WISCONSIN STATE REPRESENTATIVE
Jennifer Shilling
95TH ASSEMBLY DISTRICT

Testimony in support of Assembly Bill 944
Multi-County Nursing Home Collaboration Bill

Assembly Committee on Aging and Long Term Care
April 15, 2010

Good morning Chairperson Krusick and members of the committee. Thank you for holding a public hearing on Assembly Bill 944.

I'd like to start by giving you a little background on this issue. La Crosse County is home to the Lakeview Health Center which is a Medicaid certified facility licensed to provide both nursing home care and services for persons with developmental disabilities. This facility serves behaviorally challenged individuals from across the state who are in need of special care and treatment.

Since many counties do not operate this type of specialized care facility, La Crosse County has coordinated with other counties to have their residents placed here as long as these counties help to cover the costs associated with their care.

Since federal law prohibits counties from seeking payment from other counties for the difference between the actual cost of care and the Medicaid reimbursement rate, in 2006 La Crosse County established a commission model that allows counties with residents living at Lakeview to contribute to the cost of operating this facility.

While this model was developed as a way to ensure compliance with state and federal laws, some questions have been raised. After a request by DHS to clarify state law last year, the Attorney General released a legal opinion on this collaborative effort which failed to address many of the questions and left this program in a state of legal uncertainty. This legislation would simply clarify state law and make it clear that these counties do in fact have the authority to establish a multi-county nursing home collaboration.

Without this legislation, Lakeview Health Center and the Clearview Long Term Care Center in Dodge County could be forced to end this collaborative effort. If this were to happen, both the state and counties would be faced with increased costs, and more importantly, individuals might not have access to the high level of care that can be provided to them at these specialized facilities.

Thank you again for your consideration of this proposal. I am pleased to be joined here today by individuals from La Crosse and Dodge Counties who can help to further explain this bill and answer any questions about the operation of these facilities.

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Jennifer Shilling
95TH ASSEMBLY DISTRICT

Assembly Bill 944: Multi-County Nursing Home Bill

Background

- Lakeview Health Center in La Crosse County and Clearview Long Term Care and Rehabilitation in Dodge County serve behaviorally-challenged residents who are typically not placed in other nursing homes throughout the state
- Federal law prohibits La Crosse and Dodge Counties from seeking payment from other counties for the difference between the actual cost of care and the Medicaid payment rate
- In order to continue accepting individuals from other counties, La Crosse County established a commission model in 2006 that allows counties with residents living at Lakeview Health Center to contribute to the cost of operating this facility
    - This model has allowed Lakeview to keep their doors open and has prevented counties from having to move these patients to more expensive facilities like the Winnebago and Mendota Mental Health Institutes
    - Nineteen counties throughout Wisconsin currently participate in this collaboration effort

Why Legislation is Needed

- In April 2009, DHS requested a legal opinion from the Attorney General regarding the legality of the commission structure and its relationship to Medicaid payment laws
    - This opinion was released in October and failed to provide a clear answer to the questions that were raised
- Legislation is needed to provide clarity on the status of the commissions as well as on the validity of payments from member counties into the commission under state Medicaid statutes

What AB 944 Does

- This bill will simply clarify current law and ensure that counties continue to have the authority to establish multi-county nursing home collaborations
- This bill provides that if two or more counties, cities, towns, or villages (political subdivisions) create a commission to operate a nursing home and the commission imposes assessments on the participating political subdivisions for the costs of operating the nursing home and providing services to residents, payment of the assessments by the political subdivisions and acceptance of the assessments by the commission do not violate prohibitions against supplementing MA payments or billing a third party for MA services.

Supporting Organizations

- Wisconsin Counties Association
- Wisconsin Association of County Homes
- Wisconsin Association of Homes and Services for the Aging
- Wisconsin County Human Service Association
- AFSCME

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KATHLEEN VINEHOUT
STATE SENATOR

Testimony in support of Assembly Bill 944
Assembly Committee on Aging and Long-Term Care
Thursday, April 15, 2010

Thank you for the opportunity to testify in support of AB 944 which allows two or more counties (or municipalities) to create a commission, under the intergovernmental cooperation agreements statutes, for the operation of a nursing home.

County nursing homes are critical partners in providing care for some of our most vulnerable citizens. Some county facilities provide special care and treatment to behaviorally-challenged residents who cannot be served in their home county. The cost of providing specialized care for these residents often exceeds the rate paid by the Medicaid program.

Federal law requires facilities that accept Medicaid to accept the Medicaid rate as payment in full for all costs associated with a resident. Federal law also prohibits a county providing care to seek payment from the resident's county to help cover the difference between the actual cost of care and the Medicaid rate. Two counties facing this dilemma developed a collaborative model to address their funding shortfall.

Lakeview Health Center in La Crosse County and Clearview Long Term Care and Rehabilitation in Dodge County serve behaviorally-challenged residents from other counties.

La Crosse County determined that most of the operating losses at Lakeview Health Center were due to the funding gap between Medicaid reimbursement and actual care costs. Dodge County faced a similar scenario.

Both La Crosse and Dodge Counties created a collaborative mechanism to seek financial support for the specialized care of out-of-county residents in Lakeview and Clearview. Unfortunately, questions remained about whether the collaborative nursing home commission complies with state Medicaid regulations.

Passage of AB 944 would make it clear that counties do in fact have the authority to collaborate in establishing a multi-county nursing home commission. It also makes it clear that allocating costs or payment of costs by members of the commission does not violate Medicaid laws on third party billing or Medicaid supplementation.

It would provide assurance to the counties involved in the collaborative that it complies with Medicaid regulations. In addition to La Crosse and Dodge, the counties involved include Trempealeau, Adams, Green, Iowa-Grant Unified Services, Oconto, Ozaukee, Sauk, Waukesha, Columbia, Marinette, Monroe, Vernon, Juneau, Crawford, Rock, Chippewa, Richland, and Winnebago.

Most importantly it assures that counties have placement options for some of their most vulnerable and challenging residents.

I appreciate the committee's consideration and swift action on this important bill.

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Public Hearing: Committee on Aging and Long Term Care
April 15, 2010

Testimony of Pam Semb NHA
Lakeview Health Center West Salem, WI

I. **Introduction**

II. **Special Populations Served**
- Persons with acute and chronic mental illness
- Persons with developmental disabilities
- Elderly persons with various forms of dementia who have behavioral disturbances or who have failed in other nursing homes or community settings

III. **Services Provided**
- Lakeview itself consists of a 142 bed nursing home and a 10 bed facility for the developmentally disabled.
- We also provide a multitude of other services. We operate a 14 bed "State Only" locked nursing home
- Two Adult Family Homes for both medically and behaviorally challenged persons with developmental disabilities
- A 14 bed Community Based Residential Facility that primarily serves individuals with chronic mental illness and/or AODA issues and;
- A sheltered workshop that serves both Lakeview residents and community individuals.

IV. **Medicaid Dependence**
- Because of the special persons we serve, Lakeview nursing home and the facility for the developmentally disabled are highly dependent on Medicaid reimbursement for most of our facilities residents. In fact, over 90% of our residents are on Medicaid and as you well know, Medicaid doesn't begin to cover our costs for care.

V. **All Nursing Homes Are NOT Created Equal**
- When the average person thinks of a nursing home they think of facilities that provide care to the elderly who need long term assistance or who specialize in rehabilitation. Lakeview and Clearview are not those kinds of nursing homes. Our staff are specially trained in behavior management and preventative measures at any one time we can have multiple residents on line of sight or 1 to 1 supervision. Typical nursing homes do not provide these services and they don't wish to. That is why facilities like ours exist to serve these highly vulnerable residents of Wisconsin.

VI. **Conclusion**
- As a long term care professional with 20 plus years of experience, I have grown to value and appreciate the special services we (and limited others like Clearview) provide. This legislation will allow us to continue with our mission of serving our special residents by providing us with the legal support needed to more adequately cover our costs.

Thank you for your time.

Lakeview Health Center
Owned and Operated by:
County of La Crosse, Wisconsin
902 East Garland Street • West Salem, Wisconsin 54669-1399
(608) 786-1400 • FAX: (608) 786-1419
Web Site: www.co.la-crosse.wi.us

Public Hearing: Committee on Aging and Long Term Care
April 15, 2010

Testimony of Steve O'Malley
County Administrator – La Crosse County

I. Introduction

II. Why La Crosse County Formed Mississippi Valley Health Services Commission

- Increasing Tax Levy at Lakeview
- Inadequate state and federal reimbursement
- No cost share from other counties getting services for their residents placed at Lakeview
- Negative impact on La Crosse County tax payers

III. Who Belongs to Mississippi Valley Health Services and Why

- Twelve Counties – Chippewa, Crawford, Juneau, La Crosse, Marinette, Monroe, Outagamie, Richland, Rock, Sauk, Trempealeau, and Vernon
- Winnebago to join April 2010
- Counties joined to serve their citizens because they did not have the resources to provide specialty care
- Their fiscal involvement has created an active and collaborative relationship

IV. Who Benefits From County Nursing Home Commissions

- County Human Services Departments
- Counties around the state have opportunity for expanded resources for care
- MCO's
- Local tax payers

V. Conclusion

Thank you for your time.

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MEMORANDUM

TO: Honorable Members of the Assembly Committee on Aging and Long Term Care

FROM: Sarah Diedrick-Kasdorf, Senior Legislative Associate

DATE: April 15, 2010

SUBJECT: Support for Assembly Bill 944

The Wisconsin Counties Association (WCA) supports Assembly Bill 944, that allows two or more counties (or municipalities) to create a commission under s. 66.0301 of the statutes for the operation of a nursing home.

This bill was introduced at the request of La Crosse and Dodge Counties, as well as the Wisconsin Counties Association, to ensure Lakeview Health Center in La Crosse County and Clearview Long Term Care and Rehabilitation in Dodge County continue as a resource to serve behaviorally-challenged individuals residing in many counties throughout the state.

The concept for the creation of a nursing home commission came from La Crosse County. In 2006, La Crosse County was concerned about the operating losses at Lakeview Health Center. After careful review, it was determined that most of the loss was attributed to the funding gap created by shortfalls in Medicaid reimbursement.

Under federal Medicaid laws, any facility that accepts Medicaid must accept the Medicaid rate as payment in full for all costs associated with a resident. The cost of care for almost all behaviorally-challenged residents exceeds the rate paid by the Medicaid program. As federal law prohibits Medicaid providers, in this case La Crosse and Dodge Counties, from seeking payment from other sources for the difference between the actual cost of care and the Medicaid payment rate, the cost of care for out-of-county residents is supplemented by the La Crosse and Dodge County property taxpayers. If the funding shortfall continues at both Lakeview and Clearview, these county homes may consider closing their admissions to out-of-county residents. If admissions are closed, county human service departments from across the state will need to find alternate placements

LYNDA BRADSTREET
DIRECTOR OF ADMINISTRATION & FINANCE

JON HOCHKAMMER
DIRECTOR OF INSURANCE OPERATIONS

JOHN REINEMANN
LEGISLATIVE DIRECTOR

J. MICHAEL BLASKA
DIRECTOR OF PROGRAMS & SERVICES

MARK D. O'CONNELL, EXECUTIVE DIRECTOR

for their residents, including the use of Winnebago and Mendota Mental Health Institutes, at a cost far greater to the taxpayers of this state. The commission model allows all counties having residents in placement in a nursing facility licensed and operated by the commission to share in the operating costs of the facility.

Assembly Bill 944 provides a statutory framework for the creation and operation of a nursing home commission. The bill defines a nursing home commission utilizing current statute 66.0301 (intergovernmental cooperation agreements) as its base. The bill also:

- Requires the commission to hold the nursing home license.
- Specifies the commission is the certified provider of services and is the recipient of medical assistance reimbursements.
- Specifies the commission owns or leases the building in which the nursing home is located.
- Specifies the commission provides or contracts for the provision of nursing home services.
- Specifies the commission controls admissions and discharges.
- Specifies the commission allocates the costs of operating the facility and providing services among its members.
- Specifies that the imposition of assessments on members of the commission does not constitute third party billing for services and that payment of an assessment does not constitute a purchase of service (language necessary to ensure payments do not violate laws governing MA supplementation).

The statutory language in the bill ensures that all counties with residents in county homes that create a nursing home commission may contribute to the cost of operating the nursing home without violating Medicaid regulations, as well as ensuring federal dollars paid to the state based on county nursing home losses (certified public expenditures) are protected.

Both La Crosse and Dodge Counties have created nursing home commissions. The commission in La Crosse County is called Mississippi Valley Health Services. The commission in Dodge County is called Marsh Country Health Alliance. The governing boards of the commissions consist of representatives from each county choosing, by county board resolution, to join the commission. Counties involved include: La Crosse, Dodge, Adams, Green, Iowa-Grant Unified Services, Oconto, Ozaukee, Sauk, Waukesha, Columbia, Marinette, Monroe, Vernon, Juneau, Trempealeau, Crawford, Rock, Chippewa, Richland, Winnebago, Outagamie.

La Crosse and Dodge Counties, as well as the Wisconsin Counties Association, have worked with the Department of Health Services on the development and implementation of nursing home commissions. Our efforts are supported by the Wisconsin Association of County Homes and the Wisconsin County Human Services Association.

While we understand this bill is before you late in the legislative session, passage of Assembly Bill 944 will provide La Crosse and Dodge counties, as well as all commission members, assurance that the commission model complies with Medicaid regulations. The bill also provides a level of comfort to all counties ensuring the continuation of placement options for some of our state's most challenging residents.

Thank you once again for agreeing to hear this bill.

The Wisconsin Counties Association respectfully requests your support for Assembly Bill 944.

Please do not hesitate to contact the WCA office if you have any questions.

Thank You to Representaitve Krusick for hearing this Bill!

Clearview Long Term Care and Rehabilitation

Clearview Long Term Care and Rehabilitation has been in existence for over 150 years. Historically, we have taken care of residents with Mental Illness, Behavioral symptoms and clinically complex individuals with some or all of the above criteria.

Clearview is a unique complex within the State of Wisconsin and our programs consist of-

- Brain Injury Rehabilitation
- Clearview Behavioral Health (both of these areas care for individuals on a shorter term stay and ages range from 18-70)
- General Geriatric
- Facility for Individuals with Developmental Disabilities
- Chronic Mental Illness
- Short Term Rehabilitation (Medical)
- Specialty Dementia Care

A typical referral to Clearview will consist of a call from either a referring agency within a County, Managed Care Organization, a residence, family member or nursing home somewhere in the State of Wisconsin, stating they are unable to meet the needs of an individual. Clearview has a long standing history of being a "safety net" for the State of Wisconsin, we are able to meet the needs of residents with complex medical and behavioral issues, care providers know that about us. Many times this referral call will consist of concerns that a resident with Mental Illness or Dementia has had some behavioral issues within the setting they now reside, and the organizations feels this individual will impact the safety of others. The resident may carry multiple diagnosis'.

We are able to successfully work with these individuals. Why are we different? We have longevity of our staff, staffing patterns that are effective and a mission to serve. Clearview employs approximately 350 employees.

In the past 5 years, Clearview has served individuals from 26 Counties within our Facility for Individuals with Developmentally Disabilities, Geriatric, Mental Illness and Specialty Dementia Care areas of complex. Presently, we are working with 10 Counties who are waiting to join the Commission and are anticipating to continue to utilize the services we provide. Many of these counties have their own County Nursing Home, but are not able to care for the type of individuals we care for at Clearview. These Counties have several residents who make Clearview their home on a long term or temporary basis.