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NEVADA INVOLUNTARY HOLDS INFORMATION:

1. The legal hold process

The process of an involuntary mental health hold under the Nevada Revised Statutes (N.R.S.) 433A.150, grants the right to detain any individual alleged to be mentally ill and who is a danger to himself or others for period not to exceed 72 hours for evaluation, observation and treatment. The involuntary mental health hold is commonly referred to as a "Legal 2000." The individual may be detained at any public or private mental health facility or hospital. Once admitted to the facility the individual must be evaluated by a psychiatrist, psychologist or physician. Each such emergency admission must be approved by a psychiatrist. N.R.S. 433A.160. During the 72-hour time period for an emergency admission, a petition for an involuntary court admission must be filed with the District Court with a statement signed by a physician that the individual in question is mentally ill beyond a reasonable degree of medical certainty, the person poses an imminent harm to himself or others and involuntary admission is medically necessary to prevent the person from harming themselves or others. N.R.S. 433A.210. Once the clerk of the district court receives any petition, a hearing must be set within five judicial days. N.R.S. 433A.220. If during the hearing, there is clear and convincing evidence that the person held is mentally ill and because of the illness is likely to harm himself or others, the court may order an involuntary admission, but for no longer than six months at a time. N.R.S. 433A.310

2. Why are individuals on involuntary mental health holds in hospital emergency rooms?

N.R.S. 433A165 states that before an allegedly mentally ill person may be transported to a public or private mental health facility under N.R.S. 433A.160, the person must be examined by a licensed physician or physician's assistant or advanced practitioner of nursing to determine whether the person has a medical problem, other than a psychiatric problem. Currently, the facility at SNAMHS does not have the staff or equipment to do medical screenings. All medical screenings are done at the various community hospitals. When individuals are screened by the hospital, they often cannot be transferred back to SNAMHS because the state facility is regularly at its capacity of 131 beds. This causes the backlog of individuals in the hospital emergency rooms.

When the crisis was declared by the county on July 9, there were 95 individuals on involuntary holds in 11 hospital emergency rooms awaiting transfer to SNAMHS.2

3. What are the collective legal responsibilities of the local hospitals, Clark County and the State of Nevada in providing mental health services?

The State of Nevada and Clark County can be held liable for federal civil rights violations under 42 U.S.C. 1983 for improper Legal 2000's because they are considered to be state actors. The private community hospitals can be accountable for federal civil rights as well if an employee of the hospital initiates a Legal 2000 under N.R.S. 433A.160, because restraint of persons against their will under a statutory grant of power constitutes state action for the purposes of 42 U.S.C. 1983. *Cummings v. Charter Hosp. of Las Vegas, Inc.*, 896 P.2d 1137. (1995)

The State of Nevada and Clark County are also subject to the Olmstead decision. In 1999, the Supreme Court of the United States in *Olmstead v.L.C.*, held that unjustified institutional isolation of people with disabilities is a form of discrimination. The court further held that states are required to provide community-based services when the placement is appropriate and the placement can be reasonably accommodated. The decision affects states and state actors, including Clark County and the county-affiliated hospital, University Medical Center, (UMC).

In 2002, the State of Nevada drafted the Nevada Strategic Plan for People with Disabilities to implement the Olmstead mandate. The plan was done at the behest of disabled community with the full support of Governor Kenny Guinn and the Nevada State Legislature. The plan has 94 identifiable goals that are to be implemented by 2011. The State of Nevada's future decisions must conform with these goals.

Clark County also must be cognizant of the Olmstead decision and help to eliminate any unnecessary institutionalization or isolation of individuals with mental illnesses at U.M.C.

4. What are the legal responsibilities of the state to provided mental healthcare?

N.R.S chapter 433 states the Division of Mental Health and Developmental Services (MHDS) is the official state agency responsible for developing and administering mental health and developmental services. It is also authorized to operate subunits for the care, treatment and training of clients under NRS 433.094. SNAMHS is a division of MHDS. Nevada state law also recognizes the need for community-based services. NRS 433.003 (2) charges MHDS with recognizing their duty to act in the best interests of their respective clients by placing them in the least restrictive environment. N.R.S. 436.123 designates the MHDS as the official state agency for developing and administering preventive and outpatient mental health services.

5. What are the legal responsibilities of the private hospitals in the community?

There are no state or federal statutes that mandate private hospitals provide substantive mental health treatment. However, all hospitals that receive Medicare funding, which includes almost all hospitals, fall under the Emergency Medical Treatment and Active Labor Act (EMTALA). EMTALA was enacted to prevent hospitals from refusing to

provide care to uninsured patients in their emergency rooms. It requires that a person presenting to a hospital's dedicated emergency department must be screened for an emergency medical condition and if one is found, stabilize before discharge or transfer. The term, "stable" in terms of a psychiatric context is described as, "when he/she is no longer considered to be a threat to him/herself or others." 68 Fed Reg 53247. Psychiatric treatment is not required.

Many local hospitals do not have psychiatrists on staff to provide treatment. EMTALA does require that the hospitals do have psychiatrists on call but only "in accordance with the resources available to the hospital, including the availability of on-call physicians." 68 Fed. Reg. 53262. The State of Nevada has incorporated a similar statute NRS 439B.410.

6. Treatment that individuals receive while waiting in emergency rooms.

MHDS reports on average that 62 individuals wait each day in emergency rooms awaiting transfer to SNAMHS.³ Those individuals are held in emergency rooms an average of 93 hours, equating to almost four days.⁴ While waiting in emergency rooms, individuals under involuntary holds receive little psychiatric care. Out of the 13 local hospitals, only two have a psychiatrist on staff.⁵ Many of the hospitals' medical staffs have little psychiatric training. Only one hospital, Mountain View, has taught its staff non violent de-escalation techniques.⁶ Individuals often wait in hospital hallways and corridors waiting to be transferred to Southern Nevada Adult Mental Health Services because all the designated emergency patient rooms are full. Such a practice cannot be considered to be conducive to treatment.

7. What direct services are being provided by the state to the hospitals to help alleviate the emergency room crisis?

After the state of emergency was declared by Clark County, the State of Nevada contracted with Westcare, a private substance abuse and mental health provider, to accommodate an additional 28 individuals on Legal 2000's on a temporary basis. The state then renovated one of the older buildings on its Desert Regional Center (DRC) campus to serve as the permanent site. Once the site was completed, the 28 beds were transferred from Westcare to DRC. The state also has a unit, the Mobile Crisis Team, that assesses and discharges those who have stabilized in the hospitals on Legal 2000's. Dr. Jonna Triggs, the director of Southern Nevada Adult Mental Health Services, estimated the Mobile Crisis Team saw 4,200 patients in the emergency rooms and diverted 39% out of the hospital and gave them community support over the months of June, July and August of 2004.⁷ The Mobile Crisis team consists of 5.6 clinical social workers who work seven days-a week. Montevista Hospital, the private psychiatric facility in Las Vegas, performs a similar service in conjunction with SNAMHS.

8. Who are the individuals who require long term psychiatric treatment?

NDALC interviewed three individuals who were receiving inpatient treatment at SNAMHS. NDALC inquired as to past treatment and the services provided to these individuals. EW is a 38-year old man who stated that he had been to the state hospital

approximately 18 to 20 times since 1983, twice in the past year. He stated that he had been in three different group homes in the past two years. During his last group home stay, he found the supportive services lacking and had to come back to the hospital because he “needed to talk to somebody,” and he wanted to stop hearing voices. EW believed if he had the proper supportive services, such as his own apartment and help with his finances, he would not have returned to the state hospital. His emergency room stays were uneventful. ES is a woman in her mid 50’s. She has a slight physical impairment plus a mental disability. She estimated that she had been to the state hospital three times in the past 10 years. She was homeless for some time and had a difficult time at a local shelter. She told NDALC, “they kick you out in the early morning and don’t let you return until the early evening. That isn’t right in over 100 degree temperatures.” She had an incident with the police and ended up in an emergency room. She told NDALC it took eight hours for her to be examined. While at the hospital, they did not give her prescribed medications. She believes if she received supportive housing with educational and vocational programs, she would not have been in the hospital.

ST is a woman in her mid 50’s. She had been to the state hospital twice in the past six months. She told NDALC they released her too quickly the first time. Her medications had not stabilized and she could not get in contact with her mental health caseworker. As a result, she entered into a crisis and went to a hospital emergency room to receive treatment. She waited there for 96 hours before she was transferred to SNAMHS. She stated when she is released, she will be placed in a group home and was concerned about losing her own apartment in the community as a result.

**NORTHERN NEVADA ADULT MENTAL HEALTH
POLICY AND PROCEDURE DIRECTIVE
SUBJECT: COMMITMENT PROCESS
NUMBER: NN-RI-11
ORIGINAL DATE: 7/10/03
REVIEW/REVISED DATE: 05/06/04, 01/03/08**

I. PURPOSE

The purpose of this policy is to delineate a method of processing legal papers to facilitate involuntary admission and commitment requirements, and the use of Conditional Leave and Unconditional leave as stipulated in the Nevada Revised Statutes.

II. POLICY

As outlined in the NRS, NNAMHS (Northern Nevada Adult Mental Health Services) will process the required paperwork for the court ordered commitment process in a timely manner with follow-up and monitoring of results.

III. REFERENCES:

NRS 433.003 through 433A.750. NNAMHS Policy and Procedure # NN-RI-11.

IV. DEFINITIONS:

- A. **Legal 2000:** The form will be completed by a licensed/ certified physician, psychologist, social worker, registered nurse, accredited agent of the Department of Human Resources, an officer authorized to make arrests in the State of Nevada, or a marriage and family therapist which attests to the fact a person is mentally ill or a danger to self or others. The form stipulates the name of the person, age, address, and the circumstances/ reasons under which a person was taken into custody. A patient can be held for a maximum of seventy-two hours from the date and time of the medical clearance examination
- B. **Court Order:** The legal document signed by a district judge which commits a patient to a facility such as NNAMHS.
- C. **Voluntary:** A patient agrees to be admitted to NNAMHS and signs the MR-126 Authorization for Admission form which provides for treatment and rehabilitation, and the physician has written an order for the patient to sign a voluntary consent .
- D. **Involuntary admission:** A patient admitted to the facility as a result of a legal petition and process whereby it is determined that the person requires emergency treatment to prevent injury to self or others, or is unable to meet their basic needs. A petition to commit is required within seventy-two hours.
- E. **Admission of a patient with a guardian:** In the event that a patient is admitted and the patient's guardian signs paperwork for that admission, a Legal 2000 must be provided. A petition must be filed in order for the DA, PD, and Judge to review the patient's legal status and to ensure the Patient's best interest is being served. The Judge may rule that the guardian can sign a patient in voluntarily. NNAMHS Policy and Procedure #NN-RI-11
- F. **Emergency admission:** Patient who is admitted to a facility such as NNAMHS because he/she is felt to be a danger to self or others or is unable to care for themselves.
- G. **Court Commitment:** The legal process in which a patient is remanded to a facility such as NNAMHS.
- H. **Court Case Number:** The identification number given by the court to each case when the legal process is implemented. The same number is reassigned on all subsequent family court legal processes for that individual.
- I. **Admit Status:** This is assigned by the physician and documented as an order when the patient is admitted. Categories include voluntary, involuntary, or court commitment.
- J. **Cover Sheet:** Identification sheet which notes the plaintiff and attorney. The cover sheet is only used when a patient does not have a court case number.

V. PROCEDURE

- A. Patients are admitted to NNAMHS as voluntary, emergency/involuntary, court order, court commitment, or return from conditional leave.

- B. Upon admission to NNAMHS, the patient will be asked to sign a Consent for Admission form. If the patient initials and completes the section entitled "Release of Information to Family/Friend", the HIS Department will send a letter by certified mail to the identified family member/friend notifying them of the patient's admission per NRS 433A.190.
- C. Upon receipt of the Legal 2000, the physician is contacted to obtain information regarding the disposition of the patient. If the physician indicates the patient will sign voluntary, the information and date will be noted on the legal status log. The daily legal status log has been developed to track each patient's stay at NNAMHS and is maintained by the Health Information Services (HIS).
- D. Change of Legal Status If the physician changes the legal status during the hospitalization, nursing staff are responsible for providing this information to HIS via telephone. HIS will check the specific charts to verify the reported changes

E. Commitment

1. If the physician indicates the patient is to remain at NNAMHS beyond 72 hours, HIS staff completes the necessary paperwork to file a petition for commitment. This includes the Civil Cover Sheet, Petition for Court Ordered Involuntary Admission, Verification (which must be signed by the attending physician), Order in Response to Request for Court Ordered Involuntary Admission, and Examining Person's Certificate in Support of Petition for Court Ordered Involuntary Admission.

The appropriate documents are delivered to the District Attorney's office for signature and recording by the court clerk. If a patient has not previously received a court case number, the court clerk will assign a number when the legal process is implemented. The same number is reassigned to that individual on each subsequent court action.

1. Court Order

(i) District Judge: If a patient is court ordered to NNAMHS, the order must be signed by a district judge. No further paperwork is required.

(ii) When a court order is received from a county other than Washoe, i.e., Humboldt, White Pine, Clark, etc., a petition is to be filed in Washoe County in order for the DA, PD and/or Judge to determine the patient's legal status in Washoe County NNAMHS Policy & Procedure #NN-RI-11

(iii) If staff is unsure of the validity of a court order, the Agency Director or designee will be contacted for clarification.

F. Hearings

- 1. Court appointed psychologist and psychiatrist meet with patients prior to the hearing. Their findings are advisory to the Judge.
- 2. As scheduled, a District Court Judge conducts court at NNAMHS at which time the Judge determines the commitment or non-commitment status of the patient. At this time, the Public Defender can ask for a 10-day notification, or the District Attorney can waive the 10-day notice. If 10-days are granted, proceed to the patient being placed on either a conditional or unconditional leave.

G. Conditional Leave

1. In the event a psychiatrist determines that a committed patient is appropriate for discharge but may decompensate without adherence to specific conditions, a conditional release may be granted. A notice of conditional leave will be submitted to the Court. Prior to the patient's discharge, the social worker will notify the HIS department of the decision to initiate conditional leave. HIS staff will complete the Notice of Conditional Release form and submit it to the court. The document, stamped by the Court, is returned to the HIS department for appropriate distribution.

H. Conditional Leave Log

Health Information Services Staff will prepare and maintain a log listing those patients who have been discharged on conditional leave. Copies of the log will be distributed to the Director of Social NNAMHS Policy and Procedure #NN-RI-11 Services, Director of Nursing, POU, PACT, Director of Health Information Services and the Agency Director.

I. Return from Conditional Leave

1. In the event that a psychiatrist determines that the condition of a client on conditional leave has deteriorated to the point that the client requires hospitalization, a client who was released on "conditional leave" and whose commitment has not expired may be readmitted to NNAMHS
2. The "Notice of Order to Return from Conditional Release and of Hearing" is completed by the HIS department and a Legal 2000 stating the reason for returning the patient to NNAMHS is submitted to the district attorney's office for signature and then recorded by the court clerk. The client's status is then reviewed in court.

J. Unconditional Leave

3. The doctor will recommend that a patient who has been committed, treated, and stabilized is appropriate for discharge without the need for close follow-up supervision. In this event, the physician may order unconditional leave. The social worker will notify the HIS department of the decision to initiate unconditional leave. The HIS department will complete the Notice of Unconditional Release form and submit the packet to the court.

K. Recommitment

1. Once a patient has been committed to NNAMHS, the time frame of the commitment is six months. No less than 30 days prior to the expiration of the commitment, HIS will notify the physician of NNAMHS Policy and Procedure #NN-RI-11 the expiration date and make the physician aware of the need to discharge the patient, have the patient sign a voluntary, or recommit the patient.
2. If the patient is to be recommitted, the physician will be asked to dictate information noting the personal history and facts in support of his/her opinion to justify the recommitment.
The recommit packet consists of the Petition for Court Ordered Involuntary Admission, Verification, personal history and facts in support of the physician's opinion, Order in Response to Request for Court

Ordered Involuntary Admission, and Examining Person's Certificate in Support of Petition for Court Ordered Involuntary Admission. These documents are delivered to the district attorney's office. The judge then hears the case. In the event of a recommit, notification is given to the deputy attorney general.

L. Court Calendar

1. A court calendar is distributed to HIS staff who will verify the accuracy of the list against the legal status log. Copies are made for use in the court at NNAMHS on Tuesday. The results of this meeting are emailed back to the Court Clerk and the unit court liaison.
2. On Wednesday morning, an updated court calendar is distributed to HIS staff. HIS staff will verify the accuracy of the list. The court cases will be reviewed by the court appointed psychiatrist and psychologist.
3. On Thursday, the cases are presented to the Judge who determines if the patient meets criteria to be committed. NNAMHS Policy and Procedure #NN-RI-11

M.

The petitions are returned from the court the day after they are filed and are placed in the appropriate record. The court orders are returned on Monday and placed in the appropriate records.

LEGAL 2000 PATIENT TRANSPORT GUIDELINES

PURPOSE: To facilitate an equitable distribution to area hospitals of mental health patients who have the potential to be placed on a Legal 2000 hold following medical evaluation in the Emergency Department. These patients would include those who have a Legal 2000 form initiated in the field by an authorized person; or those who present to EMS personnel with suicidal ideation without a medical or traumatic component and who have no hospital destination preference.

POLICY: I. Hospitals

- A. Hospitals will be responsible for updating EMSsystem when they have a Legal 2000 patient, defined as a patient that has both sides of a Legal 2000 form completed and is awaiting transfer to another facility.
- B. Each hospital is responsible to update the count of Legal 2000 patients on EMSsystem as it changes within the hospital.

II. Transport Agencies

- A. EMS providers will determine, via real-time data, the appropriate facility for transport in order to evenly-load the system by transporting mental health patients, as defined above, to the closest hospital with the lowest number of Legal 2000 patients recorded on EMSsystem.
- B. If the mental health patient's condition is unstable or deteriorates then the transport agency may transport the patient to the closest appropriate facility.

**REVISED AND ENDORSED BY EMS MEDICAL ADVISORY BOARD 12/06/06
EFFECTIVE DATE 12/06/2006 SOUTHERN NEVADA HEALTH DISTRICT**

