

# NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

### JUDICIAL PROCESS COMMITTEE

Monday, December 14, 2009  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Shirley Meyer, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Shirley Meyer, Stacey Dahl, Lois Delmore, Chris Griffin, Nancy Johnson, Joyce M. Kingsbury, Lawrence R. Klemin, Kim Koppelman, William E. Kretschmar, Lisa Wolf; Senators Arden C. Anderson, Tom Fiebiger, Tom Fischer, Judy Lee, Stanley W. Lyson, Tim Mathern, Curtis Olafson, Jim Pomeroy

**Others present:** See attached [appendix](#)

**It was moved by Senator Fischer, seconded by Representative Delmore, and carried on a voice vote that the minutes of the September 17, 2009, meeting be approved.**

#### INVOLUNTARY MENTAL HEALTH COMMITMENT PROCEDURES STUDY

Chairman Meyer called on Dr. Emmet M. Kenney Jr., Prairie St. John's, Fargo, for [testimony](#) regarding issues and concerns with the state's mental health commitment procedures and the availability of psychiatric services in the state. Dr. Kenney said there are several problems with the mental health commitment statutes that need attention. He said one problem, because of the differing locations of the patients and the examiners, is the requirement that an expert examiner be available to examine the patient within 23 hours of the placement of an emergency hold. He said often a person is brought to an emergency health care facility that does not have a psychiatrist or psychologist to do an expert examination. He said an emergency hold can be placed by a peace officer or a physician if the patient appears to be potentially dangerous and does not agree to allow further evaluation and treatment. He said the problems arise in trying to get an expert examination conducted within 23 hours. According to the North Dakota Medical Association, he said, there are 107 psychiatrists in the state located in eight communities. He said there are 170 psychologists in the state located in 16 communities. He said about 23 percent of the state's population live in a county without a psychiatrist or psychologist. Of the 55 hospitals in the state, he said, 31 hospitals do not have a psychiatrist or psychologist on staff or in the community.

Dr. Kenney said another problem with the 23-hour requirement is the capacity and availability of beds in treatment centers. He said when there are 23 hours

from the initiation of the hold to start the expert examination and determine whether to release someone and there are issues of the time needed to coordinate care location and to have an available bed, major problems arise. He said there are times when a facility may decline the acceptance of a patient for admission because the facility knows it would not be able to examine the patient within the 23 hours from the initiation of the hold. He said the issue of transportation is a key issue that can prevent an expert from being able to conduct an examination within 23 hours.

Dr. Kenney said he recommends the state's commitment statute be modified to allow 72 hours for an expert examination, exclusive of weekends or holidays. He said if the 72-hour time period is not possible, then current holders of qualified mental health professional status should be allowed to initiate commitments and proceed to court hearings without requiring an additional expert examination within 24 hours. He also recommended more funding to the Department of Human Services to contract for beds in psychiatric units with community-based psychiatric centers. He said this would allow for more access closer to home and with more engagement of aftercare resources.

In response to a question from Senator Lee, Dr. Kenney said if he had to make a choice between allowing more mental health professionals to conduct the examinations or to extend the period within which the examination must be done, he would prefer extending the amount of time. He said there are some professionals that South Dakota allows to conduct the examinations who are not trained to treat chemical dependency or mental illness. Even with the broader group of professionals who are permitted to conduct the examinations in South Dakota, he said, there is still a shortage of professionals in the more rural areas of that state.

In response to a question from Representative Koppelman, Dr. Kenney said for the purpose of mental health commitments, psychiatrists and psychologists are equally qualified.

In response to a question from Senator Fiebiger, Dr. Kenney said he was not sure how often the 23-hour requirement is not met. He said the requirement creates a dilemma for those facilities that do not have psychiatric services available.

In response to a question from Senator Anderson, Dr. Kenney said state's attorneys will not pursue a

commitment if the expert examination was not conducted within the 23-hour requirement.

In response to a question from Representative Delmore, Dr. Kenney said facilities without psychiatric services attempt to transport patients as soon as possible. He said increasing the time period from 23 hours to 72 hours could be considered a violation of the patient's rights. If a hospital is unable to find a bed for the patient, he said, the hospital may contact other agencies in search of a bed, detain the patient in a correctional facility, or violate the 23-hour requirement.

In response to a question from Representative Wolf, Dr. Kenney said telemedicine is a valuable tool that could be used to some extent, but it is important to consider the patient's right to an expert examination. He said secondhand information cannot be used to determine whether the patient is in need of treatment.

Chairman Meyer called on Dr. Andrew J. McLean, Medical Director, Department of Human Services, for [testimony](#) regarding concerns about the state's mental health commitment procedures and the availability of psychiatric services in the state. Dr. McLean said regarding the uniformity of commitment procedures, there are differences from county to county for a number of reasons. He said there are differences in resources, differences in philosophy, and differences in expertise. He said one solution to those uniformity issues would be the simplification of commitment forms. He said currently there are multiple and duplicative forms that contribute to the lack of uniformity in procedures. He said this can be accomplished with input from stakeholders and through legal processes. He also said the Department of Human Services' staff has engaged in meetings and consultation with judges and attorneys regarding commitment rules and will continue to do so.

Dr. McLean said when considering the appropriateness of detention and timeliness of evaluations, safety is a primary issue. He said jails should be used for detention in emergency situations only. While transportation can be an issue in frontier areas, he said, the North Dakota Psychiatric Society reports that this issue is rarely a concern. He said 2009 legislative changes recognize that face-to-face screening for public facility admission should be done but that exceptions may need to take place, particularly in more rural areas. He said one oversight last legislative session, in an attempt to fully recognize licensed addiction counselors as experts in addiction commitment definitions, was in North Dakota Century Code Section 25-03.1-23. He said that section should end with the language "a licensed addiction counselor, within the respective areas of expertise."

Dr. McLean said other potential solutions to the access issue would be the use of telebehavioral health technology for initial evaluations. He said technology and information technology security must be in place, but with adequate computer and camera

access this could be accomplished almost anywhere and anytime. Regardless of specialist prescriber numbers, he said, the vast number of psychotropic medication prescribing will continue to be done by primary care providers. In addition to telepsychiatry, he said, the Department of Human Services is committed to the concept of primary care-behavioral health care interface. He said the department has developed a pilot project with a federally qualified health center and certain private providers are doing the same.

In response to a question from Representative Delmore, Dr. McLean said mental health commitment procedures have to balance public and patient safety with the patient's individual rights. He said there are cases of inappropriate releases. If the available technology is used, he said, the people involved in the commitment process should be able to work within the statutory timeframes. He said broadening the scope of experts would not necessarily solve the problem.

In response to a question from Representative Koppelman, Dr. McLean said while some evaluations may be more difficult to do using telemedicine, it can be a valuable tool.

In response to a question from Representative Klemin, Dr. McLean said while the 23-hour limitation is adequate in most cases, there needs to be an exception to allow for extenuating circumstances. He said it is important that the exception is not misused and does not become the rule.

In response to a question from Senator Fiebiger, Dr. McLean said telepsychiatry is the wave of the future. He said the ideal situation is still a face-to-face evaluation. When telepsychiatry is used, he said, it is important to have adequate staff on hand to deal with emergencies.

In response to a question from Representative Dahl, Dr. McLean said extending the time period for the evaluation to 48 hours would not be unreasonable. He said, however, any extension of the time period raises issues of patient rights.

In response to a question from Senator Mathern, Dr. McLean said the quality of public and private mental health services is good. He said it is important to have safeguards to protect patients. He said more problems arise when services are isolated and there are fewer opportunities for consulting.

In response to a question from Senator Lyson, Dr. McLean said about 25 percent of people in jail have mental illness or addiction problems. He said a request by a state's attorney for a mental evaluation is a different process from the emergency or involuntary mental health commitment process. He said the 23-hour time period within which an evaluation must be done is part of the civil commitment process, not the criminal process.

Chairman Meyer called on Dr. Terry Johnson, North Dakota Psychiatric Society, for [testimony](#) regarding the availability of psychiatric services in the state and the state's mental health commitment procedures. Dr. Johnson said while the society is

interested in participating in the discussion regarding mental health commitment procedures, the society has not taken a position with regard to the issues being discussed. With respect to the availability of psychiatric services in the state for acute hospital commitment evaluations, he said, barriers to availability are not so much related to the numbers or prevalence of psychiatrists as they are to other factors, such as lack of transportation. He said increasing the availability of psychiatric services can be accomplished through expansion of telemedicine and psychiatric consultation with family medicine physicians and other medically trained professionals. He said in the long term, the future availability of psychiatric services can be ensured by working collaboratively with all mental health and primary care providers and by working to build incentives and opportunities for those in medical training to pursue mental health practices. He said there is a need to garner more psychologists, therapists, and behavioral analysts to assist in the nonmedical behavioral care of people in the state. He said primary care resident physicians in the state are required to spend time in psychiatry rotations. He said in Fargo there is integration of psychiatry training built into the internal medicine residency.

In response to a question from Senator Fiebiger, Dr. Kevin Dahmen, North Dakota Psychiatric Society, said he has worked with hundreds of children using telemedicine technology, including children residing at the Home on the Range. Dr. Dahmen said there has not been a problem with payment for these services. He said payment is the same regardless of whether the contact is done in person or by telemedicine. He said the quality of telemedicine technology is good and there are few delays. He said St. Alexius Medical Center has telemedicine equipment.

In response to a question from Representative Klemin, Dr. Dahmen said he has not used telemedicine in civil commitment cases.

In response to a question from Representative Wolf, Dr. Dahmen said he does not have concerns about breaches of security when using telemedicine technology.

Chairman Meyer called on Mr. Gary E. Euren, Cass County State's Attorney's office, for testimony regarding concerns with the state's mental health commitment procedures. Mr. Euren testified via telephone. He also provided [written testimony](#). He said Senate Bill No. 2421 (2009), as introduced, would have changed the time allowed to complete an evaluation after an emergency hold and would have allowed a physician to do an evaluation for an emergency hold. He said the bill, as passed, only relocated language within the definitions section to a more appropriate section. He said the purpose for proposing the two provisions was to allow more flexibility in emergency situations, specifically in situations when there are both mental illness and chemical dependency issues accompanied by a significant medical injury or when a psychiatrist or

psychologist is not available. He said the intent was to allow for the best possible treatment for the patient.

Mr. Euren said there are some medical facilities in the state which do not have wards to treat patients with mental illness or chemical dependency. He said there is a question of whether, after an emergency hold, a patient who has a serious medical condition and a diagnosis of mental illness or chemical dependency can continue to be treated in such a facility. He said typically a mental illness or chemical dependency patient would be placed in an appropriate restricted ward. He said occasionally a person presents with a serious medical condition that requires inpatient medical treatment, as well as a mental illness or chemical dependency diagnosis. If the patient decides to leave against medical advice, he said, the only way to effectively treat is to place the patient on an emergency hold. He said with a 23-hour requirement to have an evaluation completed after the hold, it may be difficult to properly treat both the medical condition and the mental illness or chemical dependency.

Mr. Euren said since the legislative session, his office has discovered that the language of Section 25-03.1-23 may be too restrictive. He said this section provides that a petition for continuing treatment must be accompanied by a certificate of a physician, psychiatrist, or psychologist. If the treatment is for chemical dependency, he said, a licensed addiction counselor cannot certify the petition. He said the language should be changed to allow either an expert examiner or a mental health professional as defined by Chapter 25-03.1.

In response to a question from Representative Johnson, Mr. Euren said while a state's attorney probably would not try to get an evaluation done by telemedicine thrown out as inadmissible, a private attorney may. If a practice such as telemedicine meets accepted medical requirements, he said, it should also meet legal requirements.

In response to a question from Representative Klemin, Mr. Euren said he is not aware of any law that prohibits or requires an in-person evaluation. He said there would need to be a general consensus among the medical community that the telemedicine evaluation is acceptable.

In response to a question from Senator Mathern, Mr. Euren said the availability of mental health specialists is adequate in the larger counties of the state, but rural areas may not be able to arrange for the evaluation within the 23-hour period.

In response to a question from Representative Delmore, Mr. Euren said there are patients whose safety may be in jeopardy because of the 23-hour requirement. He said North Dakota and Minnesota have an interstate compact with regard to mental health commitments. He said there also are issues of jurisdiction. He said a person must be voluntarily present for a court to have jurisdiction. He said a case may be dismissed before it gets to court because timeframes have been missed. He said

while the 23-hour time period may not be adequate in all situations, when considering the length of time that is adequate, the safety of the public and the rights of the patient must be considered. He said in no case should the time period be longer than 72 hours. He said the 23-hour time period is adequate in most cases, but for those in which it is not, the law should allow for exceptions. He said a 48-hour time period also would be helpful.

In response to a question from Senator Mathern, Mr. Euren said a magistrate will dismiss a case if the timeframes have not been met due to the lack of jurisdiction.

Chairman Meyer called on Mr. Greg Runge for testimony regarding mental health commitment procedure issues. Mr. Runge, who provided the committee with a copy of the mental health commitment procedure statutes, reviewed those procedures. He said the problem is not with the laws and mental health commitment procedures, but rather the problem is the medical community and the lack of resources. He said it is not appropriate to hold a person beyond 23 hours. He said the evaluation must be done as quickly as possible. He said a chemical dependency commitment requires a single hearing, whereas the mental health commitment requires a preliminary hearing and a treatment hearing. He said if the petition is filed and the client is hospitalized, the hearing is held within four days. For a client who is not in the hospital, he said, the hearing is held within seven days. He said Section 25-03.1-10, which authorizes a court-ordered examination, if used, would give the doctor more time to conduct the examination. He said he handles 10 to 15 involuntary commitments each month. He said a detailed statistical study on this issue should be conducted. He said the process is not broken. He said many patients in need of help do not need inpatient treatment.

In response to a question from Senator Lee, Mr. Runge said changes should not be made to the legal process because the medical system is in need of more services.

In response to a question from Representative Klemin, Mr. Runge said the North Dakota Supreme Court has held that a client cannot be forced to testify via telephone or Interactive Video Network. He said if a telemedicine examination for the initial examination is acceptable to the medical community, it might be acceptable to use. He said the initial examination that is required to be performed within 23 hours is done before an attorney is involved in the process.

In response to a question from Senator Mathern, Mr. Runge said the 23-hour period applies only to mental health commitments, not criminal evaluations. He said he is not aware of instances in which an individual is being prosecuted criminally because a psychiatrist is not available.

In response to a question from Representative Wolf, Mr. Runge said a petition filed for the involuntary commitment of an individual must be done in good

faith. He said it is difficult to prove that such a petition was not filed in good faith.

In response to a question from Representative Griffin, Mr. Runge said extensions beyond the allowed time for examination may be granted for just cause, such as a snowstorm or transportation issues.

In response to a question from Representative Dahl, Mr. Runge said judges will order a delay based on just cause. He said the attorney does not get involved until a petition is filed.

In response to a question from Senator Lyson, Mr. Runge said he is most concerned about the rights of people before an attorney is assigned. He said the 23-hour time limitation is intended to protect individual rights.

Chairman Meyer called on Mr. Tim Sauter, Regional Director, Badlands Human Service Center, for [testimony](#) regarding mental health services. Mr. Sauter said the Badlands Human Service Center is one of eight regional human service centers that provides community-based services to help individuals and families with concerns, including family and relationship issues, mental health, addiction, disabilities, and other needs. He said clients continue to present with complex problems, including persons with more than one diagnosis and persons who abuse multiple drugs. He said there has been an increase in referrals to the State Hospital and other facilities from the Badlands Human Service Center due to the closing of the psychiatric unit at St. Joseph's Hospital in Dickinson. He said there also has been an increase in mental health crisis calls to the service center. He said there are more people receiving medical detoxification services through the service center's contract with St. Joseph's Hospital. He said transportation is a challenge for individuals needing inpatient services at the State Hospital or other facilities. He said there is a need for long-term residential services for persons with chronic addictions and for persons with severe and persistent mental illness in the region. He said recruitment continues to be difficult for staff with advanced credentials. He said the service center has increased the number of residential beds available to adults with mental illness and for those who have substance abuse problems from 9 to 16. He said the service center has contracted with an independent psychiatrist and a telemedicine provider.

Mr. Sauter said there are transportation issues involved in the need to transport patients to Bismarck or the State Hospital. He said because the individuals cannot be held at the hospital in Dickinson, the individuals may have to be held at the correctional facility until transportation can be arranged. He said this hold is usually for 3 hours or 4 hours but has been up to 12 hours. He said they have not had to release an individual because the hold exceeded 23 hours. He said a request for more beds was denied by the Legislative Assembly in 2009. He said those additional beds could have been used to hold patients awaiting transport.

In response to a question from Senator Lyson, Mr. Sauter said the Badlands Human Service Center has 72.7 full-time equivalent positions. He said the service center periodically loses employees to the private sector.

In response to a question from Senator Anderson, Mr. Sauter said meeting the 23-hour requirement has not been a problem.

In response to a question from Representative Johnson, Mr. Sauter said the contract psychiatrist is available about nine months per year.

In response to a question from Representative Delmore, Mr. Sauter said there have been about 88 commitments since the closure of the psychiatric unit. He said about 40 percent of those have been held at the correctional facility awaiting transport to Bismarck or the State Hospital. He said the evaluations are getting done within 23 hours.

In response to a question from Senator Mathern, Mr. Sauter said while holding individuals awaiting transport in a correctional facility is not ideal, it is the only option. He said there are not sufficient beds to hold individuals until transport.

In response to a question from Senator Lee, Mr. Sauter said several issues, such as prescriptive privileges to psychologists and more residential care, would provide helpful solutions to some of the concerns in the Badlands region.

Chairman Meyer called on Mr. David Boeck, Protection and Advocacy Project, for testimony regarding mental health commitment procedures. Mr. Boeck said the Badlands Human Service Center has been very innovative in the area of mental health care. He said the delivery of mental health care in the state is a problem. He said one effort the state may wish to consider to increase the number of psychiatrists and other mental health professionals in the state is to implement a scholarship and student loan program for these professionals which is similar to the program for encouraging more dentists to practice in the state. He said the use of telemedicine in the area of mental health examinations will depend on the quality of the equipment and transmissions. He said the committee should receive information regarding the number of mental health commitment cases and the number that are dismissed because of missed timelines. He said the idea of simplifying commitment forms seems like an easy step that could be readily accomplished. He said timelines for mental health evaluations are 24 hours in Minnesota, Wyoming, and Alaska. He said Montana provides that the examination must be done as soon as the professional can be contacted.

In response to a question from Senator Mathern, Mr. Boeck said holding an individual who is awaiting evaluation in a correctional facility should only be done as a last resort. He said the problem in the Badlands region could be solved by giving the region two more beds.

In response to a question from Senator Olafson, Mr. Boeck said a student loan or scholarship program

to forgive student debt could be set up in a way that would identify certain rural areas in which the person must practice to qualify for the program.

Chairman Meyer called on Dr. Elizabeth Faust, MeritCare, Sanford Health-MeritCare, for [testimony](#) concerning mental health commitment issues. Dr. Faust said the two problems that are in need of solutions are the lack of sufficient resources to deal with the burden of treating mental illness and chemical dependency for the citizens of the state and fragmented utilization of the private and public resources currently being devoted to the treatment of mental illness and chemical dependency. She said over the past decade, general hospitals in this state and other states have taken an increasingly larger role in the responsibility for behavioral health care, particularly in the area of emergency services and as a backstop to other agencies and organizations. As financial margins for health care reimbursement have gotten narrower and the stability of health care organizations more tenuous, she said, there has been a declining ability of those hospitals to cross-subsidize services that historically are mission-driven. As a result, she said, psychiatric programs at private facilities across the state have cut programming and faced increasing pressures to reduce financial losses.

Dr. Faust said arguing about whose responsibility it is to absorb the cost of mental health care in the state diverts energy from the real issues. She said the real questions are about how resources can be managed collectively to get the most from the dollars spent on mental health care in the state. She said it is not efficient to continue to be reactive and spend dollars on emergency services, crisis intervention, law enforcement overtime, and meetings to try to get other agencies to take care of the problem. She said millions of dollars are spent to deliver unintelligent care. She said a continuum of care is critically important in managing difficult chronic populations effectively. She said without adequate supervised residential housing options, community case management, access to medications, and outpatient psychiatric care, there is a revolving door cycle of squandering expensive inpatient resources because it is the only thing available. She said Sanford Health-MeritCare is eager and willing to participate in the work necessary to partner and develop such a collaborative model in the state.

In response to a question from Senator Mathern, Dr. Faust said there should be joint ventures and partnerships with respect to the continuum of care needed for mental health patients. She said the emergency room is very important and should be involved in that process. She said the emergency room cannot be the only part of that process. She said doctors often have to act as social workers in the emergency room setting. She said there is a need for more people involved in the initial process. She said there is a need to look at the whole race, not just the doctor's leg of the race.

In response to a question from Representative Johnson, Dr. Faust said when it comes to dealing with mental health cases, hospitals and social service agencies do not communicate as well as they should.

In response to a question from Senator Olafson, Dr. Faust said some of the reasons for the loss of psychiatric services in the state are the financial pressures to be more productive, the division of a bigger workload among fewer providers, and the pressures of financial reimbursement in mental health care. She said behavioral health care needs to be managed more effectively.

In response to a question from Senator Olafson, Dr. McLean said ideally there should be 13 mental health professionals per 100,000 people. He said the lack of personnel and the lack of compensation go hand in hand.

In response to a question from Senator Lee, Dr. Faust said the number of available mental health professionals in the Fargo area is somewhat skewed because the Fargo providers also serve a large population of people who live on the Minnesota side of the river.

In response to a question from Senator Mathern, Dr. Faust said about one-half of the Prairie St. John's patients are from Minnesota. She said returning veterans with head injuries and other problems are a new population that also needs services. She said among the veteran population, health care providers are seeing head injuries, chemical dependency, and post-traumatic stress disorder. She said it is expected that the problem will get larger.

Chairman Meyer called on Mr. Mike Reitan, Assistant Chief of Police, West Fargo Police Department, for [testimony](#) regarding mental health commitment issues. Mr. Reitan testified via telephone. When he entered law enforcement, he said, he was not aware of the strain on resources the current community-based program for mental health cases would be. Understaffed, underfunded, and without facilities, he said, the community-based program is dependent upon local emergency responders and private medical providers to fill the gap in care. He said the responders and providers are overwhelmed with the demand for services and will be unable to continue on the present path without an eventual collapse of the system. He said law enforcement officers come into contact with mentally ill or chemically dependent persons through a variety of ways. He said routine patrol may generate a contact due to a person exhibiting an odd behavior or an investigation into an observed or reported crime may disclose an underlying mental health or chemical dependency issue with the victim or the suspect. He said a family member's or friend's call for assistance may bring the person to the attention of law enforcement. In each case, he said, the officer must recognize the role mental illness or drug dependency plays in the person's conduct and physical condition. He said the officer must determine the level of threat the person poses to themselves or others and, if

warranted, be willing to take the person into custody for the purpose of an evaluation. At times, he said, the person does not meet the threshold for emergency commitment, and the family must look to other treatment options.

Mr. Reitan said three cases that have occurred within the last two months illustrate the amount of time an officer can spend on a mental health case. He said multiple officers responded to the initial call for service, and in the three cases, at least one officer spent 1 hour 14 minutes, 1 hour 54 minutes, or 5 hours 29 minutes on the call. He said each case involved a subject being transported to a local emergency room. He said while most cases involving mental health or chemical dependency are not themselves medical conditions requiring an emergency room visit, the emergency room is the only resource available to provide care 24 hours a day. He said at the emergency room, the subject is typically bumped to the head of the patient waiting list and moved to a treatment bed ahead of others who have been waiting for medical treatment. He said hospital staff has developed this practice at the request of law enforcement to allow officers to return to the street as soon as possible. Depending on patient load, he said, an officer may still wait more than an hour at the emergency room. He said recently a local private medical provider reduced bed space for emergency treatment of individuals with mental health or chemical dependency issues. He said the provider explained it was due to the inability to staff the positions necessary to provide the service, as well as a financial business decision.

Mr. Reitan said private medical facilities and emergency responders are being overutilized as the gateway and a treatment option for the community-based treatment program. He said the statewide human service centers operate on a Monday through Friday schedule with holidays off. He said people in crisis occur 24 hours a day 7 days a week. He said when someone is in crisis and needs assistance, the call goes to the emergency responders.

Mr. Reitan said there is inadequate staffing and facilities available to place people in need of treatment. In 1974, he said, there were 600 beds available at the State Hospital. Today, he said, there are 307 beds. Of the 307 beds, he said, only 43 beds are considered short-term treatment for mental health and chemical dependency. The remaining beds are used for long-term care and treatment. He said the private medical facilities from across the state are continually in competition to secure 1 of the 43 beds for placement of patients committed by the state. He said the state has partially funded specific community-based programs with private providers as pilot programs, but not to the full level of need across the state.

In response to a question from Senator Lee, Mr. Reitan said transient populations tend to move to larger communities in the state. He said many people in transient populations have chemical dependency

issues. He said the number of people needing detoxification is overwhelming. He said this issue alone speaks to the issue of the need for a detoxification facility and other resources.

In response to a question from Senator Mathern, Mr. Reitan said transportation of individuals in need of chemical dependency or mental health treatment is a constant issue that law enforcement faces.

In response to a question from Representative Meyer, Mr. Reitan said the law enforcement officer's duties to a person brought to the emergency room usually end when admission to the hospital occurs.

In response to a question from Senator Olafson, Mr. Reitan said one solution to the problems he outlined is more funding for community-based programs. He said he would like to see an admissions facility that is available 24 hours a day 7 days a week. He said the facility could either be a state facility or a contract facility with a private provider. He said he would also like to see an increased bed level at the State Hospital and a transition facility.

Chairman Meyer called on Ms. Terryl Ostmo, Chairman, Protection and Advocacy of Individuals With Mental Illness Advisory Council, for [testimony](#). Ms. Ostmo said the council is composed of family members, consumers, service providers, and professionals. She said the current requirement that a petition must be filed within 24 hours of detention is vital to safeguarding individual rights. She said any other timeline for filing the petition is an invitation to abuse. She said if Senate Bill No. 2421 (2009) had passed as introduced, the bill would have allowed 96 hours before a person is examined. She said she had a personal experience of what it is like to be accused of mental illness and be locked up. She said in 1997 she was locked up in two hospitals for seven days without receiving a court hearing. She said a petition was never filed in any court during that time. She said she can only imagine the suffering of other people who have had to live with a similar experience. She said the council opposes any changes to the commitment statutes which would infringe upon a person's vital safeguards. She said the timelines in the statutes should not be changed.

In response to a question from Senator Anderson, Ms. Ostmo said the Protection and Advocacy of Individuals With Mental Illness Advisory Council is a national organization.

In response to a question from Senator Mathern, Ms. Ostmo said the Breckenridge hospital does not

have a lock unit to hold patients. She said patients who need mental health evaluations or treatment must be transported to Fargo by law enforcement or by a family member.

Mr. Runge said a community coordinating council, which is made up of representatives of hospitals, attorneys, prosecutors, law enforcement, the West Central Human Service Center, and the judiciary, meets informally every few months to discuss a variety of mental health issues in the community. He said the council discusses issues and problems, as well as specific cases. He said the council has been a helpful tool in the West Central region.

## COMMITTEE DISCUSSION

Senator Lee requested a summary of the recommendations of each speaker be prepared for the committee.

Representative Klemin said the committee should receive any statistics that are available with respect to the number of civil commitment petitions in the state, the number of preliminary and treatment hearings, the number of mental health and chemical dependency petitions, and the number of individuals whose petitions are denied because the 23-hour time period has been exceeded.

Senator Mathern said the committee should receive information from the Department of Human Services with respect to the accessibility of psychiatric services and the reimbursement for psychiatric services.

At the request of Chairman Meyer, committee counsel distributed [information](#) from Mr. Alex C. Schweitzer, Superintendent, State Hospital, regarding emergency mental health providers in the state as well as the daily rates for the State Hospital and Transitional Living Center.

Chairman Meyer requested that the [testimony](#) of Judge Sonja Clapp, Northeast Central Judicial District, who was unable to attend the meeting, be included in the record of the meeting.

No further business appearing, Chairman Meyer adjourned the meeting at 3:15 p.m.

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Vonette J. Richter  
Committee Counsel

ATTACH:1