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RE: SF 1682 and Children Waiting for Services

The Office of Ombudsman for Mental Health and Developmental Disabilities (OMHDD) has a statutory mission to promote the highest attainable standards of treatment, competence, efficiency, and justice for persons receiving services for mental illness, developmental disabilities, substance use disorder, or emotional disturbance. We advocate for clients' rights, health, and well-being; monitor service delivery systems; and provide recommendations for systemic improvements.

For years, OMHDD has been advocating for the need for better and more timely access to children's mental health services. Unfortunately, we have seen our children's mental health system fall further and further into crisis. As a result, there has been an increase in children boarding in hospitals because there were no available services, supports, or placements available to meet children's basic safety needs. These are children who need residential care or intensive in-home services due to the acuity of their needs – including aggressive behaviors with significant safety concerns and intense suicidality. However, that care or service is unavailable due to no provider willing to accept them or lengthy waiting lists for services.

Parents in these situations are often actively involved in seeking medically necessary care, already engaging with mental health or waiver case managers to try to identify a safe discharge plan, have the child on multiple waitlists, or an admission date is scheduled weeks or months in the future with no ability to accelerate the timeline. These parents are actively seeking any and all resources to assist them in meeting their children's needs. Unfortunately, OMHDD continues to see an increase in the number of referrals made to child protection due to systemic capacity insufficiencies, not parental neglect. Parents describe these threats and/or referrals to child protection as "blaming and shaming" without offering any discernable benefit, additional supports, or help accessing the care everyone involved agrees the child needs. Put simply, child protection has no more ability to manifest a service provider or treatment setting than the professionals already involved in the child's care, service, and discharge plan.

OMHDD worked with NAMI in 2023 to raise this issue with the Department of Human Services. We sought a change to the statutory definition of neglect at that time; unfortunately, we were only successful in getting the screening guidelines changed to explicitly exclude these situations and a requirement that DHS inform hospitals of this update. Those updated screening guidelines are clear that these situations should not be screened in as neglect.

Situations where parents or guardian/s are seeking services needed to keep a child safe or meet the child's needs but are unable to access necessary services should not be screened in as neglect. When screening these reports, local welfare agencies should consider whether the issue is due to lack of service options for families or lack of capacity within appropriate treatment options.

Examples of situations that may be a result of systemic capacity issues may include, but are not limited to a child:

- Reported to be in an emergency department or hospital setting due to mental and/or behavioral health needs and cannot be safely discharged to their family; however, there is a lack of treatment or support options available. Family is seeking services, or recently has sought services, or the child has been placed on a waiting list, and maintains ongoing contact with their child and the local welfare agency, if already involved.
- Currently located in a facility requesting parent/guardian pick up or transport to another facility and the parent/guardian is unable to meet the child's needs if they return home or the child's behaviors/needs are a risk to others in the home, and a facility or resource for placement is not available.

While these reports are not appropriate to screen in for a child protection response, a voluntary children's mental health or child welfare referral may be helpful to support families in accessing services.

As anticipated in 2023, simply updating the screening guidelines has been woefully insufficient. We continue to see hospitals threaten families with referrals to child protection, often following through on making those referrals. OMHDD staff providing advocacy services to clients in these situations, sharing current screening guidelines, have been brazenly told by both hospitals and county child protection that these are simply guidelines, they are not binding, they will be disregarded, and they will proceed with child protection referrals and responses.

Explicitly excluding these situations from the definition of child neglect in MN Chapter 260E is the only way to prevent the very real harm and trauma clients and their families experience as a result of these inappropriate referrals to child protection. OMHDD is also aware of many situations where the hospital's threat of a referral to child protection resulted in parents feeling they had no choice but to consent to what they knew was an inadequate discharge plan with no services in place. When things predictably deteriorated due to the absence of any treatment, care, or services sufficient to meet the child's needs, another crisis emerged, law enforcement became involved, and children experienced lengthy stays in juvenile detention centers ill-equipped to meet the child's mental health or disability-related support needs. It is just plain wrong for known systemic gaps in service availability to potentially change the trajectory of a child's or family's future in these ways.

OMHDD urges support for SF 1682 to prevent the unnecessary trauma and damage to children and families due to statewide systemic failures of our children's mental health system, not parental ones. OMHDD is committed to working with all stakeholders to identify and implement solutions to the challenges currently facing our children's mental health system. As we do so, we ask that children and families not bear the burden of additional, preventable harm when our state's limited access to the right level of care at the right time is completely beyond their control.

Sincerely,



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