

## Senate

## HEALTH, WELFARE AND STATE INSTITUTIONS

Minutes of Meeting - April 4, 1975

The eighteenth meeting of the Health, Welfare and State Institutions Committee was held on April 4, 1975 at 12:00 p.m. in Room 323.

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

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

Dr. Charles Dickson, in continuing testimony on this bill from the previous meeting, began with Section 76 and explained changes in the bill thereafter.

Senator Young expressed concern with the language contained in Section 76, in that he felt it would present a financial strain on the cow counties if, in the cases of court-ordered admissions, the patient must be examined by a physician or certified psychologist. Dr. Dickson stated that this could be handled through the emergency commitment, which only requires the evaluation of one person. Before making this a court-ordered admission, it would then require the evaluation of two people or evaluation by a team at the Mental Health Facility.

Dr. Dickson proceeded to explain the following sections of the bill which contain changes:

Section 76, page 15 -- This has been amended by adding, on line 44, the wording "certified psychologist". Dr. Dickson advised that the Deputy D.A. in Reno feels that page 16, line 1, should be amended to read "....The petitioner has probable cause to believe...."

Section 77, page 16 -- They would like to amend line 11 to read "....upon the person with respect to whom the petition was filed and shall forward a copy of the petition and notice to the district attorney of the county wherein the petition was filed."

Section 79, page 16 -- Dr. Dickson advised that this section describes the fact that two people are required to perform the evaluation rather than one. Senator Young expressed his concern for the smaller counties and questioned how one additional evaluator would impress the judge more so than just one who is well qualified. Senator Young asked how many commitments they handled per year; Dr. Dickson replied that there were 867, 116 of which were court ordered (see Exhibit B). Discussion was held on the case of "Larry" who was detained in an institute unnecessarily, and Roger Trounday spoke on a case regarding a high school girl who was court-committed and when away from the institute, it was hard to tell she was retarded.

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Section 79, page 16 -- Dr. Dicson advised that they would like line 29 amended as follows: "transport him to a public or private facility....".

Section 80, page 16 -- Dr. Dickson advised that this section indicates the procedure for establishing evaluation teams.

Section 82, page 17 -- This section has been amended, in that line 13 was "may appoint" and has now been changed to "shall appoint". Also, subsection 2, line 16 was changed from \$300 to "to be fair and reasonable". Dr. Dickson advised that the court would be setting the amount and the counties would be paying the bill. Senator Herr stated that "fair and reasonable" could mean \$800 or it could mean \$300.

Senator Young felt that this section should include language to indicate that the Public Defender's Office would represent one side, while the D.A.'s Office would represent the other side; Senator Herr agreed. Senator Walker offered that the language be amended to read "The court may appoint".

Section 86, page 17 -- Dr. Dickson advised that the language "observable behavior" has been added to this section on line 43 and 44; this language has also been added throughout. Subsection (b), lines 47 through 50, opens up the opportunity for the court to admit to a form of treatment rather to a facility. This concept is strengthened in subsection 3 on page 18.

Senator Young referred to subsection 2, page 18, line 2, and asked if "the end of 6 months" meant that the person would have to go back to the court in 6 months; Dr. Dickson replied in the affirmative and stated that the team from the institute can make the recommendation and petition the court.

Senator Gojack referred to Section 90, and asked if the same is true in other states; Dr. Dickson replied yes.

Section 92, subsection 3, page 19 -- Dr. Dickson advised that they are doing this, but did not have the language prior to this bill. Senator Young asked if they have a full-time lawyer; Dr. Dickson advised that they have recommended this in their budget.

Senator Walker asked if there is language in the present law to restore voting privileges; Dr. Dickson does not feel that the language is there. Senator Walker asked if someone who is now committed would be denied the right to vote. Dr. Dickson advised that they would not be denied the right to vote unless they were judged incompetent by judicial proceedings. Senator Walker asked if they were later released and found to be competent would they

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automatically be restored those rights. Dr. Dickson advised that they have language now that provides that if someone is discharged, they have the responsibility of going to court and having a competency hearing. But in this particular instance, it would be if someone were conditionally discharged - if they can be conditionally released, the right should be restored.

Section 97, page 20 -- Dr. Dickson stated that this language allows them to request that an officer pick up someone who has been court admitted and return them to the institute; also, it allows a staff person to participate.

Senator Young feels that the institute itself has this responsibility; he sees no legal problems and feels this responsibility should be included in the statutes. Senator Herr agreed with Senator Young. Senator Gojack suggested that the committee talk to the deputy attorney at the next meeting on this bill. Dr. Dickson advised that he is not sure what the legal implications of this would be.

Section 98, page 20 -- Dr. Dickson stated that since this may be in conflict with Judge Thompson's ruling, they are deleting this section, and supplying new language for Section 99. (Dr. Dickson to furnish the committee with this new language). Warden Pogue has indicated that he could give the institute 90 people under Section 99; however they could only accept 22 of these people.

Senator Gojack asked if they have some type of evaluation system for people who want to move from the prison to the mental facility; Dr. Dickson replied that they are evaluated at the prison. Subsection 2 of Section 99 would be deleted.

Senator Young referred to this section which stated "shall provide treatment" and feels this should be changed to "may provide within their discretion". Dr. Dickson stated that they would have no objection to adding the language "may, within the resources available to the Division".

Section 100, page 21 -- Dr. Dickson advised that there is new language for this section and will furnish the committee with same. The new language would not limit these services to prisoners.

Section 103, page 21 -- Dr. Dickson commented that this language provides that incompetency must be evaluated every 6 months.

Senator Walker referred to Section 102, and queried if this should indicate that the guardian will be appointed under the guardianship statute. Jack Middleton stated that that statute poses certain reporting obligations. There is guardianship of person and guardianship of property. Senator Young asked if this was a burden and also if guardians received compensation; Mr. Middleton replied no.

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Senator Young referred to the problem of medical malpractice and asked if many patients receive treatment where negligence could occur or could be alleged to have occurred. Dr. Dickson advised that if the treatment is major it is usually done at Washoe Med.; however, they do fill prescriptions at the institute. Senator Young was concerned that in such cases as the person is incompetent, the guardian would have that responsibility.

Further testimony on this bill will be taken on Tuesday, April 8. Senator Walker adjourned the meeting at 1:30 p.m.

Respectfully submitted,

  
Sharon W. Maher, Secretary

APPROVED:

  
Lee E. Walker, Chairman

ROOM # 323

DAY Friday

DATE 4-4-75

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NAME	ORGANIZATION	ADDRESS
Just Mullett	Division of Mental Hygiene & MR	
Roger Truanday	Dept. Human Resources - Carson	
Ruth H. Hays	Div. of MH & MR -	
Gwen O. Bryan	Div. of MH & MR	Reno, Nev.
Claudia Zervetto	Div. of MH - MR	Reno, Nevada
Dennis Baughman	Las Vegas Review - Journal	

NEVADA MENTAL HEALTH INSTITUTE  
ADMISSIONS & REGULAR COURT COMMITMENTS BY COUNTY

<u>County</u>	<u># of Admissions</u>	<u># of Regular Court Commitments</u>
Carson	43	5
Churchill	17	4
Clark	121	75
Douglas	15	
Elko	30	6
Esmeralda	2	
Eureka	1	1
Humboldt	14	
Lander	4	
Lincoln	2	
Lyon	12	
Mineral	13	3
Nye	6	2
Pershing	7	
Storey	0	
Washoe	571	20
White Pine	9	
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TOTAL	867	116