

Civil Commitment Training

March 12, 2018

- Individuals alleged to be mentally ill may be held involuntarily in a hospital if they are a danger to themselves or others.
- To protect the liberty interest, the law provides strict requirements including who can initiate the hold, for how long, and the court process to review the hold. Included in those requirements is a right to counsel for patients.

**Remember this is a court hold
and as such patients have
rights and protections**

Nevada Revised Statute 433A.115:

(1) "Person with mental illness" means any person whose capacity to exercise self-control, judgment and discretion in the conduct of the person's affairs and social relations or to care for his or her personal needs is diminished, as a result of a mental illness, to the extent that the person presents a clear and present danger of harm to himself or herself or others, but does not include any person in whom that capacity is diminished by epilepsy, intellectual disability, dementia, delirium, brief periods of intoxication caused by alcohol or drugs, or dependence upon or addiction to alcohol or drugs, unless a mental illness that can be diagnosed is also present which contributes to the diminished capacity of the person.

(2) A person presents a clear and present danger of harm to himself or herself if, within the immediately preceding 30 days, the person has, as a result of a mental illness:

(a) Acted in a manner from which it may reasonably be inferred that, without the care, supervision or continued assistance of others, the person will be unable to satisfy his or her need for nourishment, personal or medical care, shelter, self-protection or safety, and if there exists a reasonable probability that the person's death, serious bodily injury or physical debilitation will occur within the next following 30 days unless he or she is admitted to a mental health facility pursuant to the provisions of [NRS 433A.115](#) to [433A.330](#), inclusive, and adequate treatment is provided to the person;

(b) Attempted or threatened to commit suicide or committed acts in furtherance of a threat to commit suicide, and if there exists a reasonable probability that the person will commit suicide unless he or she is admitted to a mental health facility pursuant to the provisions of [NRS 433A.115](#) to [433A.330](#), inclusive, and adequate treatment is provided to the person; or

(c) Mutilated himself or herself, attempted or threatened to mutilate himself or herself or committed acts in furtherance of a threat to mutilate himself or herself, and if there exists a reasonable probability that he or she will mutilate himself or herself unless the person is admitted to a mental health facility pursuant to the provisions of [NRS 433A.115](#) to [433A.330](#), inclusive, and adequate treatment is provided to the person.

(3) A person presents a clear and present danger of harm to others if, within the immediately preceding 30 days, the person has, as a result of a mental illness, inflicted or attempted to inflict serious bodily harm on any other person, or made threats to inflict harm and committed acts in furtherance of those threats, and if there exists a reasonable probability that he or she will do so again unless the person is admitted to a mental health facility pursuant to the provisions of [NRS 433A.115](#) to [433A.330](#), inclusive, and adequate treatment is provided to him or her."

Mental Illness and dangerousness as defined by Nevada law

NRS 433A.115

Diminished Capacity due to...

- Drugs and alcohol
- Dementia- Do not file a civil commitment petition if the diagnosis is Dementia
- Any other neuro-cognitive condition
- Intellectual disability

Exemptions

- A person alleged to be mentally ill may be held in a hospital under emergency admission for evaluation, observation and treatment.
- Hospital can discharge at any time if the person no longer meets the requirements for a emergency hold. Even after a Petition has been filed

Petitions and Discharge

Notices that must be filed

- Service of the Petition on the patient-you must give them a copy of the Petition: NRS 433A.220(2)
- Petition For Emergency Admission To A Mental Health Facility Following Medical Treatment-when a patient is not medically cleared: NRS 433.165(2)(a)
- Notice of Discharge: NRS 433A.220(3)
- Notice of Transfer from one facility to another facility: Case Management Order
- Notice of Conditional Discharge after a civil commitment- once patient ready for discharge: NRS 433A.380

- NRS 433A.220 allows a hospital to discharge a patient prior to the hearing on the petition. You MUST file a notice of discharge as soon as the person is discharged. Once it is filed, the matter will be taken off calendar-the case won't be called and you won't have to explain to the court where the patient is and why the notice was not filed.

You can discharge a patient prior to the hearing

- NRS 433A.240(1) requires two evaluations by independent physicians or psychologists
- If the reports are not done then the petition has to be dismissed.
- Doctors' reports must be provided to attorney of record and the Court 24 hours before the court hearing.
- My social worker and I have been emailing the hospitals and advising those patients who meet commitment criteria and those who do not.

Court Doctor Evaluations

Hearing Master (HM)

- Judicial officer empowered by the Nevada Supreme Court to preside over District Court matters
- Recommendations become Orders after 24 hours if no objection is filed

District Court -Chief Judge

- Chief Judge of the judicial district
- Will adopt the HM recommendation unless an objection is timely filed
- Orders are final but appealable

**Hearing Master's Recommendation
vs. Court Order**

- The filing of the Certificate of Service or personal service witnessed by the Court triggers the start of the 24 hour objection period
- If no objection to the Recommendation is filed, it then becomes an Order allowing for forced meds will be E-Filed and served on the hospital
- This means that you cannot begin the forced meds until you have the Order (not the recommendation)
- Court is requiring the hospital serve the patient with the Recommendation for Commitment and DOR on video-so we all sit and wait for the staff to print from the portal and physically serve the patient
- PLEASE put a computer and printer in the video room

Service of Recommendations

- Remember, in order to meet criteria the patient must have:
 - 1) a mental illness, and
 - 2) must be a danger to others or a danger to themselves
 - either self-harm or self-care.
- Mental illness and benefit from further treatment is not enough.
- Once you are on notice that a patient does not meet, you can no longer hold that patient
- The Court will no longer have a hearing for those who do not meet criteria UNLESS-the hospital is prepared to present compelling evidence to the contrary

Patients who do not meet criteria

- Once the Court denies a petition and dismisses the case, then the hospital has no authority to hold the patient
- You must discharge the patient immediately

**When the Court denies a petition
for civil commitment**

- Law requires a hearing within 5 days of the filing of the petition
- If a patient wants to stay the attorney can waive the 5 day hearing and ask the Court to continue the decision on the petition
- This keeps the court-hold and allows for stabilization and time to find placement
- Patient can be discharged prior to the next date
- File the notice of discharge

When a patient meets criteria and wants to stay

Interpreters

Hospital must contact the Court Interpreter's office for the evaluations and for court: **702-671-4578**

Not acceptable for the court evaluation to simply restate info from the hospital-doctors must be able to communicate with patient

Court cannot conduct a hearing without the use of a court certified interpreter

- My job is to try to get the court-hold lifted and patient/client released
- Dangerousness to self or others will be discussed
- Please have updates ready

When a patient meets and does not want to stay

ASSISTED OUTPATIENT TREATMENT-AOT

NRS 433A.310-315

Community based treatment for patients affectionately known as “treatment resistant loopers”

It is civil commitment and a court ordered admission into the program
Patients need to be assessed by the court doctors

Most want to participate-provides housing, med management and life skills

Contact- Paula Releford- SNAMHS - Head of AOT team program
for assessment

702-486-6268

preleford@health.nv.gov

- Office took over this specialty court in November 2017
- Goal is to speak to every patient who meets commitment criteria, according to the court doctors.
- Email each hospital with a list of patients who meet and who do not meet criteria
- Call and speak to each patient/client
- If you do not receive an email provide info

**Clark County Public Defender's
Office represents all patients**