Wednesday with an option for remote access from Milwaukee - time and place to be determined. This gives very limited time to get the word out and for people to arrange time off and transportation.

  Given that there are floor periods through April 3rd, we urge that an additional public hearing be held in Milwaukee, the only county in the state that will be impacted by this bill, and also urge that time be allotted for further dialogue with stakeholders, and to consider amendments before execing on the bill. The Speaker's Task Force on Mental Health held multiple listening sessions and we believe this was a key factor in contributing to the positive outcomes and the broad support for the committee's work. Following the public hearing, adequate time should be provided for stakeholders to meet with legislators and for amendments to be considered.

2. SCOPE OF SERVICES OVERSEEN BY THE BOARD/ BOARD MEMBERSHIP

- Given the importance of carefully defining the role, authority, and functioning of the Milwaukee County Mental Health Board (MCMHB), we suggest it would be helpful if the legislation had a narrower scope that authorizes the creation of the MCMHB – and lays out a specific timeline (perhaps 10 months) for the Board to be appointed, convene, and for the experts on the MCMHB to work out a detailed plan as to their functioning. This could be presented to the DHS Secretary for approval and the MCMHB could assume full control by 2015. That would still align with the current bill's timeline, but charge the Board itself with the responsibility of defining their role, oversight, and governance.
- The bill seems inconsistent regarding the programs and services that the "Mental Health" Board will oversee – it is essential that the scope be clarified and consistent throughout the bill. Is the intent to limit the focus to crisis, inpatient and long term care services for adults at the Milwaukee County Mental Health Complex? This would seem to be a high priority for the MCMHB, given the number of citations from DQA and CMS, as well as other investigations. The experts who can address the inpatient and institutional services provided at the Complex, will be different from those with expertise in community services and supports. If the focus includes mental health services for children and adolescents (Milwaukee Wraparound), community based mental health services for adults, and substance abuse treatment, the scope is much broader. It will be important to include community members with lived experience and professionals with expertise in these domains. The language in the bill is also inconsistent as to whether or not disability services are included.
- We fully endorse the values contained in 51.41 (1) (e) for a community-based, person-centered, recovery-oriented system that seeks to protect the personal liberties of individuals living with mental illnesses. These are values we have long promoted. We appreciate the inclusion of individuals living with mental illness, family members and advocates as potential members of the MCMHB. This is critical to operationalize what it means to be recovery-oriented. As noted above, Board membership must be closely aligned to the programs and services the Board will oversee to ensure Board members have the needed expertise. We believe that the perspective of people with lived experience of mental illness is a key success factor for the

MCMHB. While it is positive that the proposal requires a Board member with this perspective; we note that other DHS boards such as the WI Council on Mental Health require at least one third consumer members and believe that approach would yield significant benefit. We ask that the Board prioritize meaningful consumer involvement.

- The bill indicates that the board may transfer jurisdiction to itself over a county function, service or program that pertains to mental health or is highly integrated with mental health services. That mandate is potentially very broad and can be accepted to create conflict between the MCMHB and other county agencies and stakeholders, and make any long range planning and budgeting difficult.
- Milwaukee is the most diverse county in the state and the city of Milwaukee is majority minority. To ensure that services are culturally competent, what will be done to ascertain that the MCMHB's membership reflects the significant racial and ethnic diversity of Milwaukee County and of residents receiving services? When we looked at some other existing boards with a similar role (board in Ohio), this was addressed.

3. BUDGET CONCERNS

- The bill locks in the budget at $177,455,000 – we would like to better understand the rationale for this number and programs and services included. We are concerned this does not provide needed flexibility as both expenses (i.e. physical plant costs which must be addressed, new union contracts and related increased costs) and revenue (grants that come and go, changes in state and federal revenue) continually fluctuate. We are particularly concerned that the money for community services be protected and separated from the institution's budget to ensure urgently needed community services are maintained and expanded. It is widely recognized that Milwaukee County needs to significantly increase access to community services and that the major unmet needs in the community remain – the lack of these services is a major contributor to over 12,000 people a year going to the county emergency room. By locking in expenses, it will be very difficult to increase funding for community services. For example, new money from the state and federal government for CCS will require that funds be reduced for other services, to stay within the cap.
- **We urge that any additional revenue earned above the $177M should not be subject to the cap, provided it is used to fund community programs. We would also recommend locking in county tax levy at the current level, to ensure that the current level of county support is maintained, as well as locking in the current percentage of Basic County Allocation (BCA) that is allocated for mental health and AODA to ensure these essential funds are not reallocated.**

4. ROLES AND RESPONSIBILITIES

- The proposal requires careful analysis to ensure it is in compliance with federal and state statutory requirements. Comprehensive legal and structural review is essential to protect consumers, ensure government agencies do not abdicate their legal and fiduciary responsibilities, and that all regulatory requirements are considered and met. This should include the development of a Chart of Authorities, defining the roles and responsibilities.
- It is not clear how the MCMHB will govern itself. Board staffing and access to information technology will be critically important, but are not clearly defined or funded. It is also unclear as to how transparent the Board will be. Will there be public meetings? What are the mechanisms for public input and accountability? When members of the public have concerns about services they or a family member received, will they contact members of the MCMHB for assistance, as they now contact County Supervisors? The scope of the MCMHB's authority is also unclear. For example, is the Board responsible for negotiating union contracts?
- We support a strong conflict of interest policy and agree that County employees should not be members of the MCMHB, but rather provide support and technical assistance for the board. We also believe having a Department of Health Services (DHS) seat on the MCMHB appears to be a conflict of interest, given the DHS/ DQA oversight role. We recommend adding language stating that individuals under a current professional services contract/agreement, or having had one in last 12 months should also be ineligible. We do have concerns that the provision re contractors is so broad ("no member of the board ...may be a contractor of Milwaukee County at time of nomination") that it will rule out almost all employees and board members of community agencies with expertise in delivery of mental health and AODA services, advocacy groups such as NAMI, area hospitals, Medical College of Wisconsin, many certified peer specialists, etc. We suggest reviewing the conflict policies used for other similar boards to how they have addressed this challenge.
- The MCMHB has authority to review and approve contracts. Given the requirement in sub. 9 for review of contracts within 14 days and given that the MCMHB is only required to meet 4 times per year, will the MCMHB be able to adequately exercise this oversight of contracts?

disabilityrights | WISCONSIN
Protection and advocacy for people with disabilities.

Date: February 12, 2014

Re: AB 718/ SB 565 Relating to Milwaukee County Mental Health Board

To: Chairman Vukmir and members of the Senate Health and Human Services Committee
Chairman Severson and members of the Assembly Health Committee

From: Barbara Beckert, Disability Rights Wisconsin Milwaukee Office Director

Thank you for the opportunity to comment on AB 718/ SB 565 which would create a specialized board in Milwaukee County to direct decisions about the structure, service array, and delivery of publicly funded mental health and substance abuse services.

Disability Rights Wisconsin (DRW) is the federally mandated Protection and Advocacy Agency for the State of Wisconsin, charged with independently investigating instances of abuse and neglect in institutions. I serve as Director of our Milwaukee office which provides advocacy assistance to people with disabilities in southeastern Wisconsin. One of our highest priorities has been protecting the rights of people served at the Milwaukee County Mental Health Complex.

We thank the bill authors, Representative Sanfelippo and Senator Vukmir, for their deep commitment to improving publicly funded mental health services in Milwaukee County and to ensuring that residents can access high quality, safe, recovery oriented mental health and AODA services including increased availability of community based services and supports. We appreciated the opportunity for dialogue with Representative Sanfelippo as he gathered stakeholder input for this proposal. We agree that the status quo is not working and we support the need for bold change.

Our agency has worked for positive change in the Milwaukee mental health system for many years and it has been too slow coming. Today we see challenges on multiple fronts:

- The December death of a patient at the Milwaukee County Mental Health Complex adds to the alarming toll of patient deaths at the Complex in recent years and reinforces our grave concerns regarding the quality of care provided at the Complex. Over the years DRW has conducted a number of investigations at the Complex regarding a range of complaints and concerns about patient safety and the quality of care provided there. In 2012 we commissioned an independent expert review of inpatient medical care, psychiatric treatment, and patient safety at the Complex. Federal and state regulatory investigations have documented a number of recurring administrative and treatment inadequacies that have resulted in formal citations, including multiple findings of immediate jeopardy to patient safety.
- There continues to be an overreliance on crisis and inpatient services and limited access to community services and supports. Milwaukee County has the 2nd busiest psychiatric emergency room in county; Close to 12,000 people come to that emergency room annually, the majority brought in by police. Police report that they are often turned away at private hospital emergency rooms, and that there are few community resources that provide diversion. Multiple reports and a Mental Health Redesign Task Force have laid out sound recommendations for change and some very positive changes have moved forward. But progress has been slow, in part because of conflicts within county government, and limited funding.
- The county has proposed downsizing inpatient beds at the Complex. Concerns remain about community capacity given limited number of private inpatient beds in Milwaukee. In particular, there is a lack of med-psych beds – already this year, Columbia St Marys closed all of their psychiatric beds in Milwaukee County – a loss of 18 beds. Our academic medical center has no psychiatric beds. By contrast, in Dane County, all psychiatric hospital beds are in the private sector, including University Hospital.
- There has been agreement to close the long term care facilities at the Complex and provide residents with the opportunity to live in the community; the majority of residents are eligible for Family Care.

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- Progress with relocating residents has been slow and development of customized supports for each resident is a key success factor; Family Care has the key responsibility to develop the needed community capacity and specialized services to support residents in the community.

We agree with the authors of this proposal that the current model of governance in Milwaukee County is broken and has not been successful in addressing these significant challenges. We wholeheartedly support the intent of this proposal – to put in place a new and improved governance model whose members have the needed expertise and commitment to improve access and quality of mental health and substance abuse services in Milwaukee County. We also strongly endorse the values contained in 51.41 (1) (e) for a community-based, person-centered, recovery-oriented system that seeks to protect the personal liberties of individuals living with mental illnesses. These are values we have long promoted. We appreciate the inclusion of individuals living with mental illness, family members and advocates as potential members of the MCMHB. This is critical to operationalize what it means to be recovery-oriented.

Making a change of this magnitude is complex and that is reflected in the proposal before us which is lengthy and modifies dozens of statutes. We have a responsibility to ensure that the proposal is thoroughly vetted – and that requires significant advocate, legal and structural review to protect consumers, ensure government agencies do not abdicate their legal and fiduciary responsibilities, and that all regulatory requirements are considered and met. This will take time. In addition, we believe it could be beneficial to evaluate other oversight models that have been used in urban areas similar to Milwaukee, to identify what has worked well and could be adapted for Milwaukee. Our recommendation to Representative Sanfelippo had been to establish an action oriented committee to study these models so that we can incorporate lessons learned in other urban areas. This should include consideration of a mental health authority which would have taxing authority.

Given the importance of carefully defining the role, authority, and functioning of the Milwaukee County Mental Health Board (MCMHB), we would suggest as an alternative broader legislation which authorizes the creation of the MCMHB – and lays out a specific timeline (perhaps 10 months) for the Board to be appointed, convene, and for the experts on the MCMHB to work out a detailed plan as to their functioning. This could be presented to the DHS Secretary for approval and the MCMHB could assume full control by 2015. That would still align with the current bill's timeline, but charge the Board itself with the responsibility of defining their role, oversight, and governance.

Our initial analysis of AB 718/ SB 565 includes the following questions and concerns:

BUDGET

- First and foremost, funding is a key component to improving the mental health system in Milwaukee County. We are very concerned that the bill locks in the budget at $177,455,000. It is widely recognized that Milwaukee County needs to significantly increase access to community services and that major unmet needs in the community remain – the lack of these services is a major contributor to over 12,000 people a year going to the county emergency room. By locking in expenses, it will be very difficult to increase funding for community services. For example, new money from the state and federal government for Comprehensive Community Services, Governor Walker's budget initiative, will require that funds be reduced for other services, to stay within the cap. A budget cap does not provide needed flexibility as both expenses (i.e. physical plant costs which must be addressed, new union contracts and related increased costs) and revenue (grants that come and go, changes in state and federal revenue) continually fluctuate. We are particularly concerned that the money for community services be protected and separated from the institution's budget to ensure urgently needed community services are maintained and expanded.
- Perhaps the flat funding is based on the assumption of significant savings from downsizing institutional services. Those savings have been slow to materialize. Even if the county moves forward with downsizing inpatient beds, as we have urged, they may need to contract with private hospitals to serve uninsured patients and patients with complex needs who the private hospitals have declined to serve. We cannot rely on immediate savings from downsizing to fund expansion of community services – these will take years to materialize.

- We urge that any additional revenue earned above the $177M should not be subject to the cap, provided it is used to fund community programs. We would also recommend locking in county tax levy at the current level, to ensure that the current level of county support is maintained, as well as locking in the current percentage of Basic County Allocation (BCA) that is allocated for mental health and AODA to ensure these essential funds are not reallocated.

ROLES AND RESPONSIBILITIES

- For any governance change to be successful, there will need to be clearly defined roles and responsibilities for board members, the WI Department of Health Services, Milwaukee County Behavioral Health Division Staff, the County Board, the County Executive, and other County departments. The current proposal raises many questions regarding these roles and a detailed chart of authorities needs to be established. For example, given the oversight role of DHS/DQA it would be a conflict of interest for them to serve on the board.
- Although the bill strips the County Board of virtually all of its oversight of the county mental health system, the Board still must authorize the funding to support the system's operations. The County Board even has some authority to withhold or reduce funding allocated to the Milwaukee County Mental Health Board (MCMHB). This may set the stage for continuing conflict regarding mental health services. One alternative would be to look at other governance models such as a mental health authority which includes taxing authority.
- The language in the bill was inconsistent regarding the programs and services which the MCMHB will oversee. Representative Sanfelippo has provided some helpful clarification; however, we are still uncertain as to whether Wraparound Milwaukee will be overseen by the board.

ACCOUNTABILITY

One of the key factors for success in improving the mental health system is clear accountability. The proposed model increases the number of entities who will share responsibility for the quality and adequacy of services. Who will be held accountable if funding is not sufficient? Who will be held accountable when concerns about quality and safety occur? Community members currently contact their County Supervisor when they have concerns about the service they received or the experience a family member has had. Will the MCMHB take on that responsibility of responding to these concerns?

PUBLIC INPUT

For this proposal to advance, it will be important to have input from stakeholders in Milwaukee County, the only county in the state impacted by this bill. We **appreciate the effort made to provide a skype option in Milwaukee today, however there was very little time to let people know given that the notice came out Monday afternoon.** Given that there are floor periods through April 3rd, we urge that an additional public hearing be held in Milwaukee, and also urge that time be allotted for further dialogue with stakeholders, and to consider amendments before execing on the bill. The Speaker's Task Force on Mental Health held multiple listening sessions and we believe this was a key factor in contributing to the positive outcomes and the broad support for the committee's work.

Thank you for your consideration of testimony today. In closing we agree that the status quo is not working and not acceptable. We support the need for bold change and the intent of this proposal, but believe that additional time is needed to vet such a complex and important proposal. This will require advocate, legal and structural review to protect consumers, ensure government agencies do not abdicate their legal and fiduciary responsibilities, and that all regulatory requirements are considered and met.

rogressive
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Rev. Walter J. Lanier, Pastor

February 12, 2014

Re: Public Hearing on AB 718/SB 565 Creation of Milwaukee County Mental Health Board

Dear Committee Members:

Thank you for your time and consideration. I write as a lawyer, pastor and educational administrator who has invested my entire professional career in Milwaukee County. I commend the state's work done to date on the issue of serving those with a mental illness but strongly request we slow the legislative process and get it done right. The stakes are too high us to pass legislation that has not had the benefit of (1) substantial input from professionals and consumers Milwaukee County or (2) substantive input from the Milwaukee community at large.

As a lawyer, I have a strong interest in excellence in governance. Too often, it appears that Milwaukee County has suffered from well-meaning but less than well-vetted legislation. The failure by those in power to get substantive input from the community can result in unintended and unhealthy consequences - particularly for those most in need.

As a pastor, I have been working with other churches and mental health organizations in the community to develop ministries and healthy spaces for those who live with a mental illness. Creating spaces that allow people to have a real voice in the process and their care allows for greater, well informed input into the process and also respects the personal dignity of our people. The pace and process of the current legislation fails to provide for that input and, therefore, fails to dignify the very people that the legislation seeks to serve. This is particularly problematic given the sensitivity of the issue and the hundreds and thousands of hours that professionals, citizens and consumers have invested to make the process better.

I urge you (1) to reconsider your timetable and your process, (2) to get more substantive input from the community and (3) to respect the voices of those for whom the proposed legislation seeks to serve.

Sincerely,

Rev. Walter J. Lanier, JD, MDIV

Cc: MICAH, Pastors United

Milwaukee County Board of Supervisors
Supervisor Peggy Romo West

Testimony on Assembly Bill 718/Senate Bill 565
Joint Public Hearing
Assembly Committee on Health and Senate Committee on Health and Human Needs
February 12, 2014

Thank you Chair Vukmir and Severson and members of the committees. I appreciate you taking the time to listen to the people of Milwaukee County on a serious challenge facing our county. The mental health system is complicated and is as challenging as the illnesses, which cause individuals to enter the system. I know first hand how debilitating mental illness can be not only on the individual but also on the rest of the family.

We all want services and programs to be evidence-based and in the best interest of the patient. Like you, I do see the inherent need for mental health professionals, as well as other health care providers, to be involved in the decision-making process in our mental health system.

And, if this bill were to utilize other Wisconsin Counties' Community Programs Boards, it would be a good first step to that end. Under the Community Programs Board model, medical professionals, consumers and elected officials share in the responsibility for decision-making. We saw collaboration in our nursing recruiter program, our Redesign efforts, housing investments, and community programs investments.

However, as you all know the County Board does not manage the day-to-day operation of the system. So, as you explore how to move forward to a more responsive system, I implore you to consider this fact. Under this bill, you are not changing the management. How does this improve the system?

Because if our current oversight process is not working, how is this new board, with similar statutory oversight powers but potentially less direct contact with the department, going to hold "the department" accountable? There are no new roles or responsibilities defined in the legislation, reports are annual audits, and the board is only required to meet 4 times a year.

What also is not clear in this bill is why authority for service oversight has been transferred to the new authority, but funding still resides with the County. The County Board in the last budget provided funding for additional mental health services or programs beyond what was proposed by the Administration. The way this bill is drafted makes it seem unlikely increases will be possible.

Creating a situation where the elected governing body is prohibited from being engaged in the purpose and structure of the programs and then asked to vote on funding is a problem. The County Board will be presented a budget and be purposefully prohibited from making anything other than a financial decision on the mental health budget, which does not seems like an effective way, or a patient centered way to funding mental health services.

I almost hesitate to say this, but if we are going to move towards a new oversight model that appears to be in the form of an "almost" state take over, shouldn't it just do that?

What is of heightened interest and concern to me is this legislation does not address the community capacity issue. While we all agree that individuals should be in their community, Milwaukee County does not currently have the capacity to place everyone safely. The Board pushed forward a successful effort in this last budget to move forward on assessing capacity. The administration has not. How will the new board ensure these policies are followed by the administration?

Finally, I also have received unlimited numbers of constituent contacts on mental over the years. Constituents, residents, taxpayers want to know if this change were to occur, who has to be responsive to me? Where do I go when the system is not working? Where do families call to challenge management? Who is responsible for the death of my mother? Quite frankly under this legislation as drafted, I am not sure. I assume it is the new board, but we all know these board members will not be able to be fielding calls.

Over the years, the system has faced challenges but we have also seen positive changes. While I support the need to look for other models of operation so we continuously improve services for people, I remain concerned that this legislation as drafted posses more questions than answers.

Jon S. Berlin, MD
8701 Watertown Plank Road
Milwaukee, WI 53226

February 11, 2014

Representative Joe Sanfelippo
Senator Leah Vukmir
State Capitol
Madison, Wisconsin 53708

Re: AB 718 / SB 565 creating the Milwaukee County Mental Health Board (MCMHB)

Dear Rep. Sanfelippo and Sen. Vukmir:

Thank you very much for your interest and leadership in mental health in Milwaukee County. I strongly support the idea of a mental health board, but not the bill in its present form.

This bill articulates a list of important values and principles, but it does not yet address the commitment to caring for some of the most vulnerable mental health consumers in the county, namely, those individuals whose extreme severity of illness has been determined by community-based programs, the VA hospital, and private hospitals to be more than they can handle.

The people working in these non-county entities are dedicated service providers, but they understand it would not be responsible for them to accept referrals that exceed the clinical capacity of their facilities or staffs. I know from experience of running the Psychiatric Crisis Service / Admission Center of the Mental Health Complex from 1997 to 2012 that they decline highly disruptive or treatment-resistant cases on a daily basis.

In fact, the very success of community agencies in offering non-institutional, recovery-oriented, person-centered care, which is the ideal, is dependent on continuous support from psychiatric emergency and hospital services. The greater chances we take with deinstitutionalization, the more crucial it becomes for these agencies to have ready access to the County's safety net.

Unquestionably, more robust support of housing and outpatient programs will reduce the need for hospitalization. I work with seventy-five outpatient consumers who would benefit greatly. But it is a serious concern not to find in the proposed bill a clear commitment to fixing the problems at the Mental Health Complex and restoring it to full accreditation. If anyone entertains the thought that closing the Complex will solve the problem of some its tragic outcomes, they are unfamiliar with the even greater challenges of providing

care for the residual, high-risk, treatment-resistant population in the community.

It is a concern that the bill appears to relegate oversight of the hospital to DHS, thereby depriving the hospital of the newly constructed board's expertise. It is also a concern that a specific dollar amount for the budget is listed before we know what the cost of reparation will be.

Turning to a related concern, the proposed bill attempts to structure a representative group of stakeholders for membership on the board. However, the criteria for selecting the board's professional members is problematic. With respect to psychiatrists and psychologists, it is not enough for them to be experts in community mental health. They must have expertise with the population described above. At least some of the professionals must also have first-hand knowledge of the resources that exist in Milwaukee.

It is therefore unrealistic not to recruit any psychiatrists working at the Complex or community agencies that hold contracts with the County, and under the proposed bill, they would be excluded from consideration. In point of fact, their inclusion is considered a best practice in our field. Note, for instance, the Joint Commission's emphasis on a collaborative relationship between a healthcare organization's various leadership groups and its requirement for certification that "the governing body provides the organized medical staff with the opportunity to be represented at governing body meetings..." Of course, medical staff would recuse themselves whenever there is a potential conflict of interest.

In conclusion, the decisions of the new mental health board, which is the governing body, will have far-reaching consequences. As the MCMHB bill is currently crafted, there is legitimate concern that the needs of consumers who push the limits of deinstitutionalization might not be addressed and that good, fresh ideas from the outside might not be integrated with practical, local knowledge and needs.

I think the idea of a mental health board is an outstanding one. I would like to see it succeed. I urge that more time should be taken to get the bill into better shape before it is voted upon.

Respectfully submitted,

Jon Berlin

Jon S. Berlin, MD

Mental Health America of Wisconsin

Testimony on AB718/SB565
Shel Gross, Director of Public Policy
Mental Health America of Wisconsin

Joint Hearing
Senate Committee on Health and Human Services
Assembly Committee on Health

February 12, 2014

Mental Health America of Wisconsin would like to recognize the considerable thought that went into creation of this proposed legislation. We have been among those who have expressed concerns about the situation at the Milwaukee mental health complex and recognize the need to think outside the box about solutions. There have been numerous studies and plans to date, but unfortunately these have not translated into improved care at these facilities. I had the opportunity to tour many of Milwaukee County's community based services with the Wisconsin Council on Mental Health (WCMH) last September. The county has done some very positive things in developing their community-based mental health services and supports. However, the WCMH's perception was that the need is so great that much more needs to be done. It is important, then, that any solution be one that can address both the problems at the mental health complex and support expansion of community based services—indeed, we think the two objectives are inevitable linked.

We also fully endorse the values contained in 51.41 (1) (e) for a community-based, person-centered and recovery-oriented system that seeks to protect the personal liberties of individuals living with mental illnesses. These are values we have long promoted. We appreciate the authors' inclusion of individuals living with mental disorders, family members and advocates as potential members of the mental health board (MHB). This is critical to operationalize what it means to be recovery-oriented.

The Governor and the Legislature have done a tremendous job this session in addressing many of the shortcomings of Wisconsin's mental health system. The Governor's budget initiative was preceded by months of dialogue among members of the administration and stakeholders (including consumers, family members, county representatives and other advocates) that helped to inform many of his proposals. Similarly the Speaker's Task Force on Mental Health held a number of hearings around the state before developing proposals and then took time to revise these based on feedback at their hearings. I appreciate this hearing and hope that the committees and bill authors will honor the thoughtful and deliberative process that has marked these other mental health initiatives. These are very significant changes and it is worth taking some time to get them right. The legislative calendar would appear to allow adequate time for this process and would also allow time for a hearing in Milwaukee, which our Board supports.

MHA finds itself with a variety of questions and concerns about the bill, as proposed. We acknowledge that some of these may reflect our failure to understand the bill language rather than specific limitations in that language. The Committees should assure themselves that, in fact, the funding, roles and responsibilities are defined in a manner that will maximize the likelihood that this bill will lead to positive changes that we would all like to see.

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Structural Issues

- The Mental Health Board (MHB) is attached to the Department of Health Services (DHS) under 15.03 which states that "budgeting, program coordination and related management functions shall be performed under the direction and supervision of the head of the department." Section 35 of the bill directs the MHB and the County to enter into agreement for payment of expenses of the MHB. Will the DHS or the County provide staff functions to the MHB (e.g., coordinating meetings, preparing meeting materials and briefings, etc.)? Will any expenses related to the functions come from the mental health reserve fund or will they be absorbed by the DHS? If DHS does not provide these functions, who does?

- It is unclear as a Board attached to DHS under 15.03 whether 15.07 Wi.Stats. apply. These statutes identify, among other things, the stipends that may be available to members of Boards. The experience of the WCMH is that it is difficult to recruit and retain consumers and family members because we do not have the authority to pay stipends. Some consumers and family members may be in positions that would allow them to be paid for the time they meet as a Board, but others may not. We recommend language that would allow stipends for these members.

- It is not clear to us why the non-voting members under 15.195 (9)(c) would be limited to suggestions from the Medical College of Wisconsin and the University of Wisconsin only. As with other sections related to recommendations for the MHB, allowing recommendations from a more broadly defined group of stakeholders would seem to be in the best interests of the system. Milwaukee is home to other institutions of higher learning including the University of Wisconsin-Milwaukee and Marquette University.

- We support removing potential conflicts of interest from those serving on the MHB. However, prohibiting anyone who is employed by an agency contracting with the County as well as anyone who is an employee of the County may severely limit the ability to include some of the very people who may be best positioned to serve on the MHB. People from contract agencies can clearly identify their areas of conflict. County employees, however, could be subject to inappropriate influence from "higher-ups" in the County. The Committees should consider the pros and cons of this language.

- Given that DHS, through its Division of Quality Assurance, is responsible for monitoring hospitals and nursing homes, including those that will now be under the jurisdiction of the MHB, and given that the MHB will now be attached to DHS, does this create a conflict of interest for DHS?

Funding Issues

We are unclear about exactly how the calculation of the base budget, reserve fund and future budgets would occur under a number of scenarios. The Committees should assure themselves that the budget is adjusted in a manner that ensures that the values embedded in the legislation for a community-based system of care can be effectively achieved.

Our understanding is that the bill sets a base budget that can be adjusted only if the MHB is transferred jurisdiction of a function, service, or program, under a procedure specified in the bill that it did not have jurisdiction over initially. There are two scenarios that do not clearly fall under this exception:

- This section does not seem to allow for additional funds that come not from new functions or services that the MHB assumes but from changes in funding for services. For instance, the Medicaid changes related to coverage for childless adults up to 100% FPL means that some current clients in current programs may now have Medicaid reimbursement available whereas previously these costs were covered by county tax levy or other sources. Is it the intention of the authors that any County dollars that were covering costs for these individuals revert back to the County? It is our understanding that this is what would essentially happen. Either the new revenue would lead to a surplus in the reserve fund and the County would then reduce its payment to the MHB the following year by the amount of this surplus or since the base budget could not be increased the following year the County contribution would be decreased since there will be this increase in Medicaid revenue.

- The County is currently poised to begin participation in the Medicaid Comprehensive Community Services program. Were such a change to occur after the bill went into effect this would not constitute a transfer of a current function but rather creation of a new function. If this did not allow the base budget to increase then it would lead to a similar scenario as above where the County contribution would be reduce by the level of new funds received from Medicaid.

While one can make an argument that some funds should revert back to the County, it would be helpful to have some portion of these funds available to expand community-based services, consistent with the values embodied in the legislation. If it's done correctly and thoughtfully, actions by the new MHB to downsize the facilities at the mental health complex will require a period of time when total system cost must increase, since spending on community-based services must be ramped up even as the institutional component cannot be reduced. It appears as if the legislation, as written, would undermine this goal.

It is unclear who bears liability if the MHB incurs costs in a given year in excess of funds available in the budget or reserve fund. While a balanced budget may be developed there could be unanticipated recoupments, penalties and maintenance costs that exceed anything anticipated. The MHB would be especially vulnerable during its early years when it may not have had an opportunity to build the reserve. Sec. 35 of the bill states:

> If there are no moneys in the mental health reserve fund, the Milwaukee County mental health board makes a request to the Milwaukee County executive for a mental health budget increase, and the Milwaukee County executive approves the mental health budget increase...

Is this to be understood that the Milwaukee County executive must approve such a request or may approve such a request? If the latter, and the Milwaukee County executive does not approve the request how would the MHB meet its obligations?

Many people feel that the County's development of and support for the mental health complex has been a large part of the reason that services have been skewed towards institutional care in Milwaukee. Can the MHB direct the County to sell all or part of these facilities? If so, do some or all of the receipts from that sale revert to the MHB to be able to serve individuals who may have otherwise been served at the complex? If the MHB cannot direct the County to sell the facility but they are successful in significantly downsizing use of the facility can the County still include legacy costs and various charges

related to the complex in the MHB's base budget? If so, the MHB's ability to direct funds to community-based care may be undermined.

Is the reference to 50.33 correct in Sec. 16 of the bill? This is a definitions section. Should this reference 50.033?

Liability Issues

- 51.41 (5) seems to suggest that the Milwaukee County Board of Supervisors will continue to be responsible for actually paying expenses. It also appears from sub. (9) that the county will continue to be responsible for contracts with employees. Sec. 36 of the bill modifies 51.42 (1) (b) to give the MHB the liability for well-being and treatment of people with mental illness and substance use disorders.

  Given these various statutes who is liable for criminal or civil lawsuits if an employee in a mental health program causes harm to someone while following policies initiated by the MHB? Who is responsible for any penalties related to violations of state or federal program requirements?

- Given the requirement in sub. 9 for review of contracts within 14 days and given that the MHB is only required to meet 4 times per year, will the MHB be able to adequately exercise this oversight of contracts?

- What process will be in place to resolve disputes should the MHB not approve a contract which the county has negotiated?

I would like to conclude by noting that advocates in the Deaf/Hard of Hearing (D/HOH) community have expressed to me their concerns about ensuring that any changes include better addressing the needs of this population. While meeting the mental health and substance abuse needs of persons who are D/HOH is not a problem unique to Milwaukee County we should take the occasion of this reorganization to begin to better address their needs in Milwaukee.

BOARD OF SUPERVISORS
MARINA DIMITRIJEVIC
COUNTY BOARD CHAIRWOMAN

Date: February 12, 2014

To: Senator Leah Vukmir, Chair of the Senate Committee on Health and Human Services
Members of the Senate Committee on Health and Human Services
Representative Erik Severson, Chair of the Assembly Committee on Health
Members of the Assembly Committee on Health

From: Marina Dimitrijevic, Chairwoman Milwaukee County Board

Re: Assembly Bill 718/Senate Bill 565

Chairwoman Vukmir, Chairman Severson and members of the Senate and Assembly Committees, thank you for the opportunity to appear before you today to discuss an important and complicated issue, mental health. I appreciate your willingness to keep the public engaged in the discussion on mental health services for the residents of Milwaukee County. And, although I had hoped the discussion could have occurred here, I do appreciate your willingness to provide this satellite location in West Allis.

Issues surrounding mental health services are complex. More, not less, people deal with mental health challenges every day and all levels of government have an interest in ensuring we are serving people well and people are safe. It is imperative that we work together to improve our mental health system for the people of Milwaukee County and across the state.

As many people have stated, we have to do better. We acknowledge we can do better but you must also remember the Milwaukee County Board does not manage the day-to-day operations. If this were easy, it would have already been done. As I have said to the author, I respect his efforts for putting this forward, and we are willing to work together to improve mental health services in Milwaukee County and statewide. We would like to be part of a positive change process.

Nonetheless, we do have questions and concerns with this legislation and its impact on mental health services.

First, and most importantly, it is unclear where accountability lies under this new structure. Who is responsive to whom and where do people go when the system is not responsive to them? As we all know, there will always be a need for constant consumer accountability in the mental health system.

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On a vary basic level, people want to know who to call. Do they call the new the board members? Do they call the Administration?

On an organizational level, what will be the chain of command (who is accountable for what) and what new accountability measures will be in place to ensure proper care and safety?

Clarification on these issues is essential, regardless of the time it takes to have these discussions, because any new board is going to want to ensure individual and public transparency immediately out of the gate. And, from a county perspective, we also need to understand for the public who is liable for the care of our residents.

In regard to accountability, there is also a provision in the bill related to transferring jurisdiction from a current county responsibility to the new board as it relates to mental health or is highly integrated with mental health services. This provision is open-ended and problematical in scope. Does it mean the new board could attempt to seek jurisdiction over portions of our courts that are involved in the emergency detention process?

I would be remiss as a local elected official if I did not address the issue of taxation without representation. Obviously, the intent of this legislation is to create an independent board, which consists of medical professions. However, lack of any representation from even one elected official whose constituents are a part of this system and who are then required to pass taxpayers dollars into the system somewhat blindly is of concern. Mental health is a massively complex program and it would seem you would want all stakeholders invested in improving it.

Also of great concern are the provisions that relate to funding and the budgeting process. The bill, as drafted, ties the hands of the legislative body in regard to mental health funding, and it could mandate a reduction in other county programs, or even force a tax levy increase if state, federal or other mental health funds were reduced. Setting a minimum base budget on expenditures does not ensure mental health services funding needs are met and does not ensure improvement in the program. Your review of the comments and testimony of the independently elected Milwaukee County Comptroller is appreciated.

Finally, it is also important to remember Milwaukee County is the largest most diverse county in the state, which means our mental health system is too. We need to ensure the board is reflective of the community we are serving. Cultural competency and an understanding of the diversity of the county is imperative in the make up of the board.

Thank you for the opportunity to testify today. Know that we all want to work toward improvement in the system, but changes do need to be thoughtful and collaborative or they will not work. Transparency, accountability and safety issues need to be addressed if improvement in the system is to occur.