Chairperson Sanfelippo and members of the Assembly Committee on Health.

I greatly appreciate this opportunity to present our views on DHS Chapters 105 and 107 as part of the Red Tape Review or the “Right the Rules” initiative. As I will explain in my testimony these chapters were never updated by DHS for bills passed in 2015 and 2009, which has resulted in the Legislature not being able to fulfill their role of rule oversight and the legislative intent behind the bills never fully implemented. More specifically DHS never updated the rules to add “licensed mental health professionals” or “licensed treatment professionals” as psychotherapy and AODA treatment providers to DHS 105 and 107 following the passage of 2015 Wisconsin Act 294 and 2009 Wisconsin Act 28.

The purpose of 2015 Wisconsin Act 294 and the applicable section in 2009 Wisconsin Act 28 was to ensure that troubled children, youth, adults and families in Wisconsin receive the mental health and substance abuse assistance they need in accessible locations. The need for mental health services has long been articulated by our communities and state government. In 2013 Governor Walker’s Mental Health Reform Package Program called for expansion of in-home counseling for children. Also in 2013 the Speakers Task Force on Mental Health worked on recommendations to eliminate barriers to treatment for juveniles and adults in need of mental health services. One of the recommendation suggested changes to MA to allow children with severe emotional disturbance to access in-home therapy without requiring them to first fail at outpatient therapy. Finally in December 2016 The Division of Youth Services, Wisconsin Department of Children and Families identified one of the barriers to mental health services for adolescents as the lack of in-home providers. They also listed as their vision that “Youth who enter the youth justice system can access appropriate and timely in-home and out of home mental health services.” Their goal is to prevent these youth from entering the adult criminal justice system.

Despite the need for mental health and substance abuse services throughout the state, including in home settings and schools, the Department of Health Services has never fully implemented 2015 Wisconsin Act 294, whose purpose was to help address the need for mental health providers in the public schools or 2009 Wisconsin Act 28, which required DHS to reimburse independently practicing licensed mental health professionals to provide services to MA clients. Indeed 2015 Wisconsin Act 294 was passed because DHS had refused to reimburse independently practicing licensed mental health professionals for services in the public schools. As a follow up to 2015 Wisconsin Act 294, a similar bill is likely needed covering in-home services, provided by independently practicing licensed mental health profession. DHS refuses to provide this reimbursement.

DHS has justified their refusal to reimburse independently practicing licensed mental health professions in in home settings and prior to Act 294 in schools from a statement in the December 2010 Forward
Health Update where they stated that the only allowable place of services is “office”. However there is no legal basis of this claim and they have never tried to put this into a rule, where it could be challenged by the Wisconsin Legislature or the Governor.

In terms of implementation of 2015 Wisconsin Act 294, it took DHS eleven months to implement just one portion of the bill affecting licensed mental health professionals. The portion of the bill affecting Qualified Treatment Trainees, those practitioners who have a Masters' degree and are in training to be licensed, has never been implemented.

As you will hear from a couple of licensed clinical social workers who will speak today, some of the most disturbed and troubled children can only be served in a home setting. They will likely never come to an office. This home treatment can make the difference between a child becoming institutionalized and/or entering the criminal justice system. Whether we are talking about a foster parent taking on a child who has been a victim of physical or sexual abuse or neglect or an intact family’s whose son or daughter suffers from a severe eating disorder, depression or schizophrenia, these families who are doing their best need our help as do their children.

In summary we have a situation where there is a great need for in-home psychotherapy, there are qualified providers willing to do this very challenging work but DHS refuses to reimburse independent practicing licensed mental health professions for this work. Even when the Wisconsin Legislature passed a bill in 2015 mandating that DHS reimburse independent practitioners in school settings, DHS has still not fully implemented the bill despite willing providers and a tremendous need.

We are asking the Assembly Committee on Health to add provisions to DHS 105 and 107 to fully implement 2015 Wisconsin Act 294 and 2009 Wisconsin Act 28. In addition to adding provisions to these rules, it may also be necessary to pass a bill, based upon 2015 Wisconsin Act 294 for the provision of in-home services. I would be happy to work with Legislative Counsel and the Assembly Committee on Health in these efforts.

In a separate document I have listed recommended changes to DHS 105 and 107.