

Sub-Committee Hearing of S.B. 374  
May 13, 1975, Judiciary Hearing Room

5:00 p.m.

Guests

Don Molde, M.D.  
 Gwen O'Bryan  
 Chuck Dickson, M.D., P.H.D.  
 Peter T. Combs, Attorney  
 Joan D. Buckley, Attorney  
 Zel Lowman

Representing

Many  
 Mental Hygiene - Mental Retardation  
 Mental Hygiene - Mental Retardation  
 Attorney General  
 Clark County, District Attorney's  
 Assemblyman

These notes were taken during the absence of the Chairman, Mr. Barengo.

Dr. Molde-Sub-section 5 makes more sense; the present statutes should be kept.

Dr. Dickson stated he would not go along with the 7 day emergency.

Dr. Molde stated there was a housekeeping matter in section 72 on the 3rd or 4th line. - re, certified psychologists.

Line 13, page 15 of the bill needs upgrading. Dr. Combs thought the language was restrictive. Dr. Molde said it is needed for they must get there.

Dr. Dickson stated that an emergency application should be done with a psychologist. Dr. Dickson stated there is also trouble in the out-lying areas because there are physicians and not psychologists.

Ms. Buckley stated that in line 34, pg 15, it should say health facility. Someone else mentioned that the bill drafters will clean this up.

75.5, page 16.

Ms. Buckley - When you are talking about an involuntary admission, out of an emergency hold, the way this is written, section 2, the only one who can petition out of this emergency hold is a psychiatrist, psychologist, physician. As a practical matter, why couldn't the words, "or petition executed" in accordance with Section 76 of this act. The practical results of that would be if someone is taken on a Form 62, with a 48 hour hold, the psychiatrist would call me and say, this is a commitment case. I could then go back to the family, come in and sign papers for the commitment. The burden is always put on the psychiatrist in the hospital under the emergency hold to do the commitment and I don't think this is necessary, if there is family present to take the responsibility.

Dr. Dickson stated that if it is an emergency hold, why couldn't the psychologist do it.

Ms. Buckley again stated that she thought the family should have the burden of commitment. In cases where there is no family, the psychiatrist will be doing the committing.

Mr. Coombs stated he thought the psychologist should be the petitioner.

Ms. Buckley - If you will read section 76, this is where other members can petition, "Proceedings for an involuntary court-ordered admission of any person in the State of Nevada who is not at a mental health facility under an emergency admission", so that is where it adds to my argument that a family cannot be the petitioner.

Ms. Buckley - Words were, section 22 (line 19) of this act, or a petition executed in accordance with Section 76 of this act. When you get to Section 76, take out the words in line 21, "who is not at a mental health facility under an emergency admission" and that would give the option to the family.

Dr. Molde - Also we want to delete the words in line 28, "any interested persons."

Ms. Buckley - I don't think that just anybody should be able to commit another person.

(The main argument was in the word petitioner-who is considered the petitioner, the family or the psychologist.)

Ms. Buckley felt she would be reluctant if just a neighbor came in and wanted to be the petitioner. She stated she would want to get confirmation from an adult child.

Someone from the audience stated that these people may be harmful to themselves and when there is nobody around, a decision has to be made

Ms. Buckley - you get a form 6.

Dr. Dickson - this allows you to do it without calling the police.

Dr. Molde stated that in Section 79, paragraph 3, line 18, the word shall should be deleted and in its place substitute the word may. He stated this amendment is already into the committee.

Ms. Buckley inquired twice, what should she submit to the court?

Dr. Dickson's reply was that you would have the petition to go on. He stated that the court would be allowed to make the decision.

Ms. Buckley stated that procedurally, a member of the family comes in and I make up the papers and the petition, and the affidavit to the Judge.

Mr. Lowman inquired of Ms. Buckley, what do you need to present to the Judge?

Ms. Buckley stated that she didn't know what she should present to the Judge.

Dr. Dickson - You should present the information you have, and the court will make the decision. We can make it very efficient, but at times, that is in conflict with a persons' rights, and that is what we are concerned about, this is the danger.

Ms. Buckley - Most people when they come to me, have waited too long and it is an emergency.

Mr. Lowman - What proposals do you have to solve this?

(No answer from Ms. Buckley to Mr. Lowman's question).

Dr. Dickson - If there is an emergency, we have a provision, they can stay up til 9 days, for an emergency commitment; so why can't they go home if it isn't an emergency.

Ms. Buckley - I know how I can work around this, because it isn't practical to (unintelligible).

Dr. Molde - Philosophically, we know how things should be run, but unfortunately, the world doesn't run that way. (She=Ms. Buckley) has a lot of experience.

Dr. Dickson - She has a lot of experience, but her experience doesn't necessarily make it probable that it would continue. We are pretty near some language based on a lot of input by a lot of people.

I'm not going to say that the District Attorney is agreeing with everything we are doing. This is not a law.

Mr. Combs - The District Attorney need not be involved in this proceeding. This is a petition to the District Court. It can be done by any interested person and the DA's office would not be screening them. I know it always happens that way in Clark County.

Ms. Buckley - It has to happen that way because it isn't fair for the DA to somebody to come up and say, "here's a file" - you go into court and present that evidence; I want to know my evidence, so the Clerk of the District Court doesn't feel qualified to talk to somebody about coming in and handling a petition; when somebody comes into the Clerk of the District Court, the way you have it written there, I want to commit somebody, what does the Clerk of the District Court supposed to do? She sends it over to the DA's office. I'm the one who draws the forms, I'm the one who goes to the Judge and I know what orders to get to pick up this person, and then after becoming involved, I have to present the evidence. Now, I cannot become involved at the last minute with someone handing me a file and saying "here, you go present the evidence because the statute (?) says. I have to know my case if it is my case from the beginning or the DA's case from the beginning.

if is

Dr. Dickson - Is it proper that/somebody/petition for an involuntary and if it is not an emergency, can it be held until the petition date

comes about for the examination.

Ms. Buckley - I wish that were true for a practical matter. It is proper, but --

Dr. Dickson - Do we agree philosophically? Why don't we head for that idea rather than the practical.

Ms. Buckley - Philosophically is not the facts of life for mental illness.

Mr. Lowman - Lets get on with it--

Dr. Molde - We suggest that Section 90.5 be deleted, 2a and b. This is the one that calls for evaluation. It is unweildy and bulky and it is not consistent with the convalescent leave section.

Dr. Dickson - We should be sure that people are not prematurely released after we have gone to the trouble of careful evaluation. We want to be careful that people are not hospitalized under a lot of duress.

Ms. O'Bryan - There should be some follow-up in the case.

Dr. Molde - It seems awfully unweildy, because there would be several hundred of these.

Dr. Dickson - The primary complaint we get from Clark County is that they are released too soon, and also the Reno area. This is an intent to make sure that there are good follow-up procedures. That is the purpose of this legislation.

Dr. Molde - Section 93, private facility should be deleted.

Ms. Buckley - I think it would apply to private patients in a private hospital, that had been declared incompetent. I don't think it should apply to private patients.

Dr. Dickson - What about the rights of private patients?

Ms. Buckley - When you are talking about interfering with the rights of private patients, private doctors.

Dr. Dickson - I'm talking about the rights of anybody.

Ms. Buckley - You are interfering with a Doctor's private practice. When you get into the private sector, this is wrong to interfere between a private patient and a private doctor.

Dr. Dickson - What does a court order allow?

Ms. Buckley - I'm not talking about court committed patients.

Dr. Molde - The County Welfare from Washoe County. We want to delete

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435.010 to \_\_\_\_? \_\_\_\_ . That is the existing statute.

Mr. Lowman - There is new language in it; if it were all pulled out, then you would lose only the provisions.

Mr. Combs - The counties want the whole thing repealed.

"Yeah"

I don't think this is the proper thing for them to suggest this.

Dr. Molde - The Nevada Mental Health Institute is very concerned that the administrators run the administration and the medical people run the treatment. There should not be one person controlling everything. That would require changing several segments.

Dr. Dickson - This is all old legislation.- 2 years ago.

Mr. Lowman - If that matter was old legislation, and was testified on the Senate side, were there specific sections or suggestions made or are those proposed amendments available to us in that form?

Dr. Molde - We have a copy.

Mr. Lowman - Perhaps I do have a copy of that. I do remember seeing it now. It seems to me that we don't need to argue these matters here, as long as we have the information. It is our responsibility as a sub-committee to get the arguments; to come up with our recommendations to the committee. And, then for the committee to decide whether we are right or wrong at this point. We don't expect this to be a full staff hearing, so we will go on from here. Unless we have some other matters, I think we are through.

Father Larry Dunphy presented his statements. They will be attached to the minutes.

Meeting adjourned at 5:40 p.m.

Respectfully submitted,

  
Martha Laffel  
Acting Secretary

Attachments:

- 1 pg-Dr. Molde's Statement
- 2 pgs-Father Dunphy's suggestions

Section 38 to read: Nothing in this Title precludes the involuntary court-ordered admission of a mentally ill person to a private institution, hospital, or mental health facility where such admission is authorized by the court.

Section 50 1 (b) to read:

An emergency or involuntary court ordered admission shall itself, constitute consent for observation, evaluation and treatment.

Section 69 (4)

The administrator of any private hospital may, and the administrator of any public hospital shall admit and detain a mentally ill person admitted on an emergency admission for purposes of emergency observation, evaluation and treatment.

Section 69 (5)

Any person whose continued hospitalization is ordered under subsection (2) is entitled, upon his own request or upon the request of his parent, guardian, adult children, spouse, natural sister or brother, to a hearing before the court entering such order. Any such hearing so requested shall be held within a period of 3 days after receipt of such request.

Section 69 (6)

The district court may, upon request of the patient or responsible relative and receipt of evidence of adequate financial arrangements, order hospitalization pursuant to subsection (2) in a private or county hospital.

Section 76 to read:

Proceedings for an involuntary court ordered admission of any person in the State of Nevada may be commenced by the filing of a petition with the clerk of the district court of any county where the person to be treated resides. The petition may be filed by spouse, parent, adult children, natural sister or brother or legal guardian of the person to be treated or by any physician certified psychologist, MSW social worker, or public health nurse, a duly accredited agent of the department by any officer authorized to make arrests in the State of Nevada. Such petition shall be accompanied by:

page 17-4; Sec. 132.1 through 132.5 1 (b), delete and insert:

Every resident of the State of Nevada who is not an indigent under section 125 of this act or whose spouse or whose parents in the case of a dependent minor who shall be determined to be financially responsible for the costs of services as determined under sec. 130 of this act shall be charged for and liable for the same. If, after the demand for payment has been made, the patient or his responsible relative shall fail, refuse, or neglect to pay such compensation, the same may be ~~recovered~~ recovered in a suit at law by the appropriate administrative officer.

Renumber subsequent subsections.

EXPLANATION: This language is an adaptation to this situation of NRS, 450.390 (2) which is the section on county hospitals recouping payment from those who are not indigents.

*Fr. Larry Dumph*

page 21, Sec. 99, Lines 39 & 40, delete: " It shall be the Warden's decision whether to accept such services." and add:

It shall be the Warden's decision to direct such services to the extent that exigent circumstances at the institutional level convene to make intervention by the Warden necessary. At all other times any decision by the Warden affecting the delivery of such services must be by the written prescription of two mental health professionals.

Renumber subsequent lines.

EXPLANATION: The intent of the language is to allow the warden to make administrative decisions regarding the prison and to provide for him to be able temporarily to delay treatment when such delay is necessitated by conditions at the prison such as an insurrection or a general institutional lock up. It is also intended to provide that treatment decisions should be made by persons knowledgeable and skilled in treatment matters.

The language of the amendment was suggested by Chuck Zeh of Washoe County Legal Aid Society.

*Fr. L. arm Dampfy*