



Minnesota Department of Human Services
Elmer L. Anderson Human Services Building
Commissioner Jodi Harpstead
Post Office Box 64998
St. Paul, MN 55164-0998

May 2, 2022

Dear Members,

As you are aware, there is currently no Minnesota statute that mandates competency restoration. The only path to possible restoration is through the civil commitment process, which is intended to serve those with significant clinical needs and is not appropriate for all individuals in need of competency restoration services. Since 2013, the number of individuals found incompetent to stand trial and the related costs to the state, court system, and counties has increased annually. Unfortunately, this exponential growth has resulted in an insufficient patchwork of processes and gaps in services for those in need of competency restoration.

As a result, in 2019 the Legislature established the Community Competency Restoration Task Force¹ to evaluate and study community competency restoration programs and develop recommendations to address the needs of individuals deemed incompetent to stand trial. The task force identified three crucial components necessary to create an equitable and responsive competency process in Minnesota:

1. a state statute to establish standards and processes for competency restoration;
2. a continuum of competency restoration programs including inpatient, community, and jail-based settings; and
3. clarification of roles and financial investments for competency restoration services.

The Community Competency Task Force issued a report in 2021 and HF 2725 (Edelson) addresses and deliberately puts into action each of these three key components. As the bill has traveled through the legislative process this session, there were several areas of disagreement amongst stakeholders, all who have expertise in different aspects of competency restoration. There were items proposed by other stakeholders that the department could not agree to or could not implement without encroaching upon constitutional requirements or creating unintended consequences in the continuum of care for those that we serve. Some of the items the department held steadfast on were keeping decision-making authority over admissions and discharges primarily with the treatment facility, establishing discharge notice requirements that are functional, realistic and still meet

¹ See Minnesota Laws 2019, 1st Special Session, Chapter 9, Article 6, Section 77.

the needs of the courts, and ensuring that the amount of time an individual can be placed in a treatment facility for certain offenses is rooted in current case law.

Over the course of the 2022 legislative session, the department and stakeholders continued to meet, often daily, to work towards a resolution that all could support and implement. I am happy to share that with persistence and a focus on a holistic framework, the group was able to reach a consensus on a proposed amendment to HF 2725. The agreed upon language balances the viewpoints and needs of stakeholders; but more importantly, it creates Forensic Navigators to guide and support individuals in need of competency restoration services, ensures that competency restoration services will be provided to individuals in the most appropriate setting on a continuum of care, and closes current systemic gaps--reserving civil commitment for those with the highest clinical needs. If the bill is amended as agreed upon, the end result is a version of the bill that the department supports and one we believe can successfully implement.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Johnson', with a long horizontal stroke extending to the right.

Charles E. Johnson
Deputy Commissioner

CC: Dr. Kylee Stevens, Executive Medical Director, Direct Care and Treatment (DCT)
Marshall Smith, CEO, DCT
Matt Burdick, DHS Director of State Government Relations
Carrie Briones, DCT Legislative Director

Equal Opportunity Employer