

Overview of SB 70

SB 70 changes across the mental health crisis hold process					
Elements of Mental Health Crisis System	<i>Mental Health Crises</i>	<i>Detainment, evaluation, and treatment at a hospital or crisis center</i>	<i>Emergency admission to Inpatient Psychiatric Hospital</i>	<i>Involuntary court ordered admission</i>	<i>Discharge from inpatient psychiatric facility</i>
Changes with SB70	Updates terms, definitions, and criteria for mental health crisis hold process	Updates chemical restraint definition to align with current national and federal standards of patient care	Clarifies emergency admission	Updates involuntary court-ordered admission to inpatient psychiatric hospitals	Updates process and reporting timelines for conditional release
		Updates family court petition process for law enforcement pick-up and evaluation.			Updates reporting timelines for unconditional release
		Deletes family petition for court ordered admission to an inpatient psychiatric hospital			
				Clarifies and standardizes Assisted Outpatient Treatment- involuntary court ordered outpatient treatment for use in all Nevada counties	

Summary:

SB70 focused on modernizing, standardizing, and reducing stigma in Nevada’s mental health crisis hold process found in NRS 433A, continuing the work initiated by AB85 in the 2019 legislative session. For background, AB85 was brought forth by the Northern Regional Behavioral Health Policy Board and developed by the Statewide Mental Health Crisis Hold Work Group. During the process of developing AB85, stakeholders gained a greater understanding of the issues and gaps in the law and saw the need for continued legislative effort to update NRS 433A.

Overview of SB70 Changes

1. Updated and modernized the mental health crisis hold law

- **Modernized the mental health crisis hold process and defining terms:**
 - Updated the mental health crisis hold process to align with current practice, and clearly separates the mental health crisis hold from the emergency admission process.
 - Updated the term “application for emergency admission” to “mental health crisis hold,” Also provides definitions for terms such as mental health crisis hold, voluntary admission, emergency admission, and involuntary court ordered admission.
 - Required the Division and the Attorney General to approve all forms for the detainment, evaluation, treatment and conditional release of any person under chapter 433A of NRS and furnish the forms to the clerks of district courts in each county.

- **Clarified ability for families to petition the court for pick up and evaluation for a mental health crisis hold.**
 - Developed the petition process for court ordered pick up and evaluation of individuals suspected to meet criteria for mental health crisis.
 - Removed ability for the spouse, parent, adult children or legal guardian to petition for inpatient involuntary court ordered admission

- **Updated hospital and court procedures for medical clearance when an individual cannot be medically cleared within 72 hours.**
 - This change allows hospitals to petition for involuntary court ordered admission and require them to update the courts weekly on the medical condition. The court stakeholders would then have discretion to continue the case.

- **Updated hospital timelines for notifying legal guardians and courts**
 - Changed mandated times in which hospitals must notify courts and guardians of the discharge of individuals under court ordered admission (from hospitals through conditional and unconditional release and from

assisted outpatient treatment) while providing flexibility for short hospitalizations.

- If person is under **conditional release**:
 - The facility must notify the district court that ordered the involuntary court ordered admission before discharging the person from the facility. That court may periodically review a conditional release.
- If person to be discharged is under court order for **assisted outpatient treatment**:
 - The facility must notify court no later than 3 days after discharge
 - If individual has guardian, must notify 3 days prior to discharge
 - If individual has been there for less than 3 days, must notify guardian as soon as possible
 - The legal guardian has discretion to determine where the consumer will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the legal guardian does not inform the facility as to where the consumer will be released within 3 days after the date of notification, the facility shall discharge the consumer according to its proposed discharge plan.
- If person to be discharged and is under **involuntary court ordered admission in a facility**:
 - The facility must notify court no later than 3 days after discharge
 - If individual has guardian, must notify 3 days prior to discharge
 - If individual has been there for less than 3 days, must notify guardian as soon as possible
 - The legal guardian has discretion to determine where the consumer will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the legal guardian does not inform the facility as to where the consumer will be released within 3 days after the date of notification, the facility shall discharge the consumer according to its proposed discharge plan.
- **Clarified the county transfer process for petitions and court orders for involuntary court ordered admission**
 - Required a person who submits such a petition to notify the court if the subject of the petition is currently admitted to a mental health facility or hospital and is transferred to another mental health facility or hospital no later than 24 hours after the transfer.
 - Created mechanism for the petitioner to file a petition for involuntary court ordered admission in the county in which the person has been accepted for treatment.

- Clarified court transfer process when examining personnel are not available and that the county or residence is responsible for the expenses of the involuntary court ordered admission process.
 - The court must transfer the case to the nearest county which has examining personnel available before scheduling a hearing and no later than one judicial day after receiving the petition.
 - Upon receiving the transfer, the receiving district court will appoint counsel and schedule a hearing for involuntary court ordered admission within six judicial days of receiving the petition.
 - Once the petition has been adjudicated, the case may not be transferred to another county
- Clarified that once a person is involuntarily admitted to a mental health facility: (1) the admitting court is prohibited from transferring the case; and (2) the mental health facility is required to notify the court if the person is transferred.
- Prohibited the transfer of a consumer who has been admitted to a mental health facility or required to receive assisted outpatient treatment to another facility or provider of treatment, as applicable, unless arrangements relating to the costs of treatment are made between the facility or provider and the consumer or the person who requested the admission or treatment.
- **Other changes to update and modernize NRS 433A include:**
 - Abolished a requirement that an evaluation team evaluate a person who is involuntarily admitted by court order to a mental health facility or required to receive assisted outpatient treatment before the person may be unconditionally released before the expiration of the order.
 - Updated term “person professionally qualified in the field of psychiatric mental health” so the term is useable for public and private mental health settings, including assisted outpatient treatment.
 - Applied term “consumer”, currently defined in the clinical records section (NRS 433A.360), to the entire chapter of NRS 433A
 - Clarified court sealing of records applies to all of NRS 433A, not just in cases of court ordered admission

2. Updated and clarified assisted outpatient treatment (AOT)

Assisted outpatient treatment (AOT) is court-ordered outpatient treatment for a person with a mental illness, assisting the person to live and function in the community and prevent a relapse or deterioration.

- Separated AOT process from involuntary court ordered inpatient admission so sections stand independent from one another.
- Developed specific Assisted Outpatient Treatment (AOT) criteria and program procedures; and clarifies and updates current law for easier implementation in all counties.
 - Proposed language makes AOT a generic term replacing “community based or outpatient services”
 - Provided a more developed process and criteria clearly identifying the population to be served by AOT:

- Expanded individuals (including families and providers) who can petition for AOT.
- Enabled community providers to provide AOT services in coordination with courts.
- Clearly identified the target population for AOT including:
 - A person over the age of 18, who has a mental illness, and has a history of poor compliance. This poor compliance has been a significant factor:
 - in the person being hospitalized or receiving services in a behavioral health unit in a detention facility twice in the past 48 months, or
 - has resulted in at least one violent act, attempt, or threat toward himself or herself or others to cause serious harm in the last 48 months.
 - The person must also be capable of surviving in the community in which he or she resides without presenting a substantial likelihood of serious harm to himself or herself or others if he or she receives AOT.
- Moved the requirement that the same counsel must continue to represent a person who is involuntarily admitted to assisted outpatient treatment until the person is unconditionally released to the new AOT section of the law.

3. Updated and clarified conditional release

Overview:

Conditional release is a process for release from a public or private mental health facility 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. Intervention to prevent unnecessary deterioration into mental health crisis, and future hospitalization and interaction with the criminal justice system.

- **Clarified and updated the conditional release process**
 - Allows courts to coordinate with hospitals regarding individuals currently under conditional release and subject to a new petition for court ordered admission. With the parties' consent, the court may set an expedited hearing to determine whether a conditional release remains appropriate. If the court determines a conditional release is no longer appropriate, they can order the admission of a person to a mental health facility.

4. Clarified youth mental health crisis hold process

- Clarified hospital and parent interactions when a youth is on a mental health crisis hold.

- Clarified and changed the time hospitals detaining a youth must notify a parent or legal guardian of holding a youth under a mental health crisis hold from 24 hours to 8 hours.
- Created mechanism for youth to be released from mental health crisis hold to parents if the guardian or parent agrees to treatment or accepts physical custody of the youth.

5. Updated chemical restraint definition:

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.

Stakeholders involved:

The Statewide Mental Health Crisis Hold Workgroup convened in the fall of 2018, to obtain support and input for AB85 across the state. The Statewide workgroup continued to meet monthly to develop policy solutions for the next legislative session in 2020. Multiple subcommittees were also held on a weekly basis, focused on topics including the adult and youth mental health crisis hold process, Assisted Outpatient Treatment, and conditional release.

The Statewide workgroup consists of representatives from:

- Dr. Gunnarson, representative from the Northern Regional Behavioral Health Policy Board.
- Division of Public and Behavioral Health
- Nevada Psychiatric Association
- Nevada Rural Hospital Partners
- Nevada Hospital Association
- Washoe County judicial system
 - District Attorney’s office
 - Public Defender’s Office
- Clark County judicial system
 - judicial staff
 - Public Defender’s Office
 - Las Vegas Metro Police Department

The youth subcommittee had participation from:

- 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

Core stakeholders participating in in the adult, Assisted Outpatient Treatment, and conditional release subcommittees included:

- Judge Bita Yeager from Clark County
- Judge Cynthia Lu and staff from Washoe County
- Staff from Division of Public and Behavioral Health including, Dr. Ravin, Joanne Malay, Christina Brooks, Dr. Stephanie Woodard, Ellen Richardson Adams
- Nevada Hospital Association
- Nevada Rural Hospital Partners
- Dignity Health
- Nevada’s Statewide chapter (NAMI)
- Treatment Advocacy Center