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John Parmeter, Chair  
Iowa Mental Health and Disability Services Commission

Dear Mr. Parmeter and Commission Members:

This letter is in response for your request for advice on whether convening a subcommittee to study standards and practices for handling individuals with severe mental health, brain injury, and other disabilities while they are in custody in county jails in Iowa. This is not a formal attorney general opinion. By statute, formal attorney general opinions can be requested by legislators or state agency directors, and such issuing such opinions is at the discretion of the Attorney General. Iowa Code 13.2(e). What follows is an informal opinion in response to the MHDS Commission's request.

The MHDS Commission's responsibilities are set out in Iowa Code chapter 225C. The Commission is responsible for adopting necessary rules which relate to disability programs and services as necessary for purposes of state, county, and regional planning, programs, and services. Iowa Code § 225C.6(b).

The Commission is responsible for adopting standards for community mental health centers (Iowa Code § 225C.6(c)), individual case management under Medicaid (Iowa Code § 225C.6(d)), and adopting state standards for services available for persons with disabilities unless another governmental body sets standards for that service (Iowa Code § 225C.6(e)).

Additionally, the MHDS Commission is responsible for submitting reports on the availability of services for persons with disabilities in each county and service region and the quality of those services. Iowa Code § 225C.6(i).

The statute regulating county jails is found in the County Home Rule chapter, at Iowa Code 356 and 356A. Iowa Code § 356.36 authorizes the promulgation of administrative rules for county jails.

The Iowa department of corrections, in consultation with the Iowa state sheriff's association, the Iowa peace officers association, the Iowa league of cities, and the Iowa board of supervisors

association, shall draw up minimum standards for the regulation of jails, alternative jails, facilities established pursuant to chapter 356A and municipal holding facilities.

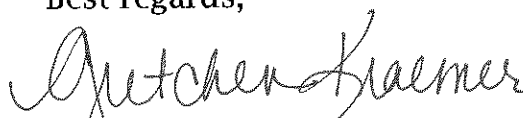
Iowa Code § 356.36(1) (authorizing the adoption of standards for county jails). The rules applicable to county jails are set out at Iowa Administrative Code 201-50 et seq.

Additionally, there is a significant body of case law addressing the responsibility of jails and prisons to treat serious medical needs of persons in custody. *See, e.g., Meuir v. Greene County Jail Employees*, 487 F.3d 1115, 1118 (8<sup>th</sup> Cir. 2007) (citing *Estelle v. Gamble*, 429 U.S. 97, 106 (1976) (holding medical staff violates a constitutional right if they commit “acts or omissions sufficiently harmful to establish deliberate indifference to [a patient’s] serious medical needs.”). The United States Supreme Court affords deference to jail and prison administrators given their particularized expertise in jail and prison administration. *Thornburgh v. Abbott*, 490 U.S. 401, 407-08 (1989) (citing *Procunier v. Martinez*, 416 U.S. 396 (1974)).

The Commission does have authority to promulgate standards for services to persons with disabilities in specifically itemized domains. The catch-all provision at Iowa Code 225C.6 (e) does not apply to extend the authority beyond the itemized domains in this situation because another multi-stakeholder group is specifically authorized to adopt standards for Iowa County jails.

That said, the Commission could learn more about the intersection between disability services and persons in custody. The Commission could receive reports and presentations from persons affiliated with the stakeholder groups identified in Iowa Code § 356.36 (DOC, Sheriff’s Association, Peace Officers Association, League of Cities, and ISAC). And if invited by the stakeholders with legislative authority to promulgate rules for jails and detention facilities, the MHDS Commission could offer its expertise and insight to those stakeholder groups. But the promulgation of standards for Iowa County jails has been specifically delegated to the entities listed in Iowa Code § 356.36, not the MHDS Commission.

Best regards,

A handwritten signature in cursive script, reading "Gretchen Kraemer".

GRETCHEN KRAEMER  
Division Director