

NEVADA MENTAL HEALTH
CRISIS HOLD SUMMIT 2022
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HISTORY OF NEVADA'S
MENTAL HEALTH CRISIS
HOLD PROCESS
&
RECENT CHANGES FROM
SB70

LEARNING OBJECTIVES

- Review brief history of state mental health crisis law
- Understand recent legislative efforts to update and modernize involuntary treatment law in Nevada



BRIEF HISTORY- MENTAL HEALTH REFORM

- 1800's- Individuals with mental illness sent to jails or almshouses
- 1840's- Dorothea Dix, journalist successfully advocates for U.S. government to fund 32 state psychiatric hospitals over 40 years.

BRIEF HISTORY- DEINSTITUTIONALIZATION

- Mid-1950s- A push for deinstitutionalization and outpatient treatment began in many countries, facilitated by the development of a variety of antipsychotic drugs and concerns over human rights violations
- 1963- Community Mental Health Centers Act was passed, with strict standards that only individuals “who posed an imminent danger to themselves or someone else” could be committed to state psychiatric hospitals
- Those deinstitutionalized are directed to community-based services, people that individuals with mental illness will seek treatment when they need it.

BRIEF HISTORY- CIVIL LIBERTIES

- In 1960's & 70's series of court cases citing need for evidence of immediate dangerousness to invoke the state's police power to detain
- 1975: US Supreme Court case *O'Conner v Donaldson*, finding "a State cannot constitutionally confine, without more, a non-dangerous individual who is capable of surviving safely in freedom." ¹
- Changes in Nevada law (1975): Update and address issues in mental health treatment, including defining patient rights, requiring least restrictive placement, and protecting against unfair labor practices in state mental health facilities

HISTORY OF NEVADA LEGAL HOLDS

THE EVOLUTION OF THE LEGAL HOLD

- Emergency Admission
- Application for emergency admission: Legal 2000
- The time between detainment and emergency admission undefined in statute

HISTORY OF NEVADA LEGAL HOLDS

SENATE BILL 374 (1975)

- Enactment of Chapter 433A of the NRS
- Authorized law enforcement and medical professionals to take someone alleged to be in a mental health crisis into custody without a warrant.
- Anyone else with reason to believe that another person was in a mental health crisis, could apply to the district attorney for a pick-up order.
- Hold on emergency admission for up to two days from the time of admission unless a petition was filed with the court.

HISTORY OF NEVADA LEGAL HOLDS

SENATE BILL 490 (1989)

- Extended emergency admission with the filing of a petition for the involuntary court-ordered admission.
- To extend the admission, the petition had to be filed within 72 hours after emergency admission.

HISTORY OF NEVADA LEGAL HOLDS

ASSEMBLY BILL 550 (2001)

- Added probable cause requirement for legal holds.
- Eliminated district attorney practice of issuing pick-up orders for detention and transportation of a person alleged to be in a mental health crisis.
- Instead, districts courts were authorized to issue pick-up orders.
- Anyone could petition the district court for an order requiring law enforcement to take a person alleged to be in a mental health crisis into custody ***to allow the applicant for the pick-up order to apply for the emergency admission.***

HISTORY OF NEVADA LEGAL HOLDS

ASSEMBLY BILL 550 (2001)

- Problematic language.
- Anyone could petition the district court for a pick-up order.
- Only certain family members could apply for the emergency admission.
- Application for emergency admission form (L2K) was limited to law enforcement and medical professionals
- Law enforcement not waiting for applicants at the hospital.

HISTORY OF NEVADA LEGAL HOLDS

ASSEMBLY BILL 85 (2019)

- First significant overhaul of Nevada mental health law in over forty years.
- Eliminate confusion and abuses around start time for legal holds.
- Make it clear that the 72-hour clock starts immediately.
- Collaboration of statewide stakeholders.

HISTORY OF NEVADA LEGAL HOLDS

SENATE BILL 70 (2021)

- Codified the “legal hold” concept as the “mental health crisis hold”
- Clearly delineates court petition process
- Law enforcement will be placing the legal holds when court ordered to do so.
- The L2K (L2K22?) will be updated as well.

SB 70 CHANGES ACROSS THE MENTAL HEALTH CRISIS HOLD PROCESS

Elements of Mental Health Crisis System	Mental Health Crises	Detainment, evaluation, and treatment at a hospital or crisis center	Emergency admission to Inpatient Psychiatric Hospital	Involuntary court ordered admission	Discharge from inpatient psychiatric facility
Changes with SB70	Updates terms, definitions, and criteria for mental health crisis hold process	<p>Updates chemical restraint definition to align with current national and federal standards of patient care</p> <p>Updates family court petition process for law enforcement pick- up and evaluation.</p> <p>Deletes family petition for court ordered admission to an inpatient psychiatric hospital</p>	Clarifies emergency admission	Updates involuntary court-ordered admission to inpatient psychiatric hospitals	<p>Updates process and reporting timelines for conditional release</p> <p>Updates reporting timelines for unconditional release</p>
				Clarifies and standardizes Assisted Outpatient Treatment- involuntary court ordered outpatient treatment for use in all Nevada counties	

DIVERSE STAKEHOLDER INVOLVEMENT

- Statewide Mental Health Crisis Hold Workgroup key stakeholders:
 - **Adult:** Clark County Judge Yeager, Washoe County Judge Lu, Washoe and Clark Public Defenders, Division of Public and Behavioral Health (DPBH), Nevada Hospital Association, Nevada Rural Hospital Partners, Nevada Psychiatric Association, law enforcement.
 - **Youth:** Nevada Department of Education, Clark County School District, Clark and Washoe County District Attorney's Office, Clark, Washoe, and Rural Child Welfare Agencies, Division of Child and Family Services, DPBH, Clark, Washoe, and Rural Children's Consortia, Children and family advocates from Nevada PEP Statewide Family Network

FIVE PRINCIPAL CHANGES OF SB70

- 1. Updated and modernized mental health crisis hold law**
- 2. Adjusted youth mental health crisis hold process**
- 3. Updated assisted outpatient treatment (AOT) process to align with best practice**
- 4. Updated conditional release process**
- 5. Updated chemical restraint definition**

#1. UPDATED AND MODERNIZED MENTAL HEALTH CRISIS HOLD LAW:

Updated mental health crisis hold process

- Most of NRS 433A was written in 1975 reflecting a mental health crisis hold system that looks far different from the system we have today.
- This incongruence between practice and the law creates confusion among providers, patients, and families.

#1. UPDATED AND MODERNIZED MENTAL HEALTH CRISIS HOLD LAW:

Clarified family petition for court ordered pick up

- Family and interested parties petition in law was unworkable
- Important for as a last resort for situations where law enforcement is unable to identify criteria for mental health crisis and individual remains a danger to self or others.
- Families and interested parties can now petition court for law enforcement pick up and transport to hospital for evaluation.

#2. YOUTH MENTAL HEALTH CRISIS HOLD

Youth have been placed on holds in Nevada for decades. This was not common practice in Northern Nevada in recent years. In 2019, AB387 was added language regarding youth to the mental health crisis hold law.

- SB70 clarified hospital notification of parents when a youth is on a mental health crisis hold, and developed process to release youth off a hold to parents in certain situation.

#3. ASSISTED OUTPATIENT TREATMENT (AOT):

- Court ordered outpatient services “provided to a person with a mental illness for the purpose of treating the mental illness, assisting the person to live and function in the community or to prevent a relapse or deterioration that may reasonably be predicted to result in harm to the person or another person if the person with a mental illness is not treated.”
- Currently in operating in Washoe and Clark Counties

#3. ASSISTED OUTPATIENT TREATMENT (AOT):

- Developed specific Assisted Outpatient Treatment (AOT) criteria and program procedures; and clarified and updated current law for easier implementation in all counties.
- AOT is an important part of the treatment continuum that has shown to significantly reduce hospitalization and arrests for individuals with a mental illness and history of poor compliance.
- Often provided as Assertive Community Treatment + court order
- Opportunity in Nevada with current development and expansion of Assertive Community Treatment Teams

#4. CONDITIONAL RELEASE

- *Process that provides the individual who is currently under court ordered treatment with the option to voluntarily agree to certain conditions that would allow the facility to release the patient prior to the end of the period of court ordered treatment.*
- The conditional release process as written in Nevada law was unworkable. The new law provides enhanced coordination and support for transition from inpatient psychiatric services for individuals at high risk of decompensation if treatment is interrupted, while maintaining care in the least restrictive settings.

#5. CHEMICAL RESTRAINT

- Nevada's chemical restraint definition, developed in 1975, was outdated and does not take into account for innovations, new medications, and new FDA approved uses of medications in healthcare.
- The proposed updated definition excludes FDA approved standard treatment or dosage interventions for treatment from the definition of chemical restraint. This aligns Nevada with federal and national guidelines.

CONCLUSION

- Tension between public and individual safety and patient rights
- Struggle to develop clear process followed throughout the state
- Development of education to support standard process statewide

MENTAL HEALTH EDUCATION

You or a loved one may
be held in a hospital,
crisis center, or
psychiatric hospital
without consent if you
or a loved one are
believed to be a danger to
self or others. **Learn what
this means for you and
your loved one.**

Navigating Your Way

**THROUGH A MENTAL HEALTH
CRISIS HOLD IN NEVADA**

NB Nevada Board
Hospital Partners

Nevada
Hospital
Association

Nevada Statewide
Coalition Partnership

QUESTIONS?



REFERENCES

- I. Substance Abuse and Mental Health Services Administration: Civil Commitment and the Mental Health Care Continuum: Historical Trends and Principles for Law and Practice. Rockville, MD: Office of the Chief Medical Officer, Substance Abuse and Mental Health Services Administration, 2019.