

MEETING NOTICE AND AGENDA

Name of Organization: Legislative Commission's Committee to Study the Feasibility of Adopting a Program of Outpatient Civil Commitment for the Mentally Ill (S.C.R. 60)

Date and Time of Meeting: Thursday, May 21, 1998

9:30 a.m.

Place of Meeting: Legislative Building

Room 4100

401 South Carson Street

Carson City, Nevada

Note: Some members of the committee may be attending the meeting, and other persons may observe the meeting and provide testimony, through a simultaneous video conference conducted at the following location:

Grant Sawyer State Office Building

Room 4412

555 East Washington Avenue

Las Vegas, Nevada

AGENDA

WORK SESSION

I. Introduction and Opening Remarks

Assemblywoman Vivian L. Freeman, Chairwoman

***II. Approval of Meeting Minutes from April 8, 1998.**

***III. Discussion and Final Recommendations**

- 1. Review of Proposed Recommendations (See Attached "Work Session Document" for a Summary of Proposals Compiled from Previous Committee Meetings)**

B. Directions to Staff

IV. Public Testimony

V. Adjournment

*Denotes items on which the committee may take action.

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Research Division of the Legislative Counsel Bureau, in writing, at the Legislative Building, Capitol Complex, Carson City, Nevada 89701-4747, or call Nenita Wasserman, at 684-6825, as soon as possible.

Notice of this meeting was posted in the following Carson City, Nevada, locations: Blasdel Building, 209 East Musser Street; Capitol Press Corps, Basement, Capitol Building; Carson City Courthouse, 198 North Carson Street; Legislative Building, Room 1214, 401 South Carson Street; and Nevada State Library, 100 Stewart Street. Notice of this meeting was faxed for posting to the following Las Vegas, Nevada, locations: Grant Sawyer State Office Building, 555 East Washington Avenue; Clark County Office, 500 South Grand Central Parkway.

WORK SESSION DOCUMENT

May 21, 1998

LEGISLATIVE COMMISSION'S COMMITTEE TO STUDY THE FEASIBILITY OF ADOPTING A PROGRAM OF OUTPATIENT CIVIL COMMITMENT FOR THE MENTALLY ILL (S.C.R. 60)

This work session document was prepared by the staff of the Committee to Study the Feasibility of Adopting a Program of Outpatient Civil Commitment for the Mentally Ill (S.C.R. 60). It contains a summary of major recommendations which have been presented in public hearings and correspondence during the course of the study. Organized by topic headings, it is designed as a working document to assist the members of the committee in making decisions during the work session.

The possible recommendations listed in this document do not necessarily have the support or opposition of the committee. These proposals are simply compiled and organized so the members may review them to decide if they should be adopted, changed, rejected, or further considered. The source of each recommendation is noted in parentheses. Any recommendations adopted by the committee will be submitted to the Legislative Commission for consideration. The recommendations will be highlighted in the committee's report, and any recommendations for legislation will be included in the report as bill draft requests (BDRs). The report will be made to the 1999 Session of the Nevada Legislature.

Under the provisions of S.C.R. 60, recommendations for legislation proposed by the committee must be approved by a majority vote of the Senators on the committee and a majority vote of the Assembly members on the committee.

RECOMMENDATIONS REQUIRING LEGISLATIVE ACTION

Convalescent Leave Protocol

1. Amend *Nevada Revised Statutes* (NRS) 433A.370, 433A.380 and 433A.390 to allow for persons who have been involuntarily civilly committed to a mental health facility to be placed on convalescent or conditional leave for a period not to exceed six months. **This proposal is designed to allow for a patient's release from the hospital into a community setting and provides for case manager intervention and possible rehospitalization if needed.** (Recommended by Carlos Brandenburg, Ph.D., Administrator, Division of Mental Hygiene and Mental Retardation [Division] of the Department of Human Resources; and Cynthia Pyzel, Senior Deputy Attorney General, Office of the Attorney General, 4/8/98. See Exhibit 1. This recommendation also was endorsed by the

Mental Health Committee from Northern Nevada, a subcomponent of the Community Unity Coalition, 4/8/98. See Exhibit 2, Part II. C.)

Adopting a Program of Outpatient Civil Commitment

2. Draft and enact legislation to establish a program of outpatient civil commitment, which provides for appropriate due process and other procedural safeguards. (Recommended by Rosetta Johnson, National Alliance for the Mentally Ill [NAMI] of Northern Nevada, 2/26/98, and supported by NAMI of Southern Nevada.)
3. Draft and enact legislation to establish a pilot program of outpatient civil commitment and provide for an evaluation component to gauge its effectiveness. (Recommended by Pat Hines, citizen, 2/26/98.)

Formation of a Mental Health Standing Committee

4. Draft and enact legislation to create a standing legislative mental health committee to: 1) assess the mental health system and determine resource needs; 2) review mental health statutes and make recommendations for refinements and adjustments; and 3) assess the current civil commitment standards and procedures. **It was further recommended that this committee have a sunset date and that its membership be comprised of a wide range of individuals involved in the mental health system.** (Recommendation by the Mental Health Coalition from Northern Nevada, 4/8/98 [see Exhibit 2, Part II. G.] and Ed Clements, citizen, 12/10/97.)

Definition of "Mentally Ill"

5. Amend NRS 433A.115 ('mentally ill person' defined) to more clearly define "mentally ill person." It was further recommended that particular emphasis be placed on interpreting "a danger of harm to himself or others," and it was also suggested that the definition of mentally ill person be expanded to include a person who is "gravely disabled." (Recommended by Nancy Becker, District Court Judge, Eighth Judicial District, 1/8/98; Pat Hines, citizen, 1/8/98; Ed Clements, citizen, 1/13/98; and Rosetta Johnson, NAMI, 2/26/98.)

Mental Health Facility Admission Procedures

6. Amend Chapters 433 and 433A of NRS to set forth a process that differentiates between the first and subsequent admission to a mental health facility. It was recommended that the intake process be streamlined for persons who are admitted for the second or subsequent time because they have been previously diagnosed. (Recommended by Ed Clements, citizen, 12/10/97.)

Involuntary Commitment Proceedings

7. Draft and enact legislation that allows judges to consider past mentally ill behavior when determining if an individual should be involuntarily committed. Additionally, upon involuntary commitment, mandate that the mentally ill individual be required to participate in a treatment program. (Recommended by Rosetta Johnson, NAMI, 2/26/98.)

Therapeutic Jurisprudence

8. Draft and enact legislation to establish a program of "therapeutic jurisprudence" for select mentally ill individuals. The program would operate similarly to the "drug court" and would include the participation of a judge and appointed medical personnel to monitor treatment and medication compliance. (Recommended by Elizabeth Francis, Professor, English and Judicial Studies, University of Nevada, Reno, 2/26/98.)

District Attorney Petition

9. Amend NRS 433A.210 to require the district attorney to consult with the person who is the subject of the petition for involuntary court-ordered admission before the clerk of the district court may accept the petition for filing. (Recommended by Assemblyman Mortenson, 1/8/98; and Sigrid Macey, citizen, 4/8/98.)

Sentencing Decisions

10. Amend Chapter 176 of NRS to require the Division of Parole and Probation of the Department of Motor Vehicles and Public Safety to set forth the mental health history of a defendant in its presentence investigation report to the court and to consider such history in making its sentencing recommendations to the court. (Recommended by Nancy Becker, District Court Judge, Eighth Judicial District, 1/8/98.)

RECOMMENDATIONS CONCERNING FUNDING OF MENTAL HEALTH SERVICES AND PROGRAMS

Expansion of Community-Based, Outpatient Programs

11. Include a statement in the final report supporting the Division's budget proposal to expand community-based, outpatient programs and services for the mentally ill. These services include, but would not be limited to, community outreach; case management; crisis intervention; educational and vocational services; halfway or transitional housing; medical detoxification; medication clinics; and Programs for Assertive Community Treatment (PACT); (Recommended by Carlos Brandenburg, Ph.D., Administrator, Mental Health and Mental Retardation Division, and supported by Scott T. Jordan, District Judge, Family Division, Second Judicial District Court, 1/8/98; The Mental Health Coalition of Northern Nevada, 4/8/98; Pat Hines, citizen, 1/8/98; Nancy Paolini Executive Director, Project Restart, 2/26/98; Vicki Miller, Director, Crisis Response and Information Services, Monte Vista Hospital, Las Vegas, 2/26/98; H. Jill Smith, Advocacy Director, Nevada Disability Advocacy and Law Center, 2/26/98; and Dave Kieckbusch, Undersheriff, Washoe County, 1/8/98.)

Mobile Crisis Units

12. Include a statement in the final report encouraging the establishment of mobile crisis units, either through the Division or private sector, for use in emergency mental health situations. The mobile crisis units would be designed to assess individuals alleged to be mentally ill and assist with providing and accessing appropriate services. (Recommended by William Voy, Mental Commitment Hearings Master, Clark County, 2/26/98; and Ed Clements, citizen, 1/13/98.)

Program Evaluation

13. Include a statement in the final report urging the Legislature to request a preliminary evaluation regarding outpatient mental health services in Nevada, including, but not limited to, case management; newer, safer medications; the Programs for Assertive Community Treatment (PACT) in the north and south; and **transitional housing programs;** (Recommendation by the Mental Health Coalition from Northern Nevada, 4/8/98. See Exhibit 2, Part II. E.)

Psychiatric Residency Program

14. Include a statement in the final report encouraging the Division to establish a psychiatric residency program with the University of Nevada School of Medicine. (Recommended by Pat Hines, citizen, 1/8/98.)

Database

15. Include a statement in the final report encouraging the Division to establish a system-wide database to track mentally ill individuals involved in state and local mental health and judicial systems. (Recommended by Ed Clements, citizen, 12/10/97.)

Hotline/Central Clearing House

16. Include a statement in the final report encouraging the Division to develop a central clearing house and/or hotline that identifies the availability of mental health services and provides information and assistance in emergency situations. (Recommended by Ed Clements, citizen, 12/10/97.)

Forensic Facility in the South

17. Include a statement in the final report encouraging the Division to establish a forensic facility for mentally ill offenders in Las Vegas. Currently, Lakes Crossing is the only forensic facility in the state. (Recommended by Nancy Aiken, past president of NAMI, 1/8/98.)

Prison Mental Health Services

18. Include a statement in the final report encouraging the Department of Prisons to establish comprehensive mental health programs and services for mentally ill inmates. (Recommended by Nancy Becker, District Court Judge, Eighth Judicial District, 1/8/98.)

Misdemeanor-Specific Services

19. Include a statement in the final report encouraging the Division of Parole and Probation of the Department of Motor Vehicles and Public Safety and the Division of Mental Health and Mental Hygiene to provide programs and services for mentally ill individuals convicted of misdemeanor crimes. This early intervention was recommended to assist with the "revolving door" syndrome of mentally ill individuals in the criminal justice system. (Recommended by Nancy Becker, District Court Judge, Eighth Judicial District, 1/8/98.)

Geriatric Services

20. Include a statement in the final report encouraging the Division and the private sector to establish geriatric services for the mentally ill. (Recommended by Darryl Dubroca, Chief Executive Officer, Monte Vista Hospital, Las Vegas, 2/26/98.)

Dual Diagnosis

21. Include a statement in the final report encouraging the Division to establish a dual diagnosis unit and community training center at Southern Nevada Adult Mental Health. (Recommended by Pat Hines, citizen, 2/26/98.)

Educational Programs

22. Include a statement in the final report encouraging the Division to produce and sponsor public service announcements regarding mental illness. (Recommended by James Richard Lucas, citizen, 4/8/98.)

23. Include a statement in the final report encouraging the Division to develop training programs, particularly for professionals who work with children, regarding mental illness and its warning signs. (Recommended by James Richard Lucas, citizen, 4/8/98.)

24. Include a statement in the final report encouraging the Division to develop an educational program for the courts and judges regarding the standard for involuntary civil commitment. (Recommended by the Mental Health Coalition of Northern Nevada, 4/8/98.)

OTHER RECOMMENDATIONS CONCERNING MENTAL HEALTH PROGRAMS AND SERVICES

Guiding Principles

25. Urge the S.C.R. 60 Committee to adopt the Mental Health Coalition's general principles, as outlined in Exhibit 2, part I, and include these principles in the final report. (Recommendation by the Mental Health Coalition from Northern Nevada, 4/8/98.)

Interagency Cooperation

26. Include a statement in the final report encouraging interagency cooperation between public and private mental health facilities. (Recommended by Ed Clements, citizen, 12/10/97.)

Support Groups

27. Include a statement in the final report encouraging the establishment of support groups for family members of persons involuntarily committed. (Marilyn Rogan, Captain of the Court Operations Bureau and Psychological Services Section, Clark County Detention Center, 1/8/98.)

Guardianship Laws

28. Include a statement in the final report encouraging the courts to use the guardianship laws of this state more frequently to ensure that mentally ill persons are kept from using government benefits for expenses other than living expenses. This proposal is designed to address mentally ill persons who become homeless after their case managers lose the ability to control their benefits and the benefits are not used for living expenses. (Recommended by Nancy M. Paolini, Executive Director, Project Restart, 2/26/98; and Vicki Miller, Director, Crisis Response and Information Services, Monte Vista Hospital, Las Vegas, 2/26/98.)

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S.C.R. 60 Recommendations for changing conditional release procedure from involuntary civil commitment.

I. The intent of this bill is to allow for persons who have been involuntarily civilly committed to a mental health facility to be placed on convalescent or conditional leave for a period not to exceed the six month commitment. This will allow for their release from the hospital into a community setting, but, as opposed to an unconditional release, will allow for case manager intervention and possible rehospitalization during the commitment period. The intent is to have this process driven by the professional, clinical judgment of the treating professionals, minimal judicial oversight.

II. In 1997, subsection 3 was added to NRS 433A.390, which requires a court order to extend any convalescent leave beyond ten days. In practice, this requirement has delayed the release of persons from hospitals because they were ready to "step down" but not to be released unconditionally. In addition, it has the family court reviewing each case where extended follow up is called for by the client's treatment team. This has placed an added burden on the family courts, and has not resulted in any meaningful benefit to the clients.

III. NRS Title 39, Chapter 433 A, Sections 380 and 390.

IV. Effective upon passage and approval

V. Suggested language:

NRS 433 A.380(1) be amended to add: A person may be returned to the mental health facility when, in the professional judgment of a member of his treatment team, he requires additional treatment in an inpatient setting. In the event a person is returned to the mental

health facility from conditional release on convalescent leave, that return shall be reviewed for appropriateness at the next regularly scheduled mental health commitment hearing day for the facility.

NRS 433 A.390 be amended to repeal subsection 3:[3. The release of an involuntarily court-admitted client pursuant to subsection 2 becomes unconditional 10 days after the release unless the admitting court, within that period, issues an order providing otherwise.]

VI. Fiscal Note

Effect on State:

Effect on SIIS: None

Budget:

Effect on local government: Savings of law enforcement and medical screening time when a person on a civil commitment needs to be rehospitalized.

Exhibit 1

To: The SCR 60 Subcommittee

From: The Mental Health Coalition - from Northern Nevada (a subcomponent of the Community Unity Coalition)

Re: General Principles the Coalition believes should guide all levels of government and other entities in further developing our mental health system, and;

For: Presentation at the April 8th 1998 SCR 60 committee hearing

I. General Principles

A. The Division of Mental Hygiene and Retardation should continue to strengthen the continuity of service between its programs especially between in-patient and out-patient services.

B. We must maintain, as backdrop to all discussions, the importance of having a successful mechanism to encourage those who traditionally have not been willing to accept assistance regarding their illness to do so.

C. We should emphasize that any such mechanism as "outpatient commitment" requires concomitant support services and resources such as case management, housing, activities, medication (and access to same), all of which are necessary to allow the "outpatient commitment" process to have a beneficial effect.

D. The resources provided by the last legislature are not sufficient to successfully support an outpatient commitment mechanism.

E. The Coalition believes that through the use of the resources provided the Division by the 1997 Legislature, when fully deployed and used in conjunction and coordination with programs from all sectors, will substantially reduce the number of people who remain "outside the system" i.e., those who would be the intended beneficiaries of an outpatient commitment statute.

F. To maximize the effectiveness of the resources provided by the 1997 Legislature, comprehensive programmatic alignment must occur between the Division and the other components of the larger "mental health system" such as:

1. There should be a clear Memorandum of Understanding between law enforcement, district attorneys and the Division regarding the use of the District Attorney Petition mechanism for involuntary commitment.
2. The division in conjunction with consultation from the Coalition should embark on a comprehensive training effort to ensure consistent interpretation of the existing involuntary commitment standards (NRS 433A.115) by all components of the mental health system and especially law enforcement.
3. With respect to Washoe County, encourage the Washoe County Sheriff to not increase the jail's infrastructure for mentally ill persons other than in conjunction with the Division of Mental Hygiene's programs.
4. The Division and the County via various county sponsored mental health efforts should continue to develop Memorandums of Understanding toward a comprehensive mental health system, e.g. jail screening and assessment, County Adult Services, etc.

G. That the Coalition endorses the statutory extension of the "10 day convalescent leave procedure" to a full 6 months. This will substantially reduce the number of difficult customers" who are lost to the system during outpatient status. This endorsement is conditioned upon there being concomitant due process guarantees for the patient such as mandatory court hearings within 7 days of any revocation of the convalescent leave status.

There are many details regarding such due process which the Coalition recognizes need to be articulated but will not until entities and persons such as the courts and certain legislators have provided use with their comment. The Coalition understands that, for example, just last session, the convalescent leave period was reduced to 10 days and must accommodate the reasoning therefore. The Coalition also understands that there needs to be a discussion with the Courts regarding work load, as well as whether independent experts should be involved at this stage in a similar manner as they are at the commitment hearing. Moreover, the Coalition is wary of inducing additional fiscal notes on any level of government.

H. New community support systems have to be intelligently and deliberately accreted to the "system," including those programs funded by the 1997 Legislature.

I. At this time, the legislature should not make any substantive changes to the state definition of "Mentally Ill Person" at NRS 433A.115.

J. There should be ongoing monitoring, evaluation of the improvements to the existing and of the new 1997 funded programs to identify the optimal next steps for all levels of government and nongovernment entities.

II. Suggestion to SCR 60 Committee

- A. Adopt as its own, the principles described by the coalition as described above.
- B. Do not recommend any changes to the civil commitment standard.
- C. Do recommend the statutory extension of the "10 day convalescent leave procedure" to the full 6 months, but only with concomitant due process protections as described above and only after consultation with necessary persons and entities as described above.
- D. Request the Division by memorandum of intent, to provide to the next legislative budget process, information necessary to allow that legislature and the

LCB to perform the assessment described in the next two recommendations.

E. Request the full legislature to assess the preliminary outcomes resulting from the additional resources regarding outpatient services provided by the previous legislature, including housing, case management (including the PACT teams), medication. Assess these outcomes against the goal of reducing the number of individuals who are considered to be outside the system and who are identified as that population argued to be the justification for outpatient commitment.

Also assess the extent additional outpatient support services will further reduce that population without outpatient commitment.

Depending on the assessment of the above, determine the resource need to accommodate an "outpatient civil commitment" process.

F. Request an additional PACT team for each the North and the South specifically targeted to the population most in need of an "outpatient commitment" mechanism.

G. Consider recommending that the legislature create a standing legislative Mental health committee with a sunset date, whose scope of work includes;

1. The assessment of the system as described above including the system resource needs,
2. The need for further statutory refinement or adjustment relating to the state's mental health system including that which affects the coordination and adequacy of such necessary plyers thereto including local government, (e.g., jails, social service systems), and
3. Assess the need for changes to the civil commitment standard.