Objectives and Issues Identified by Statewide L2K group for NRS 433a

10.8.18

Introduction:

NRS 433A.120 identifies three types of admission to mental health facilities in Nevada:

1. **Voluntary admission**
    a. Anyone may voluntarily apply to a mental health facility for admission. NRS 433A.140
    b. If the application is to a division facility, the applicant must be admitted or provided services if the person needs and may benefit from services offered by the facility. NRS 422A.140(2)
    c. A person must be released immediately after making a written request for release, unless the facility changes the status of the person to an emergency admission within 24 hours after the request. NRS 422A.140(3)
2. **Emergency admission**
    a. Emergency admissions are usually initiated by the process known as Legal 2000. NRS 433A.160(1)(a)
    b. Emergency admissions may also be initiated by court order. NRS 433A.160(1)(b)
    c. Anyone held under an emergency admission must be released within 72 hours unless a petition for involuntary court-ordered admission is filed. NRS 433A.150
3. **Involuntary court-ordered admission**
    a. A petition for the involuntary admission to a mental health facility or to a program of community-based or outpatient services (AOT) may be filed in the district court of the county where the person who is to be treated resides. NRS 433A.200(1)
    b. The petition may be filed by the spouse, parent, adult children or legal guardian of the person to be treated or by any physician, physician assistant, psychologist, social worker or registered nurse, by an accredited agent of the Department or by any officer authorized to make arrests in the State of Nevada. NRS 433A.200(1)
    c. Court orders for involuntarily admission of adults automatically expire at the end of 6 months, if not previously terminated or renewed. NRS 433A.310(5)

Goals:

1. Remove de-stigmatizing language and clarify patient rights in NRS 433a
2. Clarify the emergency admission process
3. Revise the involuntary court-ordered admission protocol
4. Create a protocol for involuntary administration of medication
5. Identify needed regulations for admissions under NRS 433A

Identified issues for discussion

General

1. **Stigmatizing language**
    i. Change "person with mental illness" to person in mental health crisis
2. **433a language clean up**
    i. Adjust language in NRS 433a for a process that is comprehensive, easy to read, and easy to understand
3. **Continuity of Care**
    i. Clarify language that allows providers to exchange information aligned with HIPPA and confidentiality law during crisis
4. **Behavioral health transport**
    i. Add behavioral health transport language to allow for future development of certified service

    Working with MTM and rural hospitals to identify gaps and barriers to behavioral health transportation

5. **Clarify youth emergency hold protocol and relation to 433a**
6. **Identify issues associated with dementia in Nevada legal hold process**

Pre- admission

1. **Multiple holds versus existing 72-hour hold** (i.e. 24-hour law enforcement hold, 24-hour physician hold)

    No consensus in workgroup

Hospital:

1. **When should the 72-hour clock start?**
    a. Currently different counties and organizations throughout the state are using different criteria for when 72 hours starts for

i. Starts at writing of emergency hold:
    1. Pros: Time on hold is clear for patient, court oversight occurs more quickly, may reduce physician liability as court order releases physician of liability when releasing patient.
    2. Cons: Hospitals will have to initiate petition for court ordered
        a. involuntary admission faster

ii. Starts after medical clearance
    1. Pros: Provides time for facilities to determine if hold is appropriate or necessary
    2. Cons: Leaves patients on holds for undetermined amount of time, does not allow for clear direction for patient rights documents

Working towards consensus of starting 72 hour clock at time of writing emergency hold

2. **Multiple clocks versus one clock: Legal hold 72 hours, 48 hours**
    i. Pros: Clearer to parties involved with legal holds
    ii. Cons: Extends times patients are held in certain situations

Support for changing language for 48 hour hold for patients already admitted to a facility to reflect current practice of immediate placement of hold (instead have 24 hours to place hold), and then extending hold to 72 hours.

3. **Mandated reporting for legal holds**
    i. Pros: Increases oversight and data regarding legal holds
    ii. Cons: May impact facilities with additional reporting requirement

Support for data collection, need to identify a mechanism/ process

4. **Define medical clearance**
    i. Differentiating medical stability versus differential diagnosis
        1. Medical Stability:
            a. Pros: Streamlines legal hold timeline
            b. Cons: Without differential diagnosis, patients can be kept on holds for causes that are not related to mental health.

In discussion in medical workgroup

5. **Court ordered involuntary medication protocol** (through regulation?)
6. **Aligning mutilation with risk to self or others legal hold criteria**

Please see proposed language change: [1] "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted

and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

7. **Lack of oversight with legal hold, and patients inappropriately staying on holds due to liability issues**

   Possible solution: Developing certification on writing, assessing, decertifying hold

   i. Link for Vermont's Physician Emergency Exam Certification http://mentalhealth.vermont.gov/providers/physician-emergency-exam-ee-certification

8. **Further define process for petition for court ordered admission**
   i. Develop training for legal hold extensions, and conduct stakeholder legal hold meetings in rural counties to clarify process

   In discussion at 433a language workgroup

Court:

1. **Add "independent" to 433.240 "the court shall promptly cause two or more physicians, licensed psychologists or advance practice registered nurses who have the psychiatric training…"**
   i. Pros: Resolves major ethical conflict in legal hold process for 15 counties
   ii. Cons: Burdens counties with needing to identify and provide funding for independent physicians
   a. NRS 433A.250- Evaluation teams provide by state for reimbursement if courts cannot obtain physicians
   b. Rural proposed solutions:
      iii. Only use "independent" physician when client contests
      iv. Require one clinician rather than two for counties with population below 100,000
   c. NRS 433A.260- Court proceedings to be paid by county of origin
2. **Extending time from 5 to 6 days for scheduling court hearing for petitions for involuntary court ordered admission**
   i. Pros: Allows for court to be held one day per week while staying within regulations, reduces process
   ii. Cons: Extends time that elapses before court oversight occurs
3. **Establishing timeframe for discharge after petition is denied**
   a. In Clark County, hospitals have been found to not release individuals for days at times, after the court denies petition for involuntary admission.
      i. Pros: Protects patient rights and clarifies hospital duties once hold is released
      ii. Cons: May impact hospital ability to discharge patient within appropriate timeframe.
4. **Stipulated continuances for treatment**

a. No process exists for circumstances in which patients need to remain in hospitals, but receive a court order for involuntary admission to a psychiatric facility.

5. **Separate AOT from "Involuntary Court Ordered Admissions", and add court ordered "Assisted Outpatient Treatment" protocol**
    a. In NRS 433A, AOT language was added to protocol for admission to locked facility

<u>Other supporting initiatives to prevent/ divert holds:</u>

- Assisted Outpatient Treatment
- Assertive Community Treatment
- Implementation of Psychiatric Advance Directives
- Psychiatric Assessment/ Medication management via telehealth
- Develop working continuum of care through HIE
- Dementia Court
- State dementia facility
- Impact of rural population on urban centers and effects
- Interstate compact for legal holds between Nevada and California to increase access to care