

LINCOLN COUNTY BOARD OF SUPERVISORS

Monday, February 28, 2022 - 5:00 p.m.

Meeting Location: Lincoln County Service Center, 801 N Sales Street, Room 257, Merrill, WI 54452

Via Teleconference and In-Person Attendance

**Electronic Attendance:** Persons wishing to attend the meeting electronically may enter the meeting beginning ten minutes prior to the start time indicated above using the following number or address:

Conference Call: (US) +1 980-221-2670

Access Code (PIN): 492 467 134#

Meeting ID: <https://meet.google.com/vqr-xbnr-ijj?hs=122&authuser=0>

The teleconference cannot start until the host (county clerk) dials in and enters the host password.

**Attendance Policy:** Lincoln County encourages all individuals attending in person to follow the most recent CDC guidelines for vaccinated and unvaccinated individuals. All public participants' phones, microphones and chat dialog boxes will be muted or disabled during the meeting. If "public comment" appears on the agenda, before the meeting is called to order, the clerk will ask teleconference attendees whether any public comment is being offered. When called upon by the clerk or chair, any person offering public comment should state their name and comments.

**PUBLIC COMMENT ON AGENDA ITEMS:** Under the current (COVID-19 pandemic) circumstances, citizens attending by teleconference may have floor privileges to speak on agenda items without signing-in at the meeting location. Before the meeting is called to order, the Clerk will ask teleconference attendees whether any public comment is being offered. When called upon by the Clerk or Board Chair by name, any persons offering public comment should state his/her name and express in good order his/her comments upon the topic under consideration for no more than 5 minutes.

SPECIAL MEETING AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Reports of Standing & Special Committees  
Administrative & Legislative Committee - Discussion of Proposed Revision to NCHC Tri-County Agreement by Attorney Andy Phillips, Attolles Law firm.
5. Resolutions & Ordinances
  - a. Res 1) Resolution 2022-02-07 Adopt the Amended and Restated Intergovernmental Agreement Establishing a Multi-county Department of Community Programs between Langlade, Lincoln and Marathon Counties (also known as the NCHC Tri-County Agreement)
6. Approval for Mileage and Per Diem for Board Meeting
7. Next County Board Meeting Date: Tuesday, March 15, 2022, 6:00 P.M. Meeting Location: Lincoln County Service Center, 801 N Sales Street, Room 257, Merrill, WI 54452
8. Adjourn

Posted: Date \_\_\_\_\_ Time \_\_\_\_\_ a.m./p.m. By \_\_\_\_\_

*Request for reasonable accommodations for disabilities or limitations should be made prior to the date of this meeting. You may contact the County Clerk at 715.539.1019. Please do so as early as possible so that proper arrangements can be made. Requests are kept confidential.*

#### GENERAL REQUIREMENTS:

1. Must be held in a location which is reasonably accessible to the public.
2. Must be open to all members of the public unless the law specifically provides otherwise.

#### NOTICE REQUIREMENTS:

1. In addition to any requirements set forth below, notice must also be in compliance with any other specific statute.
2. Chief presiding officer or his/her designee must give notice to the official newspaper and to any members of the news media likely to give notice to the public.

#### MANNER OF NOTICE:

Date, time, place, and subject matter, including subject matter to be considered in a closed session, must be provided in a manner and form reasonably likely to give notice to the public.

#### TIME FOR NOTICE:

1. Normally, a minimum of 24 hours prior to the commencement of the meeting.
2. No less than 2 hours prior to the meeting if the presiding officer establishes there is a good cause that such notice is impossible or impractical.

#### EXEMPTIONS FOR COMMITTEES AND SUB-UNITS:

Legally constituted sub-units of a parent governmental body may conduct a meeting during the recess or immediately after the lawful meeting to act or deliberate upon a subject which was the subject of the meeting, provided the presiding officer publicly announces the time, place, and subject matter of the sub-unit meeting in advance of the meeting of the parent governmental body.

#### PROCEDURE FOR GOING INTO CLOSED SESSION:

1. Motion must be made, seconded, and carried by roll call majority vote and recorded in the minutes.
2. If motion is carried, chief presiding officer must advise those attending the meeting of the nature of the business to be conducted in the closed session, and the specific statutory exemption under which the closed session is authorized.

#### STATUTORY EXEMPTIONS UNDER WHICH CLOSED SESSIONS ARE PERMITTED:

1. Deliberation of judicial or quasi-judicial matters. Sec. 19.85(1)(a)
2. Considering dismissal, demotion, or discipline of any public employee or the investigation of charges against such person and the taking of formal action on any such matter; provided that the person is given actual notice of any evidentiary hearing which may be held prior to final action being taken and of any meeting at which final action is taken. The person under consideration must be advised of his/her right that the evidentiary hearing be held in open session and the notice of the meeting must state the same. Sec. 19.85(1)(b).
3. Considering employment, promotion, compensation, or performance evaluation data of any public employee. Sec. 19.85(1)(c).
4. Considering strategy for crime detection or prevention. Sec. 19.85(1)(d).
5. Deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business whenever competitive or bargaining reasons require a closed session. Sec. 19.85(1)(e).
6. Considering financial, medical, social, or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of specific charges, which, if discussed in public would likely have an adverse effect on the reputation of the person referred to in such data. Sec. 19.85(1)(f).
7. Conferring with legal counsel concerning strategy to be adopted by the governmental body with respect to litigation in which it is or is likely to become involved. Sec. 19.85(1)(g).
8. Considering a request for advice from any applicable ethics board. Sec. 19.85(1)(h).

#### CLOSED SESSION RESTRICTIONS:

1. Must convene in open session before going into closed session.
2. May not convene in open session, then convene in closed session and thereafter reconvene in open session with twelve (12) hours unless proper notice of this sequence was given at the same time and in the same manner as the original open meeting.
3. Final approval or ratification of a collective bargaining agreement may not be given in closed session.

#### BALLOTS, VOTES, AND RECORDS:

1. Secret ballot is not permitted except for the election of officers of the body or unless otherwise permitted by specific statutes.
2. Except as permitted above, any member may require that the vote of each member be ascertained and recorded.
3. Motions and roll call votes must be preserved in the record and be available for public inspection.

#### USE OF RECORDING EQUIPMENT:

The meeting may be recorded, filmed, or photographed, provided that it does not interfere with the conduct of the meeting or the rights of the participants.

#### LEGAL INTERPRETATION:

1. The Wisconsin Attorney General will give advice concerning the applicability or clarification of the Open Meeting Law upon request.
2. The municipal attorney will give advice concerning the applicability or clarification of the Open Meeting Law upon request.

#### PENALTY:

Upon conviction, any member of a governmental body who knowingly attends a meeting held in violation of Subchapter IV, Chapter 19, Wisconsin Statutes, or who otherwise violates the said law shall be subject to forfeiture of not less than \$25.00 nor more than \$300.00 for each violation.



**LEGAL MEMORANDUM**

**TO:** Langlade County Board of Supervisors  
Lincoln County Board of Supervisors  
Marathon County Board of Supervisors

**CC:** NCCSP Executive Committee

**FROM:** Andrew T. Phillips, Attolles Law, s.c.

**RE:** Overview of NCCSP Governance Options and Recommendation

**DATE:** February 16, 2022

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**EXECUTIVE SUMMARY AND RECOMMENDATION**

In January of 2021, we were engaged as counsel to the North Central Community Services Program (“NCCSP”), aka North Central Health Care or NCHC, and tasked with (1) reviewing NCCSP’s current benefit policies; and (2) providing a recommendation surrounding potential modifications to the current 2020 Intergovernmental Agreement Establishing a Multicounty Department of Community Programs (the “2020 Agreement”) in an effort to strengthen the long-term viability of the tri-county partnership between Langlade, Lincoln, and Marathon Counties. We completed our work reviewing benefit policies in the Summer of 2021 under my former firm, von Briesen & Roper, s.c., and provided a memorandum (the “Initial Memorandum”) containing our findings to the NCCSP Executive Committee and Board.

The findings contained within the Initial Memorandum revealed certain organizational and governance deficiencies in transparency and accountability, which the NCCSP Executive Committee asked us to address in the second part of our engagement. As a result, we explored the various organizational and governance options available to NCCSP. The three (3) options considered are summarized in this memorandum.

Ultimately, we recommend the member counties adopt an “Executive Committee” Model for NCCSP, as described below. As described within this memorandum, the governance associated with a single-county community programs department varies under Wis. Stat. § 51.42 depending upon whether a county has an executive or administrator, or an administrative coordinator. However, under this particular statute, the governance authority of a multi-county department of community programs is conferred upon the community programs board without regard to whether one or more of the counties that comprise the multi-county department have elected the executive or administrator form. Based on our review and analysis, the Executive Committee model described herein creates the best opportunity for transparency and linkage between NCCSP and the member counties, maintains NCCSP’s service commitments to the vulnerable populations it serves, and clarifies the respective roles and responsibilities of the respective bodies. Our analysis follows.

## OVERVIEW OF OPTIONS

### *Option 1 – The § 59.52(7) “Executive Committee” Model*

As discussed in detail in this memorandum, the governance model associated with a community programs department varies depending upon whether a county has an executive or administrator, or administrative coordinator. In counties with an executive or administrator, the community programs board “shall be only a policy-making body determining the broad outlines and principles governing the administration of programs....” Wis. Stat. § 51.42(4)(a)2. Conversely, in counties with an administrative coordinator, the board is “a governing **and** policy-making board.” Wis. Stat. § 51.42(4)(a)1. (emphasis added.) The statutes provide that a community programs board in a multi-county department of community programs is a “governing and policy-making board” without regard to whether one or more of the counties that comprise the multi-county department have elected the executive or administrator form.

Section 59.52(7) of the Statutes provides that counties may cooperate with one another in the creation of any department and the commission governing the cooperative entity may serve as the single entity that represents, on behalf of the counties, the joint interests of the counties. Specifically, the statute provides a county board of supervisors with the following authority:

JOINT COOPERATION. The board may join with the state, other counties and municipalities in a cooperative arrangement as provided by s. 66.0301, including the acquisition, development, remodeling, construction, equipment, operation and maintenance of land, buildings and facilities for regional projects, whether or not such projects are located within the county. If a county is required to establish or maintain an agency, department, commission, or any other office or position to carry out a county responsibility, and the county joins with another county or municipality by entering into an intergovernmental cooperation contract under s. 66.0301 (2) to jointly carry out the responsibility, the jointly established or maintained agency, department, commission, or any other office or position to which the contract applies fulfills the county's obligation to establish or maintain such entities or positions until the contract entered into under s. 66.0301 (2) expires or is terminated by the parties. In addition, if 2 or more counties enter into an intergovernmental cooperation contract and create a commission under s. 66.0301 (2) to jointly or regionally administer a function or project, the commission shall be considered to be a single entity that represents, and may act on behalf of, the joint interests of the signatories to the contract entered into under s. 66.0301 (2).

Wis. Stat. § 59.52(7).

Notwithstanding the apparent constraints on governance presented in Wis. Stat. § 51.42, Section 59.52(7), Wis. Stats., provides the member counties with an opportunity to utilize a commission

model whereby the commission stands in the shoes of the county executive or county administrator. In that form, the NCCSP Board would, as Wis. Stat. § 51.42(4)(a)2. provides, be “a policy-making body determining the broad outlines and principles governing the administration of programs.” The operational oversight vested in a county executive or county administrator would vest in a commission. In this circumstance, the NCCSP Executive Committee, which is comprised of the highest ranking administrative officials from the member counties plus the chair of the NCCSP Board, would serve as the commission. In other words, the model replicates the executive or administrator form of governance contemplated in Wis. Stat. § 51.42.

Organizing and governing under this model would provide role and responsibility clarity because, as previously indicated, Wis. Stat. § 51.42 specifically contemplates the governance form. Indeed, over half of the counties in Wisconsin already operate under the governance model whereby the community programs board is limited in function to policy-making. In addition to the clarity of roles and responsibilities, the commission model would specifically vest decision-making authority in the NCCSP Executive Committee on matters impacting NCCSP operations and finance, thus providing the transparency and accountability the member counties desire. The following chart compares the powers and duties of community programs boards in counties with an administrative coordinator versus counties with an administrator or executive.

<b>Counties with an Administrative Coordinator (Wis. Stat. § 51.42(5)(a))</b>	<b>Counties with an Administrator or Executive (Wis. Stat. § 51.42(5a))</b>
<ol style="list-style-type: none"> <li>1. Establish long-range goals and intermediate-range plans, detail priorities and estimate costs.</li> <li>2. Develop coordination of local services and continuity of care where indicated.</li> <li>3. Utilize available community resources and develop new resources necessary to carry out the purposes of this section.</li> <li>4. Appoint a county community programs director, subject to the approval of each county board of supervisors which participated in the appointment of the county community programs board, on the basis of recognized and demonstrated interest in and knowledge of the problems of mental health, developmental disability, alcoholism and drug addiction, with due regard to training, experience, executive and administrative ability, and general qualification and fitness for the performance of the duties of the county community programs director under sub. (6). The county board of supervisors in a county with a single-county department of community programs or the county boards of supervisors in counties with a multicounty department of community programs may delegate this appointing authority to the county community programs board.</li> <li>5. Fix the salaries of the employees of the county department of community programs, subject to the approval of each county board of supervisors which participated in the appointment of the county community programs board unless such county board of supervisors elects not to review the salaries.</li> <li>6. Prepare a proposed budget for submission to the county board and a final budget for submission to the department of health services in accordance with s. 46.031 (1).</li> <li>7. Appoint committees consisting of residents of the county to advise the county community programs board as it deems necessary.</li> <li>8. Develop county community programs board operating procedures.</li> <li>9. Comply with state requirements.</li> <li>10. Assist in arranging cooperative working agreements with persons providing health, education, vocational or welfare services related to services provided under this section.</li> <li>11. Evaluate service delivery.</li> <li>12. Determine, subject to the approval of the county board of supervisors in a county with a single-county department of community programs or the county boards of supervisors in counties with a</li> </ol>	<ol style="list-style-type: none"> <li>1. Appoint committees consisting of residents of the county to advise the county community programs board as it deems necessary.</li> <li>2. Recommend program priorities, identify unmet service needs and prepare short-term and long-term plans and budgets for meeting such priorities and needs.</li> <li>3. Prepare, with the assistance of the county community programs director appointed under sub. (6m), a proposed budget for submission to the county executive or county administrator and a final budget for submission to the department of health services in accordance with s. 46.031 (1) for authorized services.</li> <li>4. Advise the county community programs director appointed under sub. (6m) regarding purchasing and providing services and the selection of purchase of service vendors, and make recommendations to the county executive or county administrator regarding modifications in such purchasing, providing and selection.</li> <li>5. Develop county community programs board operating procedures.</li> <li>6. Comply with state requirements.</li> <li>7. Assist in arranging cooperative working agreements with persons providing health, education, vocational or welfare services related to services provided under this section.</li> <li>8. Advise the county community programs director regarding coordination of local services and continuity of care.</li> </ol>

multicounty department of community programs and with the advice of the county community programs director appointed under subd. 4., whether services are to be provided directly by the county department of community programs or contracted for with other providers and make such contracts. The county board of supervisors in a county with a single-county department of community programs or the county boards of supervisors in counties with a multicounty department of community programs may elect to require the approval of any such contract by the county board of supervisors in a county with a single-county department of community programs or the county boards of supervisors in counties with a multicounty department of community programs.	
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As the comparison indicates, under the commission model whereby the Executive Committee serves as the “county executive or administrator” as it relates to oversight of NCCSP, the NCCSP Board is more clearly positioned in a policy-making role, as opposed to an operational role under the administrative coordinator model (and as is contemplated under the 2020 Agreement and prior iterations thereof.)

**Option 2 – Reconstituting the Retained County Authority Committee**

As indicated above, Wis. Stat. § 51.42(5)(a) sets forth the powers and duties of a community programs board in counties with an administrative coordinator and for multi-county departments. At various points in the subsection, the statute indicates that county board consent is required for a community programs board to exercise certain powers (e.g., appointment of director, fix employee salaries, etc.) unless the county boards waive their right to review and consent.

The 2017 Agreement created a “Retained County Authority Committee” of NCCSP whose purpose was “to exercise authority retained by the respective County Boards, as provided under sec. 51.42(5) of the Wisconsin Statutes” (see Sec. V.A. of the 2017 Agreement.) In other words, it appears as though the member counties intended to reinforce in the 2017 Agreement the notion that the counties were not ceding any authority over the matters requiring county board consent set forth in Wis. Stat. § 51.42(5)(a). Indeed, based upon our discussion with the Executive Committee, this appears to be the precise purpose of the Retained County Authority Committee in the 2017 Agreement.

Notwithstanding the existence and charge given to the Retained County Authority Committee in the 2017 Agreement, our review of the NCCSP benefit policies revealed circumstances where approval for certain matters should have been sought from the Retained County Authority Committee but were not. This led to confusion and disagreement among certain members of the NCCSP Board, NCCSP staff and the member counties. Unfortunately, the confusion and disagreement resulted in time, money, and resources being directed toward the confusion and disagreement as opposed to the provision of services to the vulnerable populations NCCSP serves.

The 2020 Agreement eliminated the Retained County Authority Committee, but retained the concepts embodied in the Retained County Authority Committee by retaining the counties’ consent requirement through the NCCSP Executive Committee (see Sec. V.K. of the 2020 Agreement.) Indeed, according to the 2020 Agreement, the Executive Committee “should focus on ensuring that the NCCSP organization remains responsive to the member counties and works

to establish and sustain a strong working relationship between the NCCSP and the member counties....”

Despite the provisions of Wis. Stat. § 51.42(5)(a) and the explicit statements surrounding retained county authority, the statutes relating to the powers and duties of a board in a multi-county department create opportunity for confusion and disagreement relating to which “entity” may make certain decisions regarding NCCSP. In particular, Wis. Stat. § 51.42(4)(a)1. provides that a board of a multi-county department of community programs (in this case, the NCCSP Board) shall be a “**governing and** policy-making board ... [which] shall **govern** the single-county or multicounty department of community programs....” (Emphasis added.) These express statutory statements certainly suggest that all matters relating to governance (in addition to policy-making) are vested with the board of the department, as opposed to the member counties. Moreover, the broad statements relating to governance confuse the issue of what powers and duties are specifically “retained” by the member counties as intended in the 2017 Agreement and the 2020 Agreement.

While we considered reconstituting a Retained County Authority Committee and strengthening the language promoting transparency and accountability to the member counties in the context of an amended Intergovernmental Agreement, we concluded the exercise would be time-consuming and fail to resolve powers and authority questions inherent in the language of Wis. Stat. § 51.42(4)(a) and (5)(a). For this reason, we do not recommend the counties pursue this option.

### **Option 3 – Dissolve NCCSP and Create Independent Departments**

We also considered a recommendation to dissolve NCCSP, which would then require the member counties to each form an independent department of community programs. Under this option, Langlade County and Lincoln County would form a department and board under Wis. Stat. § 51.42(4)(a)1. and (5)(a) and Marathon County would form a department and board under Wis. Stat. § 51.42(4)(a)2. and (5a). The difference between the two forms would primarily be that the community programs board in Lincoln County would be a governing and policy-making board and the community programs boards in Lincoln and Marathon Counties would be limited to policy-making. The difference in the governance model is because, as set forth above, Lincoln County has chosen the administrative coordinator form and Langlade and Marathon Counties maintain the administrator form.

If the member counties each created separate departments, the counties could contract with one another to share services, personnel, and funds. While sharing resources through a series of contractual relationships is possible under this option, there would be no centralized oversight from a body representative of the three counties, which among other issues seems to encourage inefficiency. For this reason, we do not recommend the counties pursue this option.

## **RECOMMENDATION**

We understand the objective of any potential NCCSP governance restructuring to be to increase the transparency of NCCSP operations and, as well, provide for enhanced connectivity between NCCSP and the member counties. In addition, it is our understanding the Executive Committee has made client and community service a priority such that there should be no impact on the service recipients as a result of any change in governance.

Based upon our review of the potential governance options, all as more fully explained above, we recommend the member counties pursue Option 1 above whereby the 2020 Agreement is reformed to provide for the commission (Executive Committee) to operate in similar form as the county executive or administrator model. If this option is pursued, the NCCSP Board would serve as a policy-making body, the Executive Committee would be responsible for operational oversight, the Executive Committee would be accountable to the member counties, and the persons NCCSP serves should see little to no change in services as the overall role of NCCSP would not change under Wis. Stat. § 51.42.

If you have any questions surrounding this memorandum, please do not hesitate to contact us. We appreciate the opportunity to be of service to NCCSP and its member counties.



