

Euren

North Dakota Legislative Interim Committee – Review of NDCC ch. 25-03.1

Testimony – December 14, 2009

During the 2009 session, a bill was introduced to: (1) move statutory language from one area to another, (2) change the time allowed to complete an evaluation after an emergency hold; and (3) allow a physician to do an evaluation for an emergency hold. Item 1 was accomplished. Items two and three became a study resolution which was approved.

The purpose for proposing these two provisions was to allow more flexibility in emergency situations. Specifically in situations when there is both mental illness (MI) and/or chemical dependence (CD) issues accompanied by a significant medical injury or when a psychiatrist or psychologist is not available. The intent was to allow for the best possible treatment for the patient.

There are some medical facilities in North Dakota that do not have wards to treat patients with MI/CD. There is a question of whether, after an emergency hold, a patient who has both a serious medical condition and a diagnosis of MI/CD can continue to be treated in such a facility. Normally, a MI/CD patient would be placed in an appropriate, restricted ward. Occasionally a person presents with a serious medical condition which requires in-patient medical treatment as well as a MI/CD diagnosis. If the patient decides to leave, AMA, the only way to effectively treat is to place the patient on an emergency hold. With a 23 hour requirement to have an evaluation completed after the hold, it may be difficult to properly treat both the medical condition and the MI/CD.

Additionally, there are areas of the state that have less access to expert examiners and mental health professionals. The 23 hour time frame may make it difficult to obtain a timely evaluation because of this situation. Allowing physicians in these situations to perform the initial evaluation or allowing more time would best serve the needs of the State and the patients.

Because of these potential situations, although infrequent, the provisions of the 23 hour time frame and which professional is allowed to do an examination should be reviewed.

Since the legislative session, we also discovered that the language of 25-03.1-23 may be too restrictive. It provides that a Petition for Continuing Treatment must be accompanied by a certificate of a physician, psychiatrist, or psychologist. If the treatment is for CD, a Licensed Addiction Counselor cannot certify the Petition. This requires unnecessary action. The LAC is the one who is most likely treating and following the person being treated. Why shouldn't the LAC be the professional to certify? Why should there be a requirement that another professional sign off on the certificate? The language should be changed to allow either an expert examiner or a mental health professional as defined by Chapter 25-03.1.

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