

Anna Borgerding
Judiciary Finance and Civil Law Committee Administrator
568 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

February 9, 2024

Dear Ms. Borgerding,

My name is Dr. Rachel Hulkonen, and I am a licensed psychologist contracted with the Psychological/Psychiatric Examiner Services Program. I am writing to request your support for increased funding for the Minnesota Judicial Branch Psychological/Psychiatric Examiner Services Program during the 2024 Legislative Session.

The Psychological/Psychiatric Examiner Services Program contracts with independent psychologists and psychiatrists to provide mental health evaluations to individuals involved in civil commitment and criminal proceedings. The program maintains a list of psychologists and psychiatrists (i.e., a Roster of Qualified Examiners) who are contracted to deliver these Constitutionally and statutorily mandated services.

In recent years, the Minnesota Judicial Branch has seen a sharp rise in the demand for examiner services. Between 2020 and 2023, the number of psychological exams in criminal cases grew by 125%, and the number of exams in civil cases grew by 158%. The unprecedented demand for psychological evaluations within the courts is a nationwide problem. For example, the term “competency crisis” has been coined to describe the significant increase in demand for competence evaluations (i.e., Rule 20.01 evaluations in Minnesota) and the difficulty courts across the nation have had in meeting this demand over the past few years. Recent research on the topic indicates that these delays have led to class-action lawsuits and changes to the programs overseeing the provision of these evaluations in many states.

Along with the substantial increase in demand for examiner services, the Minnesota Judicial Branch is also facing a shortage of qualified examiners. The main reason for this shortage is that examiner compensation has not kept pace with inflation or the cost of obtaining the education and training necessary to achieve and maintain competence in forensic evaluations. The cost of running a practice has also grown substantially over the past several years and poses a barrier to entry for psychologists who hope to work in an independent private practice completing Roster examinations. The pay rate for examiners has not increased in at least 15 years, leading many examiners to remove themselves from the roster or reduce the number of examinations they accept in an effort to prioritize higher-paying work.

Since 2022, my colleagues and I have been communicating with each other about problems with the program and ways in which we examiners could advocate for change. In June of 2023, we submitted a letter requesting a pay increase to Jeff Shorba, the State Court Administrator, and have since met with him and others in the Psychological/Psychiatric Examiner Services Program to discuss the support we examiners need to continue to meet the needs of the courts. The support we requested prioritizes but is not limited to an increase in pay, and we have had productive

discussions about the factors that have led to the severe shortage of examiners and the changes necessary to meet the demand for psychological evaluations for the courts.

From conversations with many other Minnesota examiners and colleagues in other areas of forensic and clinical psychology over the past year and a half, many have reported they removed themselves from the Roster or reduced the number of cases they accept from the roster due to the stagnant pay rate. Several of my colleagues have said they would not be able to maintain a practice working full-time for the Psychological/Psychiatric Examiner Services Program due to the pay, and many have said that significantly higher pay elsewhere has convinced them to shift their practice away from Roster work. The pay rate has also discouraged new psychologists from entering private practice and joining the Roster, as they can receive higher pay in nearly any other area of psychology in Minnesota. As a group practice owner, I have had difficulty hiring new psychologists to join the Roster, as have the handful of my colleagues who also have group practices and are Roster examiners. Other examiners have said they could not sustain a group practice with the current pay rate and thus have not attempted to hire more psychologists to work with them as new examiners.

These are the difficulties that have led to a shortage of examiners across the state and subsequent delays in completing psychological exams for the courts. Over the past few years, courts have at times had to extend their timelines for examinations because of the severe shortage of examiners. This in turn has led to individuals—defendants in particular—waiting several months to be evaluated for Rule 20 exams when, a few years ago, they could have been evaluated within 30 to 60 days and then received necessary mental health and/or chemical dependency treatment. More recently, defendants are at times languishing in jail or experiencing severe psychological deterioration in the community due to lengthy waits for these exams and delays in receiving much needed mental health and chemical dependency treatment. Just a couple years ago, I was consistently booked out 60 days (i.e., the typical timeline for a Rule 20 evaluation) but was able to accept most of the referrals I received for evaluations. Currently, I am booked for the next five months and am turning down most of the requests for Rule 20 and commitment evaluations that I receive. My own practice has also changed in that I am taking fewer Roster evaluations and more Commitment Appeal Panel (CAP) evaluations, largely because the pay rate for CAP exams rose to \$225 an hour last year.

In summary, to meet the increasing need for these mandated services and ensure timely access to qualified examiners, the Minnesota Judicial Branch is seeking \$14.55 million in new funding for the Psychological/Psychiatric Examiner Services Program as part of its fiscal year 2024-2025 supplemental budget. **I strongly urge you to support this important funding request, which is vital to protecting the Constitutional rights of individuals involved in the criminal justice system in Minnesota.**

In addition to the proposed pay increase for Roster examiners, the Minnesota Judicial Branch is requesting to change the statutory definition of an examiner to include psychologists who are approved to practice in Minnesota via PSYPACT, an interstate compact designed to facilitate the practice of telepsychology, temporary in-person, and face-to-face practice of psychology across state boundaries. This change would allow out-of-state licensed psychologists to complete psychological examinations for Minnesota courts and help meet the current demand for examiners.

While the work we examiners do requires a great deal of education and training and could not be completed by mental health professionals with less expertise (e.g., master's level practitioners), there are many qualified psychologists in other states who could provide high-quality psychological services to our courts if statute allowed them to become Minnesota examiners through PSYPACT. **I strongly encourage you to support this change to statute, which will also help protect the Constitutional rights of defendants and respondents who require psychological evaluations through Minnesota courts.**

Thank you for your time, your consideration of this request, and your service in the Legislature. Please let me know if you have any questions about the work of forensic examiners in our state's court systems. It has been a pleasure to work with my fellow examiners on this issue over the past year and a half, and I would be happy to provide more information about our experiences, the work we do, and our perspectives on the challenges the examiner program faces. You can also visit www.mncourts.gov/Help-Topics/Psychological-Services-Examiner.aspx to learn more about the Psychological/Psychiatric Examiner Services Program.

Sincerely,

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