



June 27, 2022

Professional Distinction

Personal Dignity

Patient Advocacy

Office of Commissioner Jan Malcolm
Minnesota Department of Health
625 North Robert Street
St Paul, MN 55155

Dear Commissioner Malcolm:

Our names are Chelsea Schafter and Ami Tillemans and we are Chairs at the Minnesota Nurses Association (MNA), representing 22,000 nurses, 80 percent of all bedside hospital nurses in Minnesota.

Every day, nurses confront the ongoing staff shortages in our hospitals and experience firsthand the mental health crisis in our state. Nurses understand the need for additional mental healthcare beds. However, as frontline healthcare professionals, we recognize that there is a right way to go about it, and a wrong way.

Nurses believe that healthcare in Minnesota should put patients before profits. We believe that safe patient care should be the top priority in Minnesota hospitals, not the profits of hospital executives or corporate bottom lines and results for shareholders. This is why we are deeply concerned with M Health Fairview's decision to partner with a profit-driven corporation, Acadia Healthcare, which will have 85 percent ownership of this new venture.

Acadia's recent track record speaks volumes about the company's priorities:

- In 2019, a youth treatment center in New Mexico owned by Acadia [shut down](#) after abuse allegations, multiple lawsuits, and loss of certification from state regulators. Seven lawsuits were filed against the Desert Hills of New Mexico facility in Albuquerque and its parent company in the month prior to its closing, alleging the company failed to protect its clients from physical and sexual abuse from its workers and other patients.
- That same year, the United States Attorney's Office announced a \$17 million fraud [settlement](#) with Acadia Healthcare in West Virginia, the largest healthcare fraud settlement in the state's history. Under the settlement agreement, Acadia, which operated the treatment centers since [February 2015](#), agreed to pay \$17 million to resolve allegations of a billing scheme that defrauded Medicaid of \$8.5 million between January 1, 2012 and July 31, 2018.
- In 2021, three current and former executives brought a [class action lawsuit](#) against Acadia Healthcare stating that the company misled investors. The action, which dates back to 2018, alleges the defendants misled investors after stock prices dropped as a result of understaffing and other issues. The

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AFL-CIO

- suit, launched by St. Clair County Employees' Retirement System, accuses Acadia of falsely claiming to have a commitment to excellent patient care, while calling out reports of understaffing and allegations of violence at Acadia facilities.

Despite racking up millions in [fines and regulatory violations](#), Acadia continues to expand, describing the investment environment for behavioral facilities in the U.S. as a "large market with attractive trends." This is the wrong focus when we're talking about services for patients with mental health needs. We are concerned that the proposed partnership will put shareholders' expectations above the interests of the community, especially the most vulnerable who are in desperate need of mental health services.

Nurses do our research before we take a job. We want to work in a place that treats patients and coworkers with respect and dignity. A review of data from the nonprofit group, The Joint Commission,¹ reveals that many Acadia-run facilities fall behind national quality standards and may jeopardize patient care.

At San Jose Behavioral Health in California, for example, Acadia fell below the national average in screening patients for violence risk, substance use disorder, trauma, and other factors with the potential to put both patients and healthcare workers at risk. At the same hospital, Acadia used physical restraint and seclusion at rates above the national average, notably keeping adolescents ages 13 – 17 in seclusion at more than six times the national rate and using physical restraint on seniors at almost five times the national rate. These conditions are disturbing for patients, and also point to inadequate staffing levels where patients do not receive the full care and attention they need. These attitudes and behaviors from Acadia will drive experienced healthcare workers away and further degrade the quality of care.

For-profit healthcare is not the way we do things in Minnesota. This corporate model puts executive compensation, shareholder returns, and the bottom line before the care of Minnesotans, including our most vulnerable. M Health Fairview's plan to outsource care to the profit-driven Acadia corporation raises several serious questions about the proposed Mental Health Hospital and its impacts for patients and workers. If the answers to these questions reveal that the priorities of Acadia Healthcare are not in alignment with our values as Minnesotans, the project should not be found to be in the public interest by the Minnesota Department of Health.

Community Need

There is no doubt that there is a continued mental health crisis in Minnesota, which shows no sign of slowing down. While M Health Fairview and Acadia state that they intend to increase the number of mental health beds, the parties' application reflects that M Health Fairview's practice has been to do the opposite. In fact, M Health Fairview reduced the number of mental health beds at St. Joseph's by [more than 50%](#) since 2018 and decreased mental health beds system-wide by [nearly 15%](#) between 2016 and 2020. When Regions Hospital came before MDH in 2017 to [propose an increase in beds](#), including 20 mental health beds, M Health Fairview [opposed it](#) while acknowledging unmet mental health needs in downtown St. Paul.

MNA has significant concerns that M Health Fairview intends to [close the remaining](#) 40 beds at St. Joseph's Hospital before the new Mental Health Hospital is built. This decision would undoubtedly put strain on existing emergency departments which are already operating at or above capacity.

Moreover, we ask why M Health Fairview is seeking additional beds when [data from MDH](#) shows that the system has a total of 3,455 licensed beds but has only been using 2,013 of them.

¹ Compiled from Quality Reports, available at <https://www.qualitycheck.org/>.

Staffing

MNA's own research shows that chronic short staffing is a [principal reason](#) nurses leave the bedside, and MDH research shows that more registered nurses are now working [outside the profession](#). As MDH reviews "[h]ow the new hospital or hospital beds will affect the ability of existing hospitals in the region to maintain existing staff," we have questions about staffing plans at the proposed Mental Health Hospital:

- 1) M Health Fairview employed [106 Registered Nurses](#) (RNs) in relation to the operation of inpatient mental health units at St. Joseph's Hospital as of December 2021. While M Health Fairview and Acadia state that they intend to increase the number of mental health beds, the project partners estimate that they will only have [55 FTE RNs](#). How will a 48% reduction in nurse staffing improve the mental health crisis in Minnesota?
- 2) M Health Fairview has represented that the continued decline in available beds at St. Joseph's Hospital were the result of "[staffing challenges experienced by hospitals nationally and locally related to COVID-19.](#)" Given the continued relevance of COVID-19, what are the project partners' plans to attract and retain qualified behavioral health psychiatrists, psychiatric nurses, and other behavioral health professionals at this new hospital and increase the capacity of available beds?
- 3) The average length of stay for inpatient mental health (psychiatric) admissions at St. Joseph's hospital between 2017 and 2020 was 11.31 days, 50% higher than the average for private facilities in the 7-county metro.² How does M Health Fairview account for this difference? What will be the intended average length of stay in the Mental Health Hospital? If the average length of stay continues to be high, but the project partners intend on hiring fewer staff, what is the plan to accommodate patients?
- 4) The project partners' original submission reflects that 1) when the Mental Health Hospital opens, it will have [120 inpatient beds](#); and 2) the Mental Health Hospital will employ approximately [200 full-time equivalent employees](#) by the end of year two. What is the breakdown of FTEs when the hospital opens?
- 5) With the staff reduction to just 55 Registered Nurses employed, what is the expected ratio of nursing hours per patient day at the new facility? How will this differ before the Mental Health Hospital reaches the estimated staffing of 200 FTE?
- 6) What is the ratio of staffing for Physicians to Physician Assistants to Nurse Practitioners?
- 7) What is the expected nurse to patient ratio in this center vs. a co-located center?
- 8) MNA is concerned whether the minimum of [one licensed psychologist](#) on staff is adequate for a 144-bed facility. How does this compare to industry benchmarks, as well as other M Health Fairview and Acadia facilities?
- 9) What are the project partners' plans for staffing the new facility to ensure the hospital meets or exceeds national and state quality measures?

Patient Suicides and Violence

2020 data from the Centers for Disease Control and Prevention show that suicide is the [8th leading cause of death](#) in Minnesota. It is the 2nd and 3rd highest cause of death for ages 10-34 and 35-44, respectively. Our analysis of Acadia facilities in major metropolitan areas finds that Acadia lags behind the national average on important metrics (see figures 1-3), which are often related to a lack of adequate staffing.

² Statistics gathered from Minnesota Department of Health's data set, "Mental Health and Chemical Dependency," available at <https://www.health.state.mn.us/data/economics/hccis/data/stndrdrpts.html>.

Assessment of violence risk, substance use disorder, trauma

Figure 1: Selected Acadia facilities that scored below the national average on the measure: Assessment of violence risk, substance use disorder, trauma and patient strengths completed - Overall Rate

Facility	City	State
San Jose Behavioral Health Hospital	San Jose	CA
Stonecrest Behavioral Health Hospital	Detroit	MI
Belmont Behavioral Health System	Philadelphia	PA

Medications at Discharge

Figure 2: Selected Acadia facilities that scored below the national average on the measure: Multiple Antipsychotic Medications at Discharge with Appropriate Justification - Overall Rate

Facility	City	State
Sonora Behavioral Health Hospital	Tucson	AZ
San Jose Behavioral Health Hospital	San Jose	CA
Belmont Behavioral Health System	Philadelphia	PA
Crestwyn Behavioral Health Hospital	Memphis	TN
Delta Specialty Hospital	Memphis	TN
Cross Creek Hospital	Austin	TX
Rio Vista Behavioral Health Hospital	El Paso	TX

Physical Restraint Use

Figure 3: Selected Acadia facilities that scored above the national average on the measure: Hours of Physical Restraint Use per 1000 Patient Hours - Overall Rate

Facility	City	State
San Jose Behavioral Health Hospital	San Jose	CA
Pacific Grove Hospital	Riverside	CA
Delta Specialty Hospital	Memphis	TN

- 10) What is the current rate of admitted patient suicides at M Health Fairview and Acadia hospitals?
- 11) What is the current rate of homicides at M Health Fairview's acute care hospitals and Acadia hospitals?
- 12) How do these rates compare to industry standard benchmarks?

Workplace Violence and Security

Workplace violence is a persistent problem in the healthcare industry. Certain occupations and environments within the industry may be more prone to such violence. [The Minnesota Nurses' Study](#) found that the annual rate of verbal and physical assaults for RNs and LPNs was 39% and 13%, respectively. Additionally, researchers have found an elevated risk of workplace violence at inpatient psychiatric facilities, including rates that are [69 times](#) the national rate of violence in the workplace for psychiatric aides.

We have concerns about how M Health Fairview and Acadia plan to combat this problem, given that several of Acadia's inpatient facilities scored below the national average on assessing patients for violence risk. Recently, healthcare workers at [Cascade Behavioral Health](#) in Tukwila, WA highlighted Acadia's failure to provide safe working conditions after an incident left 11 staff members injured, four of whom were sent to the emergency

room with severe injuries. Workers' demands were simple: hire dedicated security staff and implement safety procedures so they can best serve patients.

- 13) What is the current rate of incidents of workplace violence at M Health Fairview's behavioral health hospitals?
- 14) What is the current rate of incidents of workplace violence at M Health Fairview's other acute care hospitals?
- 15) What is the current rate of incidents of workplace violence at Acadia's hospitals?
- 16) How do these rates compare to industry standard benchmarks?
- 17) MNA has concerns with M Health Fairview and Acadia's belief that [one on-site security officer](#) is adequate for this facility. How does this compare to industry benchmarks, and other M Health Fairview and Acadia facilities?
- 18) Will the Mental Health Hospital have locked facilities?

Operations

As a profit-driven corporation, Acadia Healthcare operates its facilities with an eye on shareholder returns, executive compensation and bonuses, and the bottom line. MNA nurses have concerns and questions as to how these priorities will affect day-to-day operations for patients and staff at the proposed Mental Health Hospital.

- 19) The parties told MDH that ["In extreme medical crisis situations, patients would be transported and admitted to an appropriate acute care setting."](#) Is the new Mental Health Hospital intended to be an acute inpatient behavioral health hospital?
- 20) Will the Mental Health Hospital involuntarily detain individuals with a mental challenge who are an imminent danger to themselves or others for a 72-hour psychiatric hospitalization under Section 5150 of the Welfare and Institutions Code?
- 21) What is the current number of 5150 holds initiated by law enforcement? What are the anticipated number of holds in the future?
- 22) The project partners point to ["desired scale"](#) and ["level of specialized care"](#) as part of the rationale to establish a freestanding facility. What is the "desired scale" of the Mental Health Hospital? What is the intended scope of specialization (e.g., adult, child, adolescent, geriatric, drug rehabilitation, alcohol rehabilitation, etc.)?
- 23) The project partners indicate that the Mental Health Hospital will provide ["operational efficiencies."](#) What do these efficiencies entail, and how will they impact patient care?
- 24) The parties indicate that all care will be covered under [Diagnosis Related Group \(DRG\) 885](#) and assert that DRG 885 is an all exhaustive DRG for all mental health and substance use disorders. However, DRG 885 is limited to Psychosis, and there are several other DRGs in the Major Diagnostic Category (MDC) for Mental Diseases & Disorders that are highly relevant in our community, including: Acute Adjustment Reaction & Psychosocial Dysfunction, Depressive Neurosis, Disorders of Personality and Impulse Control, and Alcohol/Drug Abuse or Dependency without Rehabilitation Therapy. What are the other DRGs that the parties are willing to provide care for our community?
- 25) What surgical interventions do the parties intend to perform at this new facility? Will electroconvulsive therapy services (ECT) be offered at this facility?
- 26) There are multiple service lines within behavioral health. What lines do the parties expect to provide to the community?

- 27) In the event the Capitol Area Architectural and Planning Board does not approve M Health Fairview and Acadia's [preferred location](#), how will the alternative site serve the same current community behavioral health needs?
- 28) Will this joint venture be branded under the banner "M Health Fairview"?

Patient Transfers

MNA nurses know patients are best served when they have access to the full range of care services they may need, as a well-staffed hospital can provide. Given the for-profit model of Acadia Healthcare, nurses have concerns and questions as to how patient needs will be assessed and met for care and treatments not offered at the new Mental Health Hospital.

- 29) The parties indicate that ["If the best medical option for a patient is hospitalization, they will be transferred to an inpatient mental health and addiction unit at UMMC or the new mental health hospital."](#) What does this statement mean for patient care at the new Mental Health Hospital, or at another facility? How will such decisions and transfers be made in practice?
- 30) What diagnoses will not be able to be treated at this hospital?
- 31) What types of patients would be transferred?
- 32) What are the limitations of this new behavioral health hospital?
- 33) What is the ratio of Emergency/Urgent/Elective admissions currently? What is the planned ratio at the new facility?

Conclusion

The profit-driven model of healthcare pursued by Acadia raises serious questions as to whether the needs and best interests of the Minnesota public will be served by the proposed partnership between M Health Fairview and the private corporation. If answers to these questions show that concerns with executive compensation, shareholder returns, and the bottom line would come before the care of Minnesotans, including our most vulnerable, nurses urge that the Department find the proposal to not be in the public interest. More mental health beds are needed in Minnesota – not more profits at the expense of patient care in our health system.

Sincerely,

Chelsea Schafter, RN
Ami Tillemans, RN
MNA Chairs