

# Minnesota Counties



A quarterly publication of the Association of Minnesota Counties.

## AMC Staffing Updates

By Julie Ring, AMC Executive Director

**A**MC Research & Program Development Manager Heather Bandeen has left AMC for a position with Sourcewell. We were so happy to have Heather back with us to help with online programming during the pandemic. She had a tremendous impact on the organization during the past five years, and we will miss her. We will take some time during our strategic planning process to think about how to fill her position.

We have spent the summer considering how to fill our Health and Human Services Policy Analyst role, which has been vacant since spring. After conversations with the Local Public Health Association of Minnesota (LPHA) and the Minnesota Association of County Social Service Administrators (MACSSA), AMC has decided to rethink our approach to this work to make it more similar to our other affiliates. AMC already has several policy analysts who work in dual roles – as both AMC policy analysts and supporting professional associations. This allows for great cross pollination of policy ideas and technical expertise and is cost effective for all.



Kari Oldfield



Matt Freeman

Moving forward, **LPHA Director Kari Oldfield**—who was recently named one of *40 Under 40 National Public Health Leaders* by the de Beaumont Foundation—will also serve as AMC's Public Health Policy Analyst and **MACSSA Director Matt Freeman** will serve as AMC's Human Services Policy Analyst.

We will also be adding a third position to the HHS team in the form of a Child Well Being Policy Analyst that crosses both public health and human services. This new three-person team will work collaboratively and efficiently to cover the breadth of public health and human services policy issues on behalf of both county commissioners and directors, reducing duplication and increasing our reach.

We are excited to move forward with this new structure! ■

FALL  
2021

October

November

December

VOLUME 65, ISSUE 4

## Public Waters Inventory Changes and Challenges

By Brian Martinson, AMC Environment & Natural Resources Policy Analyst

**I**n 1979, the Minnesota legislature directed the Minnesota Department of Natural Resources (DNR) to create a Public Waters Inventory (PWI) to serve as an official record of all the public waters in the state with the intention of helping to end the proliferation of litigation over what are public waters.

Counties, other government entities, businesses and the public have relied on this official record to direct work and obligations for decades. Unfortunately, recent state administrative actions and court proceedings have brought the purpose and use of the PWI into question.

In the last four years, the DNR has removed watercourses that were incorrectly designated as part of the original inventory maps, and subsequently began a process to make new additions to the inventory largely, but not solely, based on the list of watercourses they had recently removed.

The original PWI law (Minnesota Laws 1979, chapter 199) established procedures for classification of the state's public waters and to create an inventory of all of Minnesota's public waters. The DNR was required to make preliminary designations of public waters which were sent to each county board for a 90-day review and comment period during which public informational meetings were held. The county then had the opportunity to submit feedback and challenges to the designations. The DNR reviewed and responded before publishing a list of public waters and map for an additional review period. Parties had the ability to challenge designations or request additional designations within 90 days of publication. The DNR would hold a local hearing before a designated panel on any challenges and the final decisions could be appealed.

Statutory changes since 1990 have given the DNR very limited authority to maintain and update the inventory. First, the DNR may reclassify waters previously classified as *public waters wetlands* as public waters or as wetlands if they meet certain criteria. Second, the DNR may revise the public waters map to reflect changes in wetland classifications, or to correct errors in the original inventory, to add or subtract trout stream tributaries,

to add depleted quarries, sand and gravel pits exceeding 50 acres, and to add or subtract public waters created or eliminated because of public waters work permit.

In 2017, the DNR removed over 640 miles of watercourses that were incorrectly designated on the PWI maps and were never subject to the original process for inclusion on the inventory. The DNR discovered this through their review of the maps for application of the 2015 buffer law and took action to provide regulatory certainty and address the improper designation of waters that were not approved according to the PWI law. In 2020, the DNR started a process to add watercourses to the inventory and offered a written comment period before a final decision was issued. The DNR believes that these additions amount to error corrections allowable under the current statute and the request for written comments is an adequate public engagement.

In response, AMC submitted comments questioning the DNR's authority to make these designations because they don't appear to meet the limited statutory authority. The rationale presented by the DNR appears to give them unfettered authority to add and remove waters from the PWI. AMC also expressed concern with the process for designating waters that have never been subjected to the procedural protections that were part of the 1979 PWI establishment law.

These process and authority questions are part of a legal action before the courts that has yet to be resolved. However, depending on the outcome, these new designations could proceed. Most Minnesota counties have watercourses on a DNR list to be considered for designation as a public water and could find themselves involved in this process in the future.

AMC worked with legislators on two bills related to the PWI that were introduced during the 2021 legislative session. One proposal would temporarily prevent changes to the PWI until a thorough public process was agreed to by stakeholders for changes to the PWI. The second proposal would extend a current local government review process for the reclassification of wetlands as public waters to the other revisions under the PWI statutes. Neither of these bills was passed but both remain viable for the 2022 session.

These procedural issues regarding changes to the inventory confuse the plain reading of the statute and challenge the fairness in the application of the law.

In addition to this issue, recent challenges to the application of water laws and an appeals court decision challenge the purpose of the Public Waters Inventory and could bring into question when and where water laws and rules apply.

Counties, other government entities, businesses and the public have relied on the Public Waters Inventory as the official record to direct their work and obligations for decades. Unfortunately, recent state administrative actions and court proceedings have brought the purpose and use of the PWI into question.

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# Fall...One of My Four Favorite Seasons!

By Rich Sve, Lake County Commissioner and AMC President



Autumn always seems to be busy... the birds fly towards their winter homes and the leaves change to vibrant colors; school buses are back on the roads and apples litter the ground; hay is stored for winter and the crops are harvested; summer "toys" are put away and sweaters and flannel are once again in vogue; frost covers the car windshield and dew drips from the grasses; the house furnace runs, and the front door is closed behind you; camouflage and blaze orange jackets are taken out, and hunters walk the woods and fields; and hardware stores display snow shovels and final preparations are made for the first dusting of snow.

Fall is a busy time for counties as well. We review department budgets and proposals. Host open enrollment and health fairs. Highway departments stock salt and sand, and plow truck moldboards are reinstalled. Facilities Maintenance makes seasonal reviews of buildings. Health and Human Services is vigilant to homelessness and the seasonal assistance needs. Audit exit interviews are scheduled, and the preliminary levy is set.

AMC also does some heavy lifting—beginning with the Fall Policy Conference in Alexandria. This year's conference was in-person and well attended. We had a great start with National Association of Counties (NACo) Associate Legislative Director Eryn Hurley's report, followed by the familiar face of Bill Doherty, founder of Braver Angels. Policy committees convened and received updates from affiliates and State agencies. The following day we had a great presentation from Kevin Leonard, Director of the North Carolina Association of County Commissioners, on the Opioid Settlement and the direction North Carolina took (the model AMC wishes to emulate) in seeing that the majority of settlement dollars flows to counties who are best suited to distribute those monies appropriately and efficiently. The conference concluded with the policy committees selecting platform priorities for AMC Districts' consideration.

Next on the fall docket was the Western Interstate Region (WIR) conference. This was my first time attending WIR, which is a NACo affiliate that includes the 15 western states. Minnesota had good attendance and participation. All of our delegation were actively involved. Stearns County Commissioner, Tarryl Clark, NACo Telecommunications and Technology Steering Committee Chair, lead a panel of experts in conversation on "Extending Broadband Access to Rural Communities." Well done, Commissioner Clark!

We heard from officials from Bureau of Land Management, Housing and Urban Development, U.S. Department of Agriculture, and U.S. Forest Service Chief, Randy Moore and many more great presenters in the workshops. I found great value interacting with their membership and believe much of the WIR policies align with those of AMC. My conversation with our delegation leads me to suggest AMC becoming a WIR member. I spoke many times with WIR President, Mark Whitney, and he shared that Minnesota would be an asset to their membership.

Next, I was back on the road and traveling around the state to the AMC district meetings. As always there is a lot of subjects to discuss and much work to do. It seems the lists never grow shorter!

Soon we will all be at the AMC Annual Conference. AMC staff and leadership have rolled up their sleeves and are working hard to present a great event. We have a list of great presenters and informative workshops, as well as the opportunity to network with the state agencies. The vendor fair will be well populated, with prize drawings and auctions as in the past. I hope you will be able to attend the full conference and Wednesday's business meeting where we will be holding the annual elections and selecting a new AMC 2nd Vice President from two great candidates.

Yes, fall is busy and leads into even busier times ahead! The opioid settlement I referenced earlier will be fast moving and a subject on which we will keep you engaged. There are new or amended AMC Platform proposals for consideration as we prepare for the 2022 Legislative Session. The pandemic remains ever-present as do its repercussions to our workforce, supply and demand, housing, and mental health needs.

Counties are always on the frontlines, no matter the subject, and do more heavy lifting than we are credited with. Be that as it may, I feel fortunate to stand shoulder to shoulder with you as we continue to provide and deliver the services that so many rely upon. Thank you all for your service and involvement! ■

## 'PWI' - Continued from page 1.

Minnesota Citizens for Environmental Advocacy (MCEA) had petitioned Renville County to do an Environmental Assessment Worksheet (EAW) prior to a drainage project because it would impact a public water. After review of the petition, the county determined that the requirements for a mandatory EAW were not met, including no impact to a designated watercourse. The Renville County decision was appealed in court.

In early October 2021, the Minnesota Court of Appeals issued a decision that Renville County erred in their decision and must complete an EAW because a watercourse in question meets the statutory definition of a public water regardless of its designation on the PWI.

The Minnesota Supreme Court is being petitioned for review of this appeals court decision.

If upheld, this appeals court decision is likely to result in the kind of regulatory uncertainty that the Legislature sought to avoid in creating the PWI in the first place.

The Minnesota Supreme Court has previously addressed the reason and role of the PWI: *Prior to 1976, there had been no systematic inventory of the state's waterbodies, and classification of waterbodies was made on a case-by-case basis. This ad hoc approach to regulation resulted in uncertainty, unknowing violations, and costly and time-consuming litigation... Application of Christenson, 417 N.W.2d 607 (Minn. 1987)*

The regulatory certainty provided by the PWI is of great value to everyone. AMC and Minnesota counties are willing to engage in a conversation about the PWI and how revisions are handled. It would be difficult to accept the current revision process as legal or proper, or to accept the idea of throwing out the PWI as an official record altogether.

At the 2021 AMC Fall Policy Conference, the AMC Environment & Natural Resources Policy Committee elevated this issue to a committee priority.

Counties have responsibilities tied to the management and protection of waters and perform functions that require permitting with the state and federal governments based on water designations. For that matter, all Minnesotans must be mindful of potential impacts to public waters and comply with laws protecting those waters. Counties deserve to have the certainty of a well-established inventory of all public waters in Minnesota so that they can fulfill their obligations in accordance with the law. ■

If you have questions or would like more information, please contact Brian Martinson at [bmartinson@mncounties.org](mailto:bmartinson@mncounties.org).

# Association of Minnesota Counties

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NRM-12873MN (01/18)



# Minnesota Local Public Health Departments Receive Recognition for COVID-19 Response Work

## Aitkin County Public Health

Erin Melz, Aitkin County's Public Health Supervisor, and the Aitkin County Public Health team recently won the Region 3 Minnesota Social Service Association Award (MSSA). MSSA's Outstanding Staff Achievement Award recognizes agency or organization staff members who routinely demonstrate outstanding service to clients, their colleagues, and their workplace. This award is given at the regional level every year between August and October, and at the state level during MSSA's Annual Training Conference & Expo in March. ■



## City of Minneapolis Public Health

The City of Minneapolis, led by the Minneapolis Health Department, recently received a 2021 gold medal rating from CityHealth for improving the health and well-being of its residents by adopting local policies that make lasting impacts in the quality of life of their residents. Each year, CityHealth – an initiative of the de Beaumont Foundation and Kaiser Permanente – awards the 40 largest U.S. cities gold, silver and bronze medals according to the strength and number of the policies they have in place to improve people's day-to-day quality of life, well-being and health. Minneapolis was awarded an overall gold medal, earning individual gold medals in six of the nine policy categories on which CityHealth bases its ratings. ■

## Dakota County Public Health

Every year, the National Association of Counties recognizes innovative and impactful government programs. This year, Dakota County was recognized in the health category for the COVID-19 testing collaboration between the county and Dakota Child and Family Clinic. This testing program was one of the state's first free, no-documentation-required COVID-19 testing sites. Dakota County set up safe, drive-up COVID-19 testing at clinic and county sites. To date, the county and Dakota Child and Family Clinic have tested over 9,000 people through the collaboration – and this effort is still ongoing. About one-third of the people tested would have had difficult times getting tested another way, due to insurance and documentation requirements by other testing sites. ■



## Isanti County Public Health

On Thursday, July 8, 2021, Isanti County Public Health was honored to be the Grand Marshal for the Isanti Jubilee Day Parade. Melissa Bettendorf, Executive Director of the North 65 Chamber of Commerce, said "Isanti County Public Health was selected by the committee for their contributions to our community. Their vision of 'Empowering our community to choose health and safety' is important in any year, but especially as we experienced the pandemic. The Isanti County Public Health team helped to inform and educate our community, kept us connected through virtual events hosted with community organizations, and when the time came, organized the vaccination of over 11,000 residents (to date). Our local public health office provides a wide range of services to keep our community healthy, and we are grateful for their service." ■

## St. Louis and Carlton County Public Health

The Board of Governor's Emmy Award was awarded to the Northland news outlets (WDSE-WRPT, CBS 3, KBJR 6, WDIO, KQDS Fox 21, Duluth News Tribune) for COVID-19 coverage. The media partners worked with regional health experts from St. Louis County Public Health, Carlton County Public Health, Essentia Health, St. Luke's, Fairview Range in Hibbing, Grand Itasca Clinic & Hospital, Community Memorial Hospital in Cloquet, and the University of Minnesota Medical School, Duluth Campus to pull together all-day media blanket coverage on COVID-19. ■

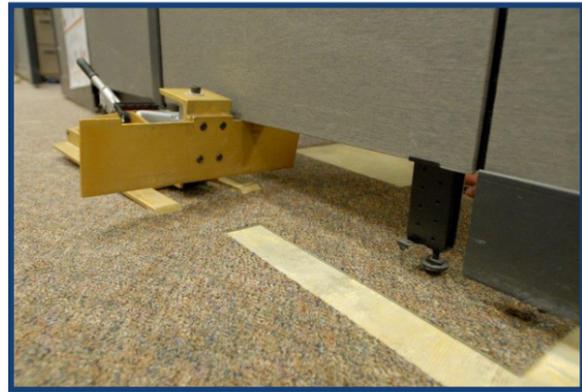


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## 2021 MCIT Annual Meeting: Looking Forward to Seeing You There

After convening virtually last year, MCIT is excited to host the 2021 Annual Membership Meeting in person Monday, December 6 at the DoubleTree Hotel in Bloomington. Registration begins at 3:30 p.m. with the meeting starting at 4 p.m. in Atrium 4 (second floor). The meeting is held in conjunction with the Association of Minnesota Counties Annual Conference.

Members are encouraged to join their colleagues, MCIT board members and staff to celebrate the continued success of the Trust. Highlights of this year's annual meeting include:

- Financial report for the year ending Dec. 31, 2020
- Election of officers
- Announcement of 2021 MCIT Award winners
- Past accomplishments and future goals

### Board Member Elections

Two seats are up for election at the MCIT annual meeting. Seat A is held by incumbent **Yellow Medicine County Commissioner Ron Antony** who is seeking re-election to a four-year term that expires Dec. 31, 2025. Seat B is held by **Becker County Commissioner Ben Grimsley**, seeking election to complete the four-year term to which he was appointed earlier this year. His term would expire Dec. 31, 2022.



Ron Antony

Antony began his service on the board in February 2017. During his tenure, he has been a member of the Claims Committee (2019-2021), Governance Committee (2019-2021) and the Personnel Committee (2021). Antony was elected vice chair of the board in January 2021 and continues to serve in that position.



Ben Grimsley

Grimsley was appointed to the MCIT board in February 2021 to fill the unexpired term of former Polk County Commissioner Don Diedrich, who left the board at the end of 2020. Grimsley is a current member of the MCIT audit committee. He is serving in his third term on the Becker County Board of Commissioners, has served two terms as Becker County Board chair and participates on multiple committees.

### Call for Candidates

The MCIT Board of Directors is responsible for setting the strategic direction of the Trust and overseeing the operations of the organization, while its members represent MCIT as ambassadors and spokespeople. The board generally meets monthly, and members serve on committees as needed.

Any county commissioner, auditor or auditor-treasurer interested in being a candidate for the MCIT board may submit a letter of interest and qualifications to the MCIT Nominating Committee, 100 Empire Drive, Suite 100, St. Paul, MN 55103-1885 or to [snelson@mcit.org](mailto:snelson@mcit.org) by the close of business Nov. 10. The committee reviews all submissions.

MCIT is governed by a board of nine individuals elected or appointed from MCIT participating counties. Eight of the board seats are elected at-large with staggered four-year terms that can be filled by either a county commissioner or a county auditor/auditor-treasurer. The remaining seat is filled by appointment based upon a recommendation from the Minnesota Association of County Administrators.

Details about the election and the roles and responsibilities of an MCIT board member have been mailed to commissioners, auditors and auditor-treasurers.

Questions regarding the election can be directed to MCIT Deputy Director Steve Nelson at [snelson@mcit.org](mailto:snelson@mcit.org) or toll-free at 1.866.547.6516, ext. 6411. ■



## Extraterritorial Workers' Compensation Coverage Concerns

As members sort through issues of having employees work remotely, questions have arisen regarding an employee's eligibility for workers' compensation benefits if he or she sustains a work-related injury while working from home when the employee's home is not in Minnesota.

During the period that the governor's executive order required employees to work from home when possible, it was MCIT's position that working remotely out of state was temporary and in response to a public health emergency, so any illness or injury sustained should be subject to Minnesota workers' compensation laws and benefits (Minn. Stat. 176). Fortunately, no situations arose that tested this position.

After the expiration of the governor's order, some members have allowed or will require employees to work remotely. As a result, MCIT has concluded that the jurisdictional and territorial constraints of workers' compensation likely return for those employees who work permanently from a remote location out of state.

Workers' compensation operates under a set of laws unique to the specific state where the employee works, not where the employer is located. MCIT is formed under Minnesota law and is, therefore, unable to provide extraterritorial workers' compensation coverage for members whose employees' permanent work locations are outside of Minnesota. MCIT looked into options to provide this coverage but found that while many members will allow employees to work remotely, it is generally not on a permanent basis or out of state.

MCIT surveyed the 373 members that participate in the workers' compensation division. Of the approximate 30,000 employees eligible for workers' compensation, the survey found that 204 employees are working remotely out of state on a permanent basis.

In light of these results, MCIT recommends that members whose employees will permanently work from a remote location outside of Minnesota contact an insurance agent in that state(s) and secure workers' compensation coverage for these employees.

Members are also encouraged to consider other personnel/employment issues, such as income taxes, pay equity, Family and Medical Leave Act, Occupational Safety and Health Administration requirements, Fair Labor Standards Act, etc. when allowing or requiring employees to work remotely when that remote location is not in Minnesota. ■

### Remote Workers Survey Results

MCIT surveyed members that participate in the workers' compensation division about employees' remote work. One-hundred-ninety-six members responded, which included all 80 participating counties.

The survey disclosed that 204 employees will likely meet the criteria of permanently working from a remote location out of state.\* The majority of these are employees of Nobles County (11), Winona County (28) and Washington County (91).

\*"Permanent" is defined as the employee's home being his or her regular workplace with an occasional visit to the employer's facility. "Occasionally working remotely" is defined as flexing time at the employer's facility and working remotely from a location outside of Minnesota (e.g., three days at the employer's facility and two days working remotely).

# AMC Joins Stakeholders to Create Change in Minnesota's Community Supervision System

By Carli Stark, AMC Public Safety Policy Analyst

At the Association of Minnesota Counties (AMC) Fall Policy Conference, the Council of State Governments (CSG) came to the Public Safety Committee to lead a discussion about community supervision in Minnesota and gain insight into what is important to county commissioners when it comes to probation. The two main themes of the conversation were that the way probation is funded in Minnesota is difficult to understand, and counties need more funding to ensure that clients receive the services they need to be successful.

There are three probation delivery systems in Minnesota: two are operated by counties and one is operated by the Department of Corrections (DOC). Legislative intent and statutory frameworks show that the county-based probation systems are intended to be funded through a 50/50 cost share between the county and the state. The funding for all three systems flows through the DOC and historically the two county-based probation systems have not had commensurate annual increases in funding compared to the DOC.

As an example, the 2018 DOC Probation Survey states that Community Corrections Act (CCA) counties and County Probation Officer (CPO) counties supervised 83% of probation cases in the state. However, those two systems did not receive legislative appropriations for the 2020/2021 biennium, while the DOC did. For the 2022/2023 biennium, the Department of Corrections received an ongoing increase in funding, while the counties received one-time funding for the first time since 2017. The state of Minnesota cannot continue to inadequately fund Minnesota's probation system without having a negative impact on public safety.

Though there is broad support for probation from legislators, the confusing and ineffective funding mechanism for Minnesota's probation system makes it difficult to ensure all three systems are funded equitably. The three systems (CCA, CPO, and DOC) must work separately to compete for the same pot of money which is not required to be applied equally between the systems. The resulting disparities can create animosity between the state and counties taking away from the common goal to partner to provide the best possible services and outcomes to Minnesotans. Additionally, prisons are funded from the same pot of money and are given priority for funding, so legislators are left cutting county funding to reach their budget targets.

AMC has been working for a number of years to bring the Justice Reinvestment Initiative to Minnesota. In mid-2020, the governor, legislative leaders, AMC, and the chief justice signed a letter asking federal funders to bring the project to Minnesota.

The Council of State Governments (CSG) is a third-party, non-partisan organization that will collect data from all 87 counties and analyze the efficiency of the probation system. CSG will provide data-based stakeholder driven recommendations for policy options to ensure equitable funding and positive outcomes for probation. All three delivery systems have been working collaboratively since 2020 to find solutions to the systematic funding issue and ensure citizens receive the services they need to be productive members of the community.

The Delivery System Working Group was created as part of this project and includes public safety stakeholders including AMC, the DOC, the Minnesota Association of Community Corrections Act Counties (MACCAC) and the Minnesota Association of County Probation Officers (MACPO). It met on September 28 and again on October 21. At the first meeting, the CSG Justice Center team provided an overview of Minnesota's Justice Reinvestment project, which included outlining the scope of work, identifying the working group members, and showcasing data that reinforces the key criminal justice challenges in the state. At the second meeting, the CSG Justice Center team presented data and budgetary analysis to lay the groundwork for an examination of how more effective supervision can be achieved in the state. The initial takeaways from the meetings held so far are:

1. Although Minnesota has a low incarceration rate, its probation rate is the sixth highest in the country, making Minnesota's rate of people under correctional control the eleventh highest among states.
2. The overwhelming majority of people sentenced for felony offenses are sentenced to probation supervision.
3. Over 80 percent of adults on probation (including nearly three-quarters of all felony cases) are supervised by local agencies.
4. Most admissions to prison are because of failures on community supervision.
5. Black and Native American people are over-represented in probation, supervised release, and prison populations.
6. Minnesota spends the lowest proportion of its state budget on corrections, of all states.
7. For many years, the state has put a lot of time, energy, and resources into improving its delivery systems and funding approaches.
8. Oregon's workload-based model is one to examine further.

The next Delivery System Working Group meeting is scheduled for November 18, 2021, at 3:00 p.m. CT. The 2022 legislative session will be challenging, and AMC will be a crucial part of the effort to create a better probation funding system through policy changes. ■

If you would like more information about the working group or would like to be involved in advocacy as it gets closer to the 2022 legislative session, please contact Carli Stark, AMC Public Safety Policy Analyst, at [cstark@mncounties.org](mailto:cstark@mncounties.org).

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# MNOSHA Requirements for Your Healthcare Workers



By Melanie Ault, DDA Human Resources, Inc.

We have all been hearing about an upcoming OSHA requirement for mandatory COVID-19 vaccinations, but did you know there is already a requirement to provide extra protections for healthcare workers? Since July 19, 2021, Minnesota's OSHA (MNOSHA) has put into effect OSHA's Emergency Temporary Standard (ETS) for protecting healthcare workers and worksites to mitigate the spread of COVID-19.

The Healthcare ETS applies to only healthcare worksites where employees provide healthcare services or healthcare support services. It is different than the anticipated, upcoming ETS to mandate vaccinations.

"Healthcare services" are provided by healthcare professionals who usually have licensure for the purposes of "promoting, maintaining, monitoring, or restoring health." It also includes employees performing healthcare support services, like custodians. Counties probably have workers who fit these criteria, and they are the personnel targeted to be protected. Has your county been adhering to this new Healthcare ETS for them?

A "healthcare worksite" includes "non-hospital ambulatory care settings." For example, that could include an onsite WIC clinic, an offsite mental health/crisis clinic, or even home visits for well-baby checks and childhood immunizations. Does your county have any healthcare worksites?



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To figure out in which situations the Healthcare ETS applies, MNOSHA reminds us to:

1. Start from a basis that the General Duty Clause already applies to all employer's employees, including healthcare workers. The General Duty Clause requires employers to furnish a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees. Contracting COVID-19 is the type of hazard the General Duty Clause seeks to eliminate. That is why most employers have chosen to retain protocols like masking, social distancing, physical barriers, and daily symptom screening; some counties have gone further and required vaccinations.
2. Determine which employees are providing "healthcare services."
3. Determine what are the worksites where healthcare services are provided.
4. Use the flowchart (described below) to determine whether and how the Healthcare ETS applies.

### Flow Chart

Employers should review the very helpful, blue and grey flow chart, "Is your workplace covered by the COVID-19 Healthcare ETS?" at [www.osha.gov/sites/default/files/publications/OSHA4125.pdf](http://www.osha.gov/sites/default/files/publications/OSHA4125.pdf). MNOSHA encourages that if there is a way you can move into the grey area on the chart, to do so and then the ETS does not apply to that workplace. Moving into the grey area signifies that the employer is taking appropriate precautions.

### Screen, Manage All Non-Employees

The main action to take to bypass the rest of the Healthcare ETS's requirements is to screen all non-employees prior to them entering the healthcare worksite, assess their screening results, and to **not admit anyone with suspected or confirmed COVID-19**.

Denying someone entry can be a difficult or sensitive task, but physically removing a potential hazard is the most effective and preferred method to protect the county's healthcare employees.

### Elements of COVID-19 Plan

The Healthcare ETS requires a written COVID-19 Plan, which is a little different than your previous COVID-19 Preparedness Plan. Many of its areas overlap with actions counties are already taking. The Healthcare ETS COVID-19 Plan will include:

- Naming a Safety Coordinator(s)
- Conduct a workplace hazard assessment, including input from non-managerial employees and their representatives
- Address the identified hazards
- Protect employees who enter private residences with procedures for the employee to withdraw if the protections are not adequate
- Develop policies and procedures to adhere to Standard and Transmission-based Precautions with the CDC's "Guidelines for Isolation and Precautions"
- Provide and ensure PPE is used
- Physical distancing indoors
- Physical barriers
- Cleaning and Disinfection
- Ventilation
- Screening each onsite or field employee each workday or shift
- Exposure notifications and return to work criteria
- Except where reduced by paid sick leave, maintaining weekly pay up to \$1,400/week when employer removes employee from work; if fewer than 500 employees then beginning third week of removal, amount is reduced to 2/3 of regular pay, up to \$200/day
- Support COVID-19 vaccinations, grant paid leave up to 4 hours for each shot and up to 8 hours for any side effects of each shot
- Training on all aspects of protocols
- Anti-retaliation

### Enforcement

For now, MNOSHA is relying on complaint-based enforcement of the Healthcare ETS. Complaints would likely come from employees who deliver healthcare services or the public visiting healthcare worksites.

MNOSHA has a limited number of compliance staff, and not all have returned to in-person field work. But the newness of the Healthcare ETS and limited staffing has not prevented MNOSHA from already sending counties complaint-based compliance letters with quick enforcement dates to correct alleged hazards, or MNOSHA will inspect. ■

Find helpful materials on labor relations and past practices in our Knowledge Base at [www.amcddahrsupport.com](http://www.amcddahrsupport.com).

# MACO Revisits the AMC Blue Ribbon Committee on County Operations

By Michael Stalberger, Blue Earth County Property and Environmental Resources Director, MACO Legislative Committee Co-Chair



In 2020, in the midst of the coronavirus pandemic, AMC created the Blue Ribbon Committee to examine the lessons learned about county government operations during the COVID-19 emergency and to recommend continued operational changes. The Minnesota Association of County Officers (MACO) participated in this process as an affiliate organization and provided a presentation with our association's perspective.

About a year after the Blue Ribbon Committee's report was released, MACO followed up on our members' response to COVID-19. We wanted to see if our members have continued to implement some of the innovative changes presented to the Blue Ribbon Committee, whether or not there have been other lessons learned, and if there are other areas for continued activity.

Respondents to our follow-up survey represented various office types (license centers, recorders, auditor/treasurers, and elections administrators) in counties of all sizes and from across the state. The most important finding was that almost 70% of the respondents said they were still utilizing their "most successful COVID change."

MACO asked for additional detail from the various offices. Survey responses indicated that most offices learned that appointments and virtual and online services were appreciated and mostly worked well.

Respondents encouraged our association to continue to work on legislative changes to maintain some of the flexibility provided during the COVID-19 emergency (for example, remote marriage licenses and earlier ballot processing).

Respondents also encouraged our association to take on some tasks ourselves, including investigating self-service kiosks, identifying effective technology investments, and preparing best practices for appointment-setting systems, communications, and reopening strategies.

Throughout our original work on this effort, and in our follow up survey, our association hopes there can be a platform of legislative authorizations created that would be available and awaiting any future state of emergency declarations so that counties can be able to very quickly respond.

A concluding and recurring response from our members is that they were well aware of the ongoing changes COVID-19 has presented to our offices, our work, and our staff. Recognizing and responding to change fatigue will be something our association will watch as we all continue to respond COVID-19.

The Minnesota Association of County Officers (MACO) is comprised of county Auditors, Treasurers, Recorders, Financial Officers, and Registrars in Minnesota. All 87 Minnesota counties are members. Two individual associations combine to make up the MACO organization. These individual associations include the Minnesota Association of County Auditors, Treasurers, and Finance Officers (MACATFO) and the Minnesota County Recordors Association (MCRA). ■

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# MACA Sets High Standards of Professional Conduct for Members



By Michael Williams, PhD, Stearns County Administrator, MACA Secretary

The Minnesota Association of County Administrators (MACA) exists to support AMC and improve the administration of county government in Minnesota. MACA strives to achieve this general objective by the following:

1. Assisting AMC on matters having an impact on county government.
2. Acting as a forum for sharing knowledge, information, and experience among the members of MACA.
3. Assisting AMC's member counties with establishment or improvement of effective county administration in Minnesota.
4. Encouraging continued education and training in county administration.

MACA fulfills its mission by providing numerous forums and opportunities for members' professional development and to enhance their technical/practical knowledge. In addition, MACA has representation on the AMC Board of Directors, has members active in the AMC legislative policy process, and the MACA Executive Board receives regular legislative updates from AMC staff and acts as a sounding board for AMC issues and concerns.

The work of county administrators is of great importance to counties. Our county boards, as they carry out their many responsibilities and duties, expect the highest level of assistance from their chief administrative officer. There are statutory duties for the county administrator, too. Oftentimes, the county administrator is expected to foster an atmosphere of continuous improvement and increase the leadership capacity within the organization. The county administrator works alongside the county board and staff to promote an organizational culture driven by the board's mission, vision, and values. MACA, like every county board, expects their members (all administrators/coordinators/CAOs) to be professional, ethical, and to act with integrity.

Thus, under the leadership of MACA President Bruce Messelt (Sherburne County Administrator), MACA recently adopted *Professional Conduct Guidelines*. The purpose for the guidelines is to promote the highest standards of professionalism for MACA members. The MACA bylaws were also amended to state within the Purpose of MACA: *Members are encouraged to abide by the tenets established in MACA's Professional Conduct Guidelines.*



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President Messelt thanks the Professional Conduct Task Force he appointed (Julia Lines, Kersten Kappmeyer, Tim Houle, Andrew Letson, Heidi Welsch, and Michael Williams) and Jill Suurmeyer who provided expert facilitation and research in support of the task force's work.

The newly adopted guidelines are below:

### Minnesota Association of County Administrators Professional Conduct Guidelines

These are guidelines developed to define acceptable behavior by members, promote high standards, and a measurement for members to use for self-evaluation and reflection. It establishes a framework for professional behavior and responsibility, as well as occupational identity. These guidelines are intended to set a higher standard than the minimum legal requirements established in Minnesota statutes.

#### Public Service

- Members shall promote public involvement in the democratic process, strive to improve access to government services, and defend their institution's reputation and integrity. They shall uphold federal, state, and local laws and regulations.
- Members shall advise their board to the best of their ability, seeking additional expertise when needed and providing their board with context, potential outcomes, and all the pertinent information available on matters in front of them. Minn. Stat. 375A.06
- Members shall create an environment that promotes public service excellence. This includes assisting their board with effective governance; encouraging transparency and community engagement; facilitating the Board and staff in developing long-term strategic goals; managing public funds in an effective and prudent manner; developing personnel and organizational culture, promoting collaboration, seeking best practices, and measuring for results.
- Members shall accept responsibility for their actions and decisions. They are charged with the execution of the board's decisions and should recognize that board members are accountable to their constituents.
- Members shall prioritize the public interest when acting in their official capacity.

#### Conflict of Interest

- Members shall disclose to their board any of the member's potential or actual conflicts of interest on subjects arising during the course of their duties, and members should not advise their board on matters where such a conflict of interest may exist. Members shall not accept or solicit gifts that could undermine public confidence in their integrity as a government official. Minn. Stat. 471.895
- Members shall not share confidential information that could unfairly advance their or others' interests or reveal personal information about individuals associated with their county.
- Prior to making commitments, members shall weigh the possible consequences of participation in political activities or service on non-elected governing bodies. Members shall avoid involvement in activities or organizations that may undermine public confidence or conflict with the interests of the county.

#### Personnel Matters

- Members are expected to approach and treat all personnel matters directly, with fairness and neutrality. Members shall avoid relationships and behaviors that compromise or appear to compromise their reputation or integrity.
- As leaders, members greatly influence the culture of their organization. Members shall strive to set a professional tone, exhibiting respect for current and past elected officials and staff, and the decisions they made.
- Members shall respect, and when able, provide professional support to fellow members. If contacted for advice or for consultation by board members or staff of another member's county, members are expected to inform their colleague of that contact and its subject.
- Members shall seek opportunities to grow professionally and cultivate leadership and management skills.

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