

Senate

HEALTH, WELFARE AND STATE INSTITUTIONS

Minutes of Meeting - April 1, 1975

The seventeenth meeting of the Health, Welfare and State Institutions Committee was held on April 1, 1975 at 3:00 p.m.

COMMITTEE MEMBERS PRESENT: Chairman Lee E. Walker
 Senator Neal
 Senator Gojack
 Senator Herr
 Senator Schofield
 Senator Young

OTHERS PRESENT: See Exhibit A

S.B. 374 - Enacts the Nevada Mental Health and Mental Retardation Law.

Dr. Charles Dickson, Admin., Mental Hygiene & Retardation, advised that the purpose of this bill is to protect clients during the proceedings that they have and to provide the best possible care in the least restrictive environment as possible. Dr. Dickson provided the members with a booklet, "Comparison of Existing Law with Senate Bill 374", and explained that the existing statute is shown in the left column while the proposed revisions are shown in the right column. The proposed revisions are a result of a review of the existing statutes by the Division in 1972, at which time many of the existing statutes were found to be outdated. Dr. Dickson proceeded to delineate the following sections which contain proposed revisions:

Section 3, page 1 -- This is new language which addresses itself to eliminating the forfeiture of rights to a person coming in to obtain their services unless incompetency is determined by a judicial review. This section also provides that, if a day-care center would be better than placing the client in a hospital, the client would be placed in the day-care center.

Section 8, page 2 -- The wording "client" shall include persons who experience mental illness and mental retardation.

Section 20, page 3 -- This definition of mental retardation is amended to concur with the American Assn. of Mental Deficiencies.

Section 22, page 3 -- The difference in this definition and what has existed is the wording "who has demonstrated observable behavior". Dr. Dickson commented that this observed behavior is determined by two persons; one must be a psychiatrist, together with one other person.

Senate

220

Health, Welfare and State Institutions
Minutes of Meeting
April 1, 1975
Page Two

Section 33, page 5 -- This is now contained in Chapter 433 instead of Chapter 436.

Section 37, page 6 -- This allows them to go into their budget to hire people for services under contract. Dr. Dickson advised that they do this now, but this bill would clarify where the money goes.

Section 42, page 6 -- This section allows them to establish fee schedules for services rendered through any state-supported program.

Section 45, page 7 -- Dr. Dickson advised that this section has a direct monetary value on the counties, in that it changes the residency from one year to ten days for a person coming to Nevada and then requiring treatment. Senator Young asked what we would be talking about in terms of money; Dr. Dickson replied that he did not know at this time but would check into this. Senator Young expressed apprehension, in that it could cost the state hundreds of thousands of dollars for the treatment of persons who, in some instances, may have lived in another state for a long period of time, and after residing in Nevada for only 10 days are then able to obtain treatment.

Section 47, page 7 -- Senator Young referred to subsection 2 and asked how many persons are returned to other states following treatment; Dr. Dickson replied that he would do a cost analysis on this and provide the committee with the results.

Section 50, page 7 -- Dr. Dickson advised that this section begins the part of the bill dealing with clients' rights. Senator Gojack asked if they have a list of in-house regulations and if so, if the committee could be provided with a copy of same. Dr. Dickson replied that he will furnish the committee with this. Senator Walker referred to page 8, line 12 and suggested that subsection (1) should read: "The client if he is 18 years of age or over or otherwise emancipated and competent....." Dr. Dickson agreed with Senator Walker.

Senator Young referred to page 8, line 20, and advised that he feels "The risks" is too broad. Dr. Dickson agreed.

Senator Gojack referred to subsection (d), page 8, line 24 and asked if this emergency treatment would include a lobotomy; following Dr. Dickson's reply that this was done following an extensive workup, and much examination, Senator Gojack expressed her opinion that a lobotomy should not be part of emergency medical care and it should not be left to the discretion of the physician. Senator Young offered that the wording "endangering the health of the client" should be added to this section. Senator

Senate

Health, Welfare and State Institutions
Minutes of Meeting
April 1, 1975
Page Three

Walker offered the wording on page 8, line 29, "...would endanger the health of the client or others and if" Dr. Dickson is to return to the committee with revised language on this section.

Section 52, page 9 -- Dr. Dickson advised that there is considerable debate among his staff on this section. Senator Young feels that the patient should be advised of his condition, but the actual opening of the file to the patient may not be in the best interest of the patient.

Dr. Don Molde advised that federal law has passed which states that the client is entitled to the contents of his record but the paper on which it is printed belongs to the hospital.

Mr. Peter Combs, attorney for State Mental Retardation, advised that the present law allows release of all medical records to all physicians and attorneys; therefore, the patient would have access to the medical records.

Section 54, page 9 -- Dr. Dickson advised that this sets down the conditions by which a client can work in their programs and the method in which he will be paid. Senator Young asked how much this costs; Dr. Dickson replied \$60,000 as described in the Fair Labor Standards.

Section 67, page 13 -- Dr. Dickson advised that this section would put medical directors in the classified service. Senator Young asked how many unclassified would be changed to classified; Dr. Dickson felt this would effect about 5 positions.

Section 68, page 13 -- Dr. Dickson advised that the three levels of admission are described in Sections 68, 69 and 76. Section 68 deals with voluntary admission, Section 69 deals with 7-day hold admission, and Section 76 deals with involuntary, court-ordered admission. (See Exhibit B for Admission Procedure). Dr. Dickson feels these sections strengthen the language and enables closer evaluation for persons being admitted. Senator Young asked if the day of admission is considered as day one in the 7-day emergency hold; Mr. Combs advised that in the Nevada Rules of Civil Procedure, that anywhere within the NRS where time frames are mentioned, it sets out the criteria. Mr. Combs will clarify the reference to 2 and 7 days in the Admission Procedures and report back to the committee.

Health, Welfare and State Institutions
Minutes of Meeting
April 1, 1975
Page Four

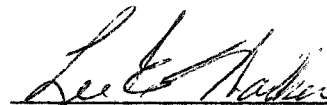
Senator Walker advised that this meeting will continue on
Friday, April 4 and on Tuesday, April 8.

Senator Walker adjourned the meeting at 5:00 p.m.

Respectfully submitted,


Sharon W. Maher, Secretary

APPROVED:


Lee E. Walker, Chairman

See Exhibit C for letter in opposition of S.B. 374 from
Drs. Stapleton and Molde.

ROOM # 323
DAY Tues.

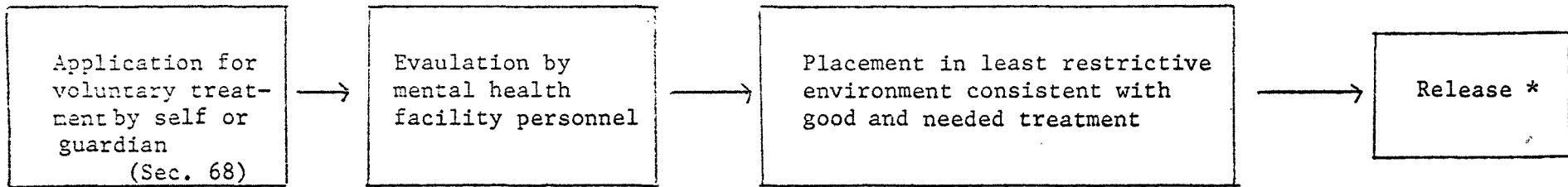
DATE 4-1-75

NAME	ORGANIZATION	ADDRESS
W. Jozzodie	Welfare	C.C.
Walter [unclear]	Dep. of H.P.	C.C.
John R. Kimball	member 16 day adv. comm. on aging	Kilmer Pusey Bldg
Kaye Davis	Mental Retarded	311 W 3rd St. C.C.
Ellen Pope	Mental Retarded	Fallon, Nev.
Josephine Wemple	Pres. N.L.P.N.	P.O. Box 205 Fallon, Nev.
Dr. R. Kawan	N.M.H.I.	P.O. Box 2460 Reno, Nev.
Jim [unclear]	N.M.H.I.	P.O. Box 2460 Reno, Nev.
Tom Depletton	None	674 N. Arlington Reno, Nevada
Don Maede	None	975 Ryland, Reno, Nevada
Ed Carey	MSP	P.O. Box 3749 Incline Village, Nev.
Dennis Barfman	Las Vegas Review-Journal	
Larry Dunphy	Franciscan Inter	215 N. Main St, Las Vegas

ADMISSION PROCEDURE
FROM
SENATE BILL 374

Voluntary Admission.....Page 1
Emergency Admission.....Page 2
Court Ordered Admission.....Page 3

VOLUNTARY ADMISSION



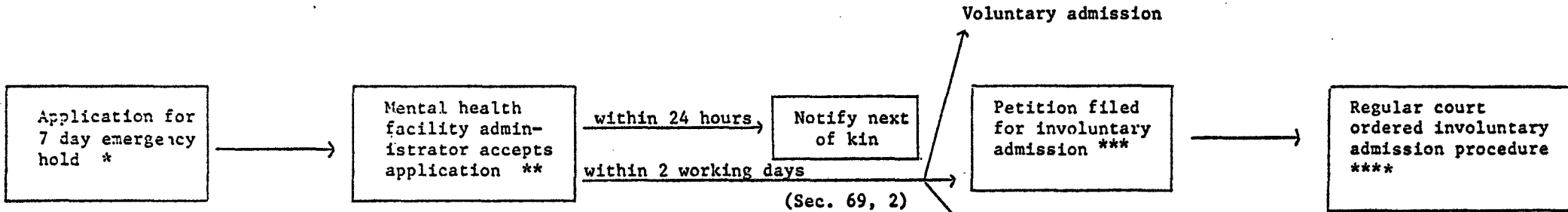
* Person on voluntary admission must be released within working day of his written request (Sec. 68, 3)

EMERGENCY ADMISSION

235

Pa.

235-236



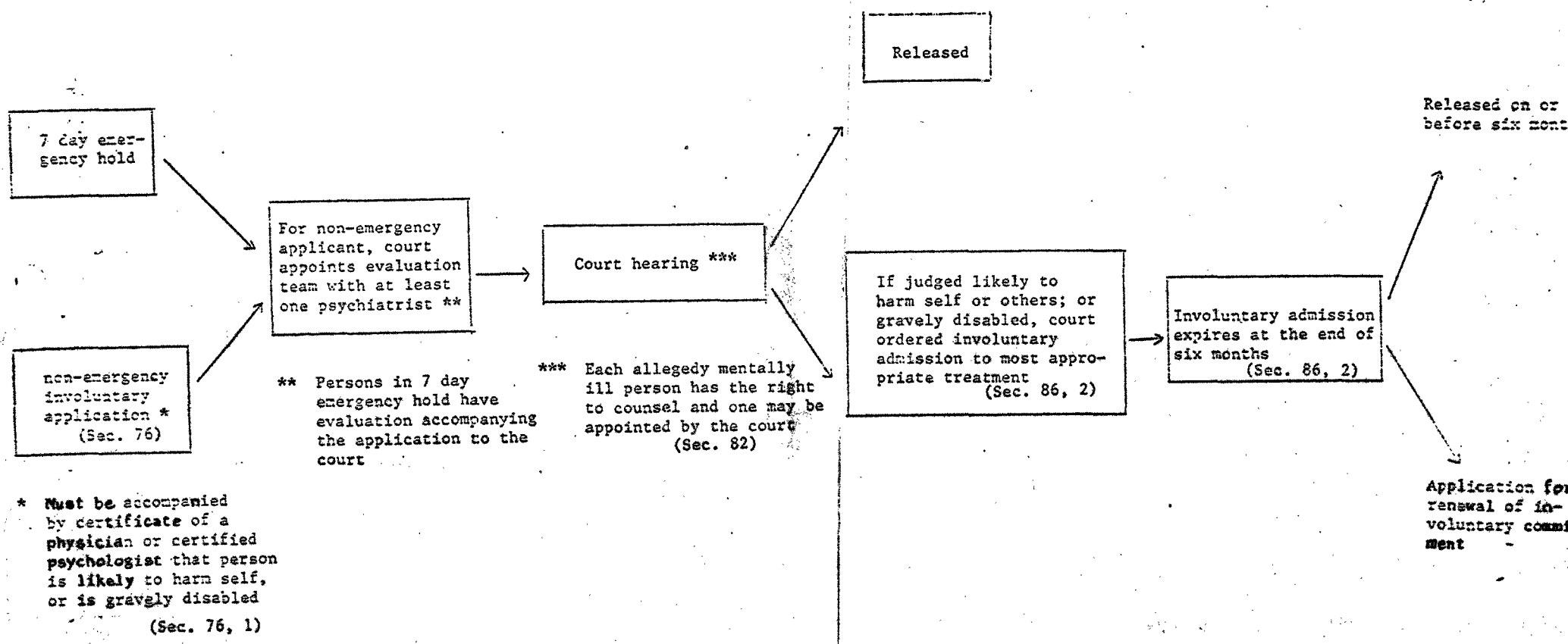
* Application made by:
 1) duly accredited officer of the Dept. of Human Resources, 2) psychiatrist, 3) psychologist, 4) physician, 5) law officer, 6) public health nurse, 7) citizen through the D.A.'s office. (Sec. 72)

** Must be accompanied by certificate from psychiatrist, certified psychologist, or physician that the person is likely to harm self or others; or is gravely disabled. (Sec. 73)

*** Must be accompanied by petition executed by each member of the multi-disciplinary team stating each team member has examined the person and concludes he is likely to harm self or others; or is gravely disabled. (Sec. 70)

**** Court ordered involuntary admission must be obtained within 7 calendar days of initial admission to mental health facility or person must be released. (Sec. 69, 3)

237 Court Ordered Involuntary Admission



TO: Senate Health, Education and Welfare Committee TKS
FROM: Thomas R. Stapleton, M.D. and Donald A. Molde, M.D.
DATE: April 1, 1975

We are both psychiatrists in private practice with extensive contacts within the public health care systems, including work as consultants to the State Prison, State Department of Vocational Rehabilitation Center, the Social Securities System and the Veteran's Administration Hospital in Reno. We would like to bring forward some objections to Senate bill 374 as it is currently written. Our central objection to the structure of this bill is the fact that it sets forth in Section 28 that administrators shall, "Have training and demonstrated administrative qualities of leadership in any one of the professional fields of psychiatry, medicine, psychology, social work, education or administration. This change has been proposed and supported with the idea that a person trained in fields such as business administration might make more effective administrators than clinicians, such as psychiatrists or psychologists. The problem is that the bill then goes on to define the role of the administrator in such a way that it is clear that the administrator is absolutely in charge of all clinical programs and is the head clinician in each unit within the Division of Mental Hygiene. This produces a rather bizarre situation in which an individual with no clinical background whatsoever can be placed in a situation of supervising a clinical program.

There are a number of other specific segments in the bill about which we would like to raise questions. The bill has been said to represent an effort to put an end to the employment of patients as workers in such places as the Nevada Mental Health Institute and we would certainly favor such a provision, since we are well aware of the abuses which have developed in the past where there is a real conflict of interest between the interests of the Institution in terms of treating the patient as opposed to making use of his labor. Section 54, however, is worded in such a way that the practices of the Institute would not necessarily be changed at all, since it currently meets all of the conditions laid down in that Section. We fear that this bill would represent a cosmetic approach to the problem in which it would be possible to give the appearance of changing things without having to go through the pain and expense of actually making such changes.

There is certainly alot of room for confusion in Section 194 of this bill in that a psychiatrist is defined as a, "Person licensed to practice medicine or osteopathy in the State of Nevada or someone

under his supervision." This would certainly give Nevada a unique definition of psychiatrists, in that the widely accepted meaning of the term is a physician who has completed three years of residency training in the speciality of psychiatry. We find ourselves completely unclear with regard to how a psychiatrist could be defined as anyone under the supervision of a psychiatrist. The confidentiality provisions in this area of the bill are certainly quite satisfactory, but the definitions as to who is covered by them are very puzzling to us and we suspect they would be even more puzzling to a lay jury.

In summary, the core of our objection to the bill is the fact that it places persons with no necessary clinical training in a position within the State mental health system. The effect of this will certainly be to continue the double standard of mental health care which has been such a blight on both the State and national mental health care delivery system. There has long been a tradition of high quality psychiatric care being available to those who could pay for it on a private basis, while those who had to resort to the State for their mental health care have traditionally been the recipients of less intense and less well informed kinds of treatment. We doubt that any member of this Legislative body would consult a person with a Master's Degree in Business Administration if they believed themselves or any member of their family to be suffering from a mental illness, yet this law would make it potentially possible for individuals unable to pay for private care to end-up in exactly that situation. We certainly have no quarrel with the idea of administrators being individuals with a background in business administration and this model certainly works out well in the general hospitals around the State, but within those hospitals there is a clear definition between the hospital administration and the medical staff. This situation would make it virtually impossible to recruit competent psychiatrists into the mental health system since they would be placing themselves in a situation where they would be supervised and evaluated by people who had no necessary clinical background whatsoever.

The use of a "medical director" as stipulated in this bill has the effect of lending respectability to the proceedings, but since the medical director has no power under the terms of the bill, I think that we are quite certain to see a situation where the position becomes a mere figure head with little or no ability to make contributions to the clinical programs. Again, there is almost certain to be a recruiting problem as a result of this structure since it will be hard to find a competent psychiatrist who will be willing to take on the responsibilities assigned to a medical director under the terms of the bill without being given any authority to direct the clinical program.

In general, we would recommend the imposition of a virtual moratorium on mental health legislation until the Rand Report becomes available to the Legislature and interested members of the general community, so that an attempt can be made at a more comprehensive reworking of the mental health statutes in the future.