

**MINUTES OF THE  
TASK FORCE ON INVOLUNTARY COMMITMENT OF THE MENTALLY ILL**

Thursday, September 12, 2002 – 2:00 p.m. – Room 414/416 State Capitol

**Members Present:**

Sen. Leonard M. Blackham, Senate Chair  
Rep. Katherine M. Bryson, House Chair  
Sen. D. Edgar Allen  
Sen. Karen Hale  
Sen. Lyle W. Hillyard  
Rep. Douglas C. Aagard  
Rep. Chad E. Bennion  
Rep. Judy Ann Buffmire  
Rep. Neil A. Hansen  
Rep. Carol Spackman Moss  
Rep. Mike Thompson

**Members Absent:**

Sen. David L. Gladwell

**Staff Present:**

Mr. Arthur L. Hunsaker, Research Analyst  
Ms. Esther D. Chelsea-McCarty, Associate General Counsel  
Ms. Wendy L. Bangerter, Legislative Secretary

**Note:** A list of others present and a copy of materials can be found at <http://www.image.le.state.ut.us.imaging/history.asp> or by contacting the Committee secretary, Glenda Whitney, at 538-1032.

**1. Task Force Business**

Chair Blackham called the meeting to order at 2:10 p.m.

**MOTION:** Sen. Hale moved to approve the minutes of the August 14, 2002 meeting. The motion passed unanimously with Sen. Allen and Rep. Bennion absent for the vote.

**2. Involuntary Commitment**

Ms. Marie Cornwall, Brigham Young University Professor of Sociology, reviewed the process her family had to go through before being able to get help for her loved one in a crisis situation.

Ms. Cornwall explained that Wisconsin gives a legally competent person who has been working with the patient the authority to make judgements about psychotropic medications and to encourage hospitalization. She quoted Karen Stephenson, Program Manager, Emergency Services Unit, Mental Health Center, Dane County, Wisconsin from the last meeting stating that Ms. Stephenson was initially against this provision but in time found it to be beneficial. Utah law limits what family members can do to get help for their loved one. She stated that if the Task Force members want to help the mentally ill, they should consider changing the involuntary commitment statutes in ways that will help family members get help for their loved ones, stop cutting mental health budgets, and find ways to help community mental health services.

**3. Comparison of Wisconsin and Utah Involuntary Commitment Laws**

Ms. Esther McCarty distributed and reviewed Comparison of Statutes on the Involuntary Commitment of the Mentally Ill. She explained that Wisconsin's emergency detention law requires a probable cause hearing within 72 hours of commitment, which holds off the commitment hearing for 10-21 days, excluding Saturdays, Sundays, and holidays. She said with continuances and postponements, it could be

longer. Utah only requires a commitment hearing to be held within ten days. In Utah, patient information can be given to the patient as late as the day of the hearing, unless they request it earlier. Wisconsin law states they must have it in hand at least 48 hours prior to the hearing and sooner if requested. She noted that Wisconsin statute is easier to read and understand.

Rep. Bryson emphasized that mental health commissioners need to be well trained and that the counsel on both sides should be well prepared for the hearings.

Rep. Moss stated that constituents have expressed concern that the history of the patient is not allowed to be heard.

### **Proposed Statutory Changes to Utah's Involuntary Commitment Law**

Ms. Esther McCarty introduced the proposed changes to Involuntary Commitment statutes. She noted the changes in the numbering of the statute. She noted that each proposal calls for a change in the commitment criteria from "immediate" to "substantial."

Mr. Jack Tanner, executive director, Utah Behavioral Health Network, said he represented a group under the Utah Hospital Association that combines a large spectrum of mental health associations and other affected groups. He stated that the standards they advocate include both chronic and grave disability and dangerousness. They recommend two process issues: 1) adjust the time within which court hearings must occur, and 2) that treatment, during commitment, take place in the least restrictive setting possible. Treatment without consent cannot occur without court action, leaving patients without treatment for up to 10-14 days. He explained that currently, medication hearings must be separate and subsequent to commitment hearings. They recommend medication hearings be permitted and treatment be initiated during the waiting time for the commitment hearing.

Ms. Vicki Cottrell, executive director, Utah Chapter of the National Alliance for the Mentally Ill, emphasized that there is a small population of people experiencing short, recurring, costly hospitalization stays and their families are suffering with them. She stated that their recommended changes will help the patient receive help sooner and allow recent historical evidence to be a part of the hearing. They recommend outpatient commitment, with hospitalization as a last resort. She distributed and reviewed Best Practices for Outpatient Commitment. Ms. Cottrell emphasized the importance of including families and other natural supports in the treatment team, thereby reducing the drain on the system.

Mr. Abel Ortiz, associate director, Division of Mental Health and Substance Abuse, referred to the proposed changes by the Department of Human Services and Division of Mental Health and Substance Abuse. They recommend allowing relevant current history to be presented. He stated that after four years of research, the Division found that the more families are involved, the less reliance there is on state flexible funds, transportation, and less out-of-home placements for children. They strongly recommend encouraging family involvement in both children and adult mental health services.

Mr. Randy Bachman, director, Division of Mental Health and Substance Abuse, stated that: 1) in considering national commitment standards, local customs and procedures have more of an impact on

local commitment laws; 2) most states have broadened their laws to allow the inclusion of past history; and 3) few states have experienced a substantial increase in commitments or budgets when they have broadened the laws.

Task Force members spoke in favor of suggestions to replace "immediate" with "substantial."

Rep. Thompson spoke in favor of establishing statutory standards rather than leaving the standards to be interpreted by agency administrative rule.

Rep. Buffmire expressed the need to have some recent past history included in the commitment process.

Mr. Tanner suggested that the public mental health system report to the Legislature following a year's experience working with proposed statutory changes. He stated that the report should show how families have been involved in the treatment program. Sen. Blackham asked that the involvement of family or other support be included in statute.

Rep. Moss asked that proposed language provide education services to families to help them cope with the situation and learn how to be a help and support.

Sen. Blackham clarified that "commitment," whether it be outpatient or inpatient for a given individual, should be to the least restrictive program possible.

Rep. Buffmire suggested defining "commitment" as being on a continuum of service and placement could be at any point on that continuum.

Sen. Blackham asked the group to work with staff to draft language for discussion at the next meeting.

## **5. Fiscal Impact of Proposed Statutory Changes**

Mr. Thor Nielsen, Office of the Legislative Fiscal Analyst, distributed and reviewed a memo that included the estimated costs of the proposed changes to the civil commitment statute. He emphasized that the numbers were for information purposes and do not constitute an official fiscal note. He noted that about 60 percent of committed clients were receiving services previous to commitment. However, some of the new clients would not be medicaid eligible so the state would have to fund the full cost. He reviewed the costs associated with serving the two groups and stated that some counties are already overmatching their required 20 percent. If counties were required to do more, the cost to the state would come down some.

Sen. Allen stated that continuity of care should provide some savings because patients could be released from the hospital into outpatient care sooner. He noted that a percentage will be incarcerated, so the corrections system could feel an impact with an increased number of inmates. He requested that the fiscal analyst office include figures regarding corrections and in-patient vs. outpatient care.

## **6. Task Force Discussion and Business**

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The next meeting was scheduled for October 9, 2002 at 2:00 p.m.

**7. Other Items / Adjourn**

**MOTION:** Rep. Moss moved to adjourn the meeting. The motion passed unanimously with Rep. Bennion and Rep. Hansen absent for the vote. Chair Blackham adjourned the meeting at 4:15 p.m.