

Public Health Committee JOINT FAVORABLE REPORT

Bill No.: SB-406

AN ACT CONCERNING THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES, CONNECTICUT VALLEY HOSPITAL AND WHITING

Title: FORENSIC HOSPITAL.

Vote Date: 3/26/2018

Vote Action: Joint Favorable Substitute

PH Date: 3/16/2018

File No.: 471

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SPONSORS OF BILL:

Public Health Committee

REASONS FOR BILL:

This bill makes various changes concerning the Department of Mental Health and Addiction Services, Whiting Forensic Hospital, and Connecticut Valley Hospital (CVH). Among other things, it:

- creates a seven member task force to review and evaluate DMHAS' duties and operations, including those of Whiting Forensic Hospital and CVH, and requires the task to submit to the Public Health Committee a preliminary report by January 1, 2019 and a final report by January 1, 2020.
- subjects Whiting Forensic Hospital to Department of Public Health licensure and regulation
- prohibits all patients of Whiting Forensic Hospital's maximum security division from being present when their belongings are searched; and
- makes numerous technical and conforming changes to reflect Whiting Forensic Hospital's separation from CVH

RESPONSE FROM ADMINISTRATION/AGENCY:

Miriam Delphin-Rittmon, Commissioner, Department of Mental Health and Addiction Services (DMHAS):

DMHAS supports the sections of SB 406 that are similar to those proposed by Governor Malloy in SB 16, specifically the sections that: establish the Whiting Forensic Hospital, which will focus entirely on providing services for the forensic population; improve services to

patients; and ensure external accountability at the hospital through licensing inspections conducted by the Department of Public Health.

Raul Pino, M.D., M.P.H., Commissioner, Department of Public Health (DPH):

SB 406 proposes a number of revisions to the statutes pertaining to Whiting Forensic Hospital. The majority of the provisions in this bill are similar to those proposed by Governor Malloy in SB 16. These provisions will increase accountability and improve the quality of care for patient in certain state operated facilities. The DPH supports these provisions.

Section 1 of the bill creates a statutory task force to review and evaluate the duties and operations of the Department of Mental Health and Addiction Services, including the operations, conditions and finances of Connecticut Valley Hospital and “Whiting Hospital”. The task force is required to report its findings to the General Assembly on or before January 1, 2019, at which time the task force will terminate.

Section 2 of the bill amends the definition of an “institution” within section 19a-490 of the general statutes by removing the exemption for Whiting Forensic Hospital, which will now be subject to licensure by DPH as required by law. This change will also authorize the DPH to investigate complaints received from a variety of sources. The Department anticipates that these additional responsibilities can be accomplished within available appropriations.

Sarah Eagan, Child Advocate, State of Connecticut (OCA):

The OCA supports SB 406 which seeks to improve the safety of patients and clients served by the Department of Mental Health and Addiction Services (DMHAS), including individuals receiving services at the Connecticut Valley Hospital (CVH). The bill creates a taskforce charged with reviewing and evaluating the duties and operations of the DMHAS, including the operations, conditions and finances of the Connecticut Valley Hospital,” and to issue findings and recommendations to the legislature by January 1, 2019.

The OCA recommends adding language to require the taskforce to review:

- conditions for individual clients served at Connecticut Valley Hospital, including findings made by the Department of Public Health and accompanying corrective actions undertaken by DMHAS
- the framework for ensuring the safety of, and efficacy of services to clients at Connecticut Valley Hospital, and
- alternatives to maintaining the Connecticut Valley Hospital, including increasing public-private partnerships that will support clients in community-based settings.

The OCA periodically reviews the conditions and practices of institutions and facilities where adolescents receiving services from publicly-funded state and local agencies are placed, including the examination of care and treatment for youth confined at facilities run by the Department of Children and Families (DCF), Department of Correction (DOC), Court Support Services Division, and the adolescent/young adult unit on the campus of CVH, that is operated by DMHAS.

In recent years, the OCA has brought numerous concerns, both in person and in writing, regarding conditions for certain youth and the culture/protocols of the CVH Young Adult Unit to the attention of hospital and DMHAS leadership. Specifically, the OCA has raised concerns regarding several critical care areas listed in the testimony.

The OCA appreciates the efforts by the leadership of DMHAS in response to these concerns and measures to improve treatment and discharge planning for individual clients identified by the OCA. However the persistent nature of certain issues over the years has raised concerns about the adequacy of care for, and the protection of civil rights of clients on the Young Adult Unit of CVH.

In 2017, the OCA filed a number of concerns which included the treatment of one or more clients on the Young Adult Unit at CVH, with the Department of Public Health (DPH) and the DMHAS administration. The DPH included these concerns in their September 2017 survey of hospital conditions and in the fall 2017 report. Several of these findings were similar to those documented by the Department of Justice prior to the state entering into a settlement in January 2009 for violations of the federal Civil Rights of Institutionalized Persons Act (CRIPA 42 U.S.C. § 1997).

It is also important to note that the persistence of concerns related to suicide prevention, patient care and treatment is alarming. It is essential that the state adopt a more robust and transparent framework for ensuring safe and high quality delivery of custodial and treatment supports to these vulnerable individuals with disabilities.

NATURE AND SOURCES OF SUPPORT:

Melissa Marshall, Coordinator, Connecticut Cross Disability Lifespan Alliance (CCDLA):

CCDLA is submitting written testimony to express concern regarding certain portions of SB 406. We commend the Public Health Committee for taking this important first step towards lessening the abuse and neglect of people with mental health conditions in Connecticut. However, CCDLA is concerned about the creation of yet another task force when there currently exists decades of literature and expert testimony regarding methods to deal with the situation of abuse and neglect throughout the mental health system in Connecticut.

Should there be a task force established we strongly urge you to have significant representation from people with experience at Connecticut Valley Hospital and the Whiting Forensic Division.

Cheri Bragg, Portland, CT:

I am submitting written testimony today in support of SB 406, however, I do have some concerns and recommendations:

- If a task force is established, we recommend:
 - the inclusion of multiple appointees who have had direct, personal experience with receiving DMHAS services, including having received services from CVH and specifically Whiting Forensic Hospital
 - the task force tap into the expertise of the CT peer advocacy community, specifically Advocacy Unlimited

- and if the task force is established, it takes the time to explore various options for healing including alternatives to investing in costly traditional psychiatric treatment

If CT assembles a task force filled with traditional appointees, it will continue to be business as usual and we will continue to reap the same results.

Kathy Flaherty, Executive Director, Connecticut Legal Rights Project, INC.:

Connecticut Legal Rights Project (CLRP) is a statewide non-profit agency that provides legal services to low income adults with serious mental health conditions. SB 406 represents a response to the abuse at Whiting Forensic Hospital. It is a starting point, but it does not accomplish everything that CLRP would like to see happen in response to this incident.

During my testimony at the Public Health Committee summer 2017 public hearing, I expressed my opposition to the creation of a task force. In fact, I begged the committee not to create one because it is not necessary. However, if one is established, many of us in Connecticut's mental health system are here, ready, and more than willing to share with you our ideas about how this system needs to improve. Further, we recommend that you consider naming someone other than a mental health professional as the chair of this task force.

It is profoundly disappointing that after the worst abuse of one of the most disabled patients at Whiting has come to light, DMHAS is proposing only "technical changes". CLRP's clients who are receiving treatment at WFH need this legislature to enact clear statutory changes to WFH statutes that will hold the administration and staff accountable, and create transparency. Also, these changes should grant legal representatives of CLRP and Disability Rights Connecticut absolute, instant and comprehensive access to WFH, patients, staff, and their living areas with no obstruction, excuse or delay.

While Section 2 of the bill places WFH under the regulatory jurisdiction of the Department of Public Health (DPH), it specifically excludes all other "facilities for the care and treatment of persons with mental illness or substance use disorder operated or maintained by any state agency" from such regulation.

As the representative of clients in all state-operated psychiatric facilities, we are fully aware that abuse and violation of patients' rights is not only occurring in WFH but also in other facilities. The incident that occurred at WFH, is beyond the pale and not representative of the care received by patients in all DMHAS-operated facilities. CLRP respectfully request that the Public Health Committee examine the need for additional resources to support adequate regulatory systems and to ensure that the abuse does not continue to occur.

This bill includes technical changes to the civil commitment statutes, but no substantive changes. CLRP does not object to these changes, but wishes that the Legislature would consider changes that reflect recognition of the deprivation of liberty that civil commitment entails, and the need for adequate protection of the civil rights of respondents in conservatorship petitions.

Section 29 proposes changes to the Patients' Bill of Rights that create an exception that would deprive all patients hospitalized at the maximum security division of WFH of their right

to be present during a search of their belongings. CLRP objects to this amendment as written because this exception is overly broad. There are already several sections of the Patients' Bill of Rights that provide for exception. The search exception should be carved out in a way similar to those for phones and visitors. All searches should be video recorded and made available to patients and their attorneys.

We urge you to demonstrate your commitment to this issue by strengthening, rather than watering down, the protections of the Connecticut Patients' Bill of Rights for patients at Whiting Forensic Hospital.

Al Shehadi:

As the brother and co-conservator of Bill Shehadi, the patient at the center of the Whiting abuse scandal, I want to thank the Public Health Committee for its efforts in addressing the issue. I am here to provide qualified support for SB 406, which is a good start, but does not go nearly far enough. The abuse my brother suffered is hard to imagine, and the acts of abuse were cruel to the point of sadism. The scale of the abuse is incomprehensible. The arrest warrants describe roughly 50 incidents of abuse over a 24 day period, with multiple incidents occurring in more than half of those days.

The investigation resulted in: 10 staff criminally charged, 22 named as witnesses, close to 40 placed on leave and a substantial number fired. There should be no doubt that what happened to my brother represents a systemic failure at all levels of DHMAS, from line staff to leadership. Systemic failure of this scale can only be addressed by systemic change such as the proposed legislation.

SB 406 is a good start, but needs to go farther. I have included a chart with my written testimony listing a clear set of goals Whiting needs to achieve to address the fundamental problems that currently exist. .

Matthew Rowe, Waterbury, CT :

I am writing concerning SB 406 and the treatment of patients at the Department of Mental Health and Addictions Services (DMHAS), CT Valley Hospital (CVH) and Whiting Forensic Hospital. As a patient of DMHAS for over ten years, my treatment has always been respectful and for that I thank my providers. Throughout these years, I have only experienced two incidences where I was treated differently. It is my hope that our state agency would put a bill forward to improve oversight of any state facility and provide a clear path for complaints, including measures to ensure that all patients will have recourse should they be abused verbally, physically or sexually.

David Gedraitis, Patient, Connecticut Valley Hospital and Whiting Forensic Hospital:

I have been a patient at Connecticut Valley Hospital (CVH) and Whiting Forensic where I was transferred from maximum security to minimum security. Staying too long at the hospital results in habits connected to institutionalization which makes it difficult to adjust to less restrictive housing.

There should be a step down process when moving from maximum security to medium security housing, and a group home to supervised apartment. This would help for a safe or better adjustment upon release.

I have been out of the hospital since 1992 and have not returned to CVH. I have been living independently in the community helping others and continuing my recovery program with the assistance of Mental Health Connecticut and DMHAS in Waterbury.

NATURE AND SOURCES OF OPPOSITION:

None Submitted

Reported by: Beverley Henry

Date: 04/20/2018