May 1, 2014

Dear Mental Health Board Member:

In 2011, Legislative Bill 512 was passed to address the removal of a firearm-related disability for persons who have been committed by a mental health board. People who have been committed to mental health treatment can petition the board to have the firearm disability removed after release from commitment or treatment. We are writing to provide you guidance in this area should persons come before you to request restoration of their second amendment rights.

People can get the names of all the mental health boards that currently hold a commitment on them from the Division of Behavioral Health. Neb. Rev. Stat. § 71-963(2)(a) states a person can request a hearing related to this matter. A petition for removal of a firearm-related disability should be granted if the mental health board determines: 1) The subject will not be likely to act in a manner dangerous to public safety and, 2) The removal of the firearm-related disability would not be contrary to the public interest.

To guide the Mental Health Board in making decisions related to LB512, the following educational materials will be added to our current mental health board curriculum to update the self-study training program going forward. These are also included with this letter.

a) A summary statement on restoration of gun-rights;
b) American Psychological Association Panel of Experts Report on Gun Violence: Prediction, Prevention, and Policy (2013); and,
c) Consortium for Risk Based Firearm Policy on Guns, Public Health, and Mental Illness: An Evidence-Based Approach for State Policy (2013).

The material enclosed herein is available on the Division of Behavioral Health website at: http://dhhs.ne.gov/behavioral_health. For more information, please call Carol Coussons de Reyes at (402) 471-7853.

The Division of Behavioral Health sought feedback regarding these materials and acknowledges that there is ambiguity in the training material. One reason for the ambiguity is no court has issued an opinion on this topic and statute is mostly silent.

A suggestion was made that there should be a minimum of one year after a subject has completed the mental health board ordered treatment plan before a petition could be filed to remove a firearm disability. There is no such requirement written into the law, but this is an example of the evidence that a mental health board may consider if it so chooses. Ambiguity allows each board to determine the type of evidence it thinks is appropriate given each individual's specific circumstances.

Thanking you for your support of our mission to help people live better lives, we are

Very truly yours,

Scot L. Adams, Ph.D., Director
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Enclosures