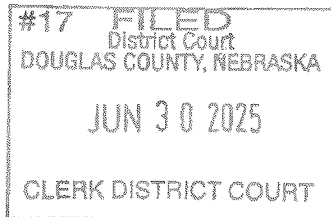




M00021544D01

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

IN THE MATTER OF THE
CLERK OF THE DOUGLAS
COUNTY DISTRICT COURT.



) CASE NO. MS 25- 118
)
) FURTHER ORDER RE:
) CLERK OF THE DISTRICT COURT
) AND THE
) MENTAL HEALTH BOARD
) AND THE
) DISTRICT COURT
) ADMINISTRATOR'S OFFICE

THIS MATTER is before the Court on the motion of the Court and pursuant to the requests of the Douglas County Clerk of the District Court (Clerk of the District Court) to alter the administrative responsibilities of the Clerk of the District Court to support the orderly and efficient administration of the Douglas County Mental Health Board ("Mental Health Board"). Having reviewed prior administrative orders, applicable Nebraska statutes, policies, and practices of the Clerk of the District Court, the Court finds as follows:

The purpose of the Nebraska Mental Health Commitment Act is to provide for the treatment of persons who are mentally ill and dangerous. It is the public policy of the State of Nebraska that mentally ill and dangerous persons be encouraged to obtain voluntary treatment. Neb. Rev. Stat. §§ 71-901 to 71-963.

Pursuant to Neb. Rev. Stat. § 71-915, the district court is charged with creating up to three mental health boards to serve the district and the District Court of the Fourth Judicial District has created the Douglas County Mental Health Board. Therefore, the Court will coordinate with such Board to provide administrative support in order for the Mental Health Board to carry out its statutory duties.

The office of Clerk of the District Court is a ministerial elected office under the direction of this Court. The District Court has the inherent authority to supervise its own operations, and the functions of the Clerk of the District Court are an essential component of the District Court. As such, the District Court has the

authority to supervise, direct, and exercise control over the operation of the Clerk of the District Court's office through court order when deemed appropriate and in the best interests of the District Court. Neb. Rev. Stat. § 25-2214 (Reissue 2016); Neb. Ct. R. 6-1512(C). Hawk v. Hawk, 319 Neb. 120, 2025 WL 1599782, at *7 (2025). ("A court that has jurisdiction to make a decision also has the power to enforce it by making such orders as are necessary to carry its judgment or decree into effect.... Under Neb. Rev. Stat. § 25-2214 (Reissue 2016), in the performance of the duties of the clerk of the district court, the clerk "shall be under the direction of his [or her] court." Neither that statute nor the rules of a court are sufficient to confer judicial powers upon a clerk.") (footnotes omitted). See also Benjamin M. v. Jeri S., 307 Neb. 733, 744, 950 N.W.2d 381, 390 (2020) ("The district courts of Nebraska are courts of general jurisdiction and thus have inherent power to do all things necessary for the administration of justice within the scope of their jurisdiction.") (footnotes omitted); State v. Wahrman, 11 Neb. App. 101, 102, 644 N.W.2d 572, 573 (2002) ("We point out that under Neb. Rev. Stat §25-2214 (Reissue 1995), clerks perform their duties under the direction of the court."); State v. Le Fevre, 25 Neb. 223, 41 N.W. 184, 185 (1888) ("The clerks of the various courts are under the control and direction of the courts of which they are such clerks....").

The Court finds that this authority includes, among other things, exercising direct control over Clerk of the District Court personnel who perform vital and essential court functions and functions pursuant to the Nebraska Mental Health Commitment Act and the Sex Offender Commitment Act, and administrative support functions for the Mental Health Board.

Beginning in August 2023, the Court has addressed the role of the Clerk of the District Court in supporting the Mental Health Board through a series of administrative orders, including Administrative Order MS 23-151, Administrative Order MS 24-134, and Administrative Order MS 24-71.

Importantly, on May 2, 2024, the Clerk of the District Court transmitted a letter to the District Court advising that the staff of the Clerk of the District Court would, effective May 20, 2024, cease performing various "administrative functions"

for the Mental Health Board that have historically been performed by the Clerk of the District Court for the Douglas County Board of Mental Health.

In a follow up email dated May 6, 2024, to the Chief Administrative Officer of Douglas County and other stakeholders, the Clerk of the District Court specified that her office wished to be relieved of duties that include:

- Intake of petitions;
- Contacting Board of Mental Health to obtain warrants;
- Drafting petitions;
- Drafting warrants;
- Transmitting filings to the office of the Clerk of the District Court;
- Scheduling transports;
- Scheduling hearings; and
- Contacting providers for treatment plans and updates.

In response, Administrative Order MS 24-71 temporarily ordered the Clerk of the District Court to “continue to perform the administrative functions of the Douglas County Mental Health Board that have historically been performed by the Clerk of the District Court.” Then, in the subsequent months, the Court worked with multiple stakeholders to implement a new administrative support system for the Mental Health Board that incorporates updated technology and processes. The new system reallocates designated duties to the District Court Administrator’s designated Mental Health Board staff (BMH Staff) and relieves the Clerk of the District Court from designated duties in response to the requests of the Clerk of the District Court. See, MS 24-136, MS 24-170, MS 24-176.

The Court would like to take this opportunity to thank those stakeholders for supporting the Mental Health Board in carrying out its statutory duty “to do any act necessary and proper for the board to carry out its duties.” Neb.Rev.Stat. §71-915(3). The Court and its staff worked with: the Clerk of the District Court and her staff, the Douglas County Board of Commissioners and their staff; the Douglas County Public Defender and his staff; the Douglas County Attorney and his staff;

the Douglas County Sheriff and his staff; the Douglas County Building Commission and their staff, and appointed members of the Mental Health Board.

THEREFORE, the Court finds as follows:

I. REASSIGNMENT OF ADMINISTRATIVE FUNCTIONS FOR THE MENTAL HEALTH BOARD

At the request of the Clerk of the District Court, administrative duties historically performed by the Clerk of the District Court for the Mental Health Board shall be reassigned as follows:

A. County Attorney's Office

Effective July 1, 2025, the function of the intake of a mental Health Board Petition shall remain with the County Attorney. (See Administrative Order MS 24-170)

The intake duties of the County Attorney's Office will include drafting petitions and coordinating with BMH Staff and the Chair of the Mental Health Board for warrants.

The duties of the County Attorney's Office will also include preparing written motions, subpoenas, praecipes for summons and written stipulated motions.

The County Attorney will schedule witnesses and prepare subpoenas for hearings when needed.

B. Clerk of the District Court

Effective July 1, 2025, pursuant to Neb. Rev. Stat. § 71-917 the Clerk of the District Court is appointed for and shall retain responsibility only for the following duties relating to the Douglas County Mental Health Board:

- Filing and preserving all papers and Board records when filed by the County Attorney and their designated staff, Defense Attorneys and

their designated staff and the Mental Health Board and their designated staff;

- Filing and preserving minutes recorded and filed by the BMH Staff; and;
- Signing and issuing notices, appointments, subpoenas, summons and other process only if directed by the Douglas County Mental Health Board.

The Clerk of the District Court's office shall continue to accept and file documents from the Douglas County Attorney's Office and the Douglas County Public Defender's Office or any attorney representing a Subject before the Douglas County Mental Health Board. The Clerk of the District Court shall accept and file documents from the designated support staff of those respective offices.

When a Petition is filed on a new case, the Clerk of the District Court shall generate a case number, affix that case number to the petition, and notify the filing party of the assigned case number.

The Clerk of the District Court's office shall accept, file, and preserve all orders of the Mental Health Board when filed by the Mental Health Board Chair or BMH Staff which shall be filed with designated members of the Clerk of the District Court's office.

C. Court Administrator's Office designated BMH Staff

Effective July 1, 2025, administrative support functions of the Mental Health Board shall now be provided by BMH Staff. This support may include:

- Drafting warrants, notices, appointments, orders, and facilitating other processes under the direction of the Mental Health Board;
- Transmitting filings to designated members of the office of the Clerk of the District Court;
- Contacting providers for treatment plans and updates. Receiving treatment plans and documentation from providers and transmitting

them to designated members of the office of the Clerk of the District Court for filing; and

- Scheduling hearings, scheduling transports, preparing hearing agendas, attending meetings, and taking and preparing minutes.

To facilitate the performance of these support functions the designated BMH Staff shall be given access to the existing email.

Effective July 1, 2025, the BMH Staff/Court Administrator's Office shall:

- Arrange for a court reporter to be present at meetings and issue compensation for these services from the District Court budget, and
 - Maintain time sheets for Board of Mental Health members and authorize the issuing of compensation for their services from the District Court budget.
- i. **Drafting warrants, notices, appointments, subpoenas, orders, and other process**

Pursuant to Neb.Rev.Stat. §71-915(3), "[t]he mental health board shall have the *power to issue* subpoenas, to administer oaths, and *to do any act necessary and proper for the board to carry out its duties*. *Id.* (emphasis supplied). As such, the Mental Health Board itself has the power to sign and issue: summons, notices, appointments, warrants, subpoenas, and any other process required to carry out the board's functions. Designated staff may assist the Board of Mental Health with these functions. (See Administrative Orders MS 24-136 & MS 24-176).

- ii. **Transmitting filings to designated members of the office of the Clerk of the District Court**

BMH Staff shall transmit filings to the office of the Clerk of the District Court on behalf of the Mental Health Board as discussed in part B above.

- iii. **Contacting providers for treatment plans and updates**

The Mental Health Board will continue to communicate with mental health providers and receive proposed treatment plans, follow up letters, updates, as well

as other communications from those providers. BMH Staff are authorized to communicate with these providers, receive this information and file all documents with the designated members of the Clerk of the District Court's office for the Mental Health Board relieving the Clerk of the District Court of these duties. (See Administrative Order MS 25-113)

iv. Scheduling hearings, scheduling transports, preparing hearing agendas, attending meetings, and preparing minutes

Effective July 1, 2025, at the direction of the Mental Health Board, BMH Staff shall assume all functions necessary to timely schedule meetings and hearings pursuant to the Nebraska Mental Health Commitment Act and the Sex Offender Commitment Act including preparing schedules and agendas for hearings, coordinating the scheduling of witnesses, and scheduling subject transports for those hearings. BMH Staff shall be available to attend all Mental Health Board proceedings, and shall take minutes for all proceedings of the Board. The minutes shall be filed with the designated members of the Clerk of the District Court's office to "keep" pursuant to Neb.Rev.Stat. §71-917 and the Clerk of the District Court is relieved of these duties and fiscal responsibility.

v. Arranging and Compensating Court Reporter Services

Effective July 1, 2025, the Mental Health Board may now coordinate with BMH Staff to arrange for having a court reporter present and compensated for such services pursuant to the compensation directives contained in Neb. Rev. Stat §71-957 and such compensation will be drawn from the budget of the Douglas County District Court Administrator's Office and the Clerk of the District Court is relieved of these duties and fiscal responsibility.

Nebraska law clearly designates the Court as the authority who decides how a record is made in Mental Health Board hearings. Nebraska law does not grant any authority to the Clerk of the District Court to determine whether court reporter services or recording equipment will be used in Mental Health Board hearings.

Neb.Rev.Stat. § 71-957, regarding the use of court reporters and Mental Health Board hearings, states in pertinent part:

All proceedings held under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act shall be of record, and all oral proceedings shall be reported verbatim *by either a qualified shorthand reporter or by tape-recording equipment equivalent in quality to that required in county courts by section 25-2732.*

Id. (emphasis added).

Preservation of testimony by recording equipment and staff that meets the standards required by Neb.Rev.Stat. §25-2732 has not been approved by the Court for use in Mental Health Board Hearings. The District Court has directed, and the Mental Health Board shall continue to use court reporters to preserve the record for Mental Health Board proceedings. (MS 24-134)

- vi. **Maintaining Time Sheets for Board of Mental Health members and issuing compensation for their services.**

Effective July 1, 2025, the District Court Administrator's Office will begin maintaining time sheets for the members of the Board of Mental Health and facilitating the payment of compensation from its budget for Mental Health Board members appointed by the District Court pursuant to Neb.Rev.Stat. 71-915(4). The Clerk of the District Court is relieved of these duties and fiscal responsibility.

II. ACCESS TO MENTAL HEALTH BOARD FILES AND CONTACT WITH PROVIDERS

All records maintained on any Mental Health Board Subject are Mental Health Board records and are confidential pursuant to Neb.Rev.Stat. §71-961. Such records are not District Court records, are not contained in the JUSTICE case system, are not public court files, and should not be treated as such.

Any provider of treatment for a Subject shall be able to provide necessary health information to BMH Staff for the purposes of monitoring a Subject's compliance with Mental Health Board orders and assisting the Subject with complying with Mental Health Board orders and is authorized to submit treatment plans and necessary health information directly to BMH Staff. The Clerk of the District Court will be relieved of these duties. BMH Staff will be responsible for filing all submissions from treatment providers with the Clerk of the District Court. See miscellaneous orders MS 24-136; MS 24-176; and MS 25-113.

III. CONCLUSION

Courts were created to do justice, ensure due process and equal protection, to resolve disputes and maintain the rule of law, and to enhance social order and guarantee liberty. Courts strive to ensure these duties in the most efficient, effective and productive manner as possible.

The Court issues this order to ensure efficient, legally authorized reassignment of administrative duties in response to requests of the Clerk of the District Court to be relieved of certain administrative duties related to the Board of Mental Health, and pursuant to its duty to supervise its operations and provide for the needs of its appointed Board of Mental Health.

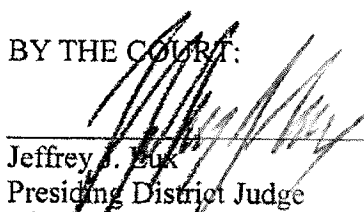
This Order supplements the Court's Further Order RE: Douglas County Mental Health Board filed in MS 24-71. Administrative Order MS 24-71 shall therefore remain in full force and effect except as modified or superseded herein. Where a conflict exists between MS 24-71 and this order, this Order shall supersede Administrative Order MS 24-71.

By agreement of the signatories to this Order, any motion for amendment to this Order shall be heard by the Presiding Judge.

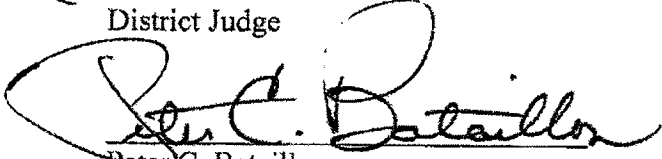
SO ORDERED.

DATED this 30th day of June, 2025.

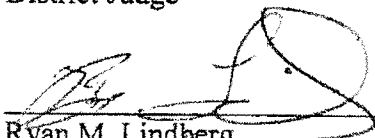
BY THE COURT:

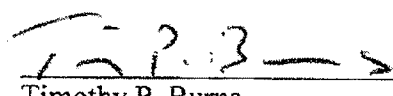

Jeffrey A. Suk
Presiding District Judge


Tressa M. Alioth
District Judge

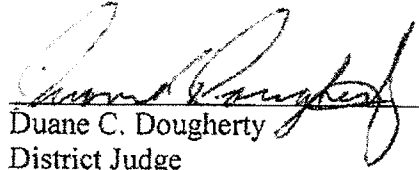

Peter C. Bataillon
District Judge


Katie L. Benson
District Judge

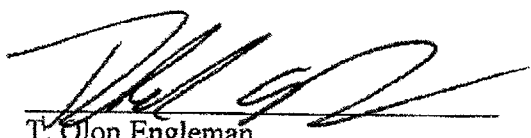

Ryan M. Lindberg
District Judge

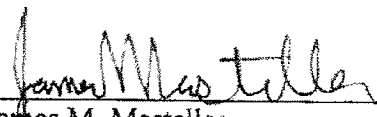

Timothy P. Burns
District Judge


J Russell Derr
District Judge


Duane C. Dougherty
District Judge

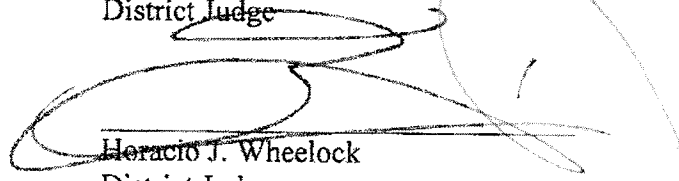

Molly B. Keane
District Judge


T. Olon Engleman
District Judge

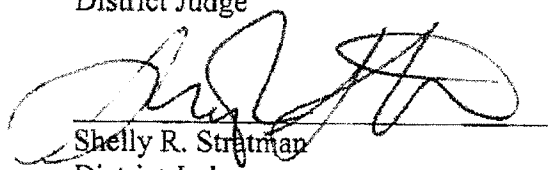

James M. Masteller
District Judge

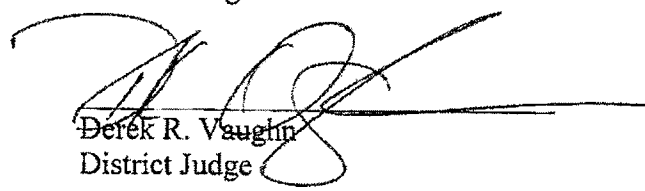

Kimberly M. Pankonin
District Judge


Marlon A. Polk
District Judge


Horacio J. Wheelock
District Judge


LeAnne M. Srb
District Judge


Shelly R. Stratman
District Judge


Derek R. Vaughn
District Judge