



## WYOMING LEGISLATIVE SERVICE OFFICE

# Memorandum

**DATE** May 26, 2020  
**TO** Members, Joint Labor, Health and Social Services Committee  
**FROM** Elizabeth Martineau, Fiscal Analyst  
**SUBJECT** Joint Subcommittee to Review Title 25 Issues, 2015 and 2016, Summary

Wyoming Statutes Title 25, Chapter 10, Emergency Detention and Involuntary Hospitalization, provides the legal process where a police officer or authorized examiner may detain a person thought to be a danger to him or herself or to others, or who is unable to meet basic needs as a result of a mental illness. The costs associated with Title 25 and the fiscal responsibilities of counties and the State are articulated in statute.

Beginning in 2015, and continuing through the 2016 interim, the Legislature's Management Council authorized a joint subcommittee to review Title 25 issues (Subcommittee). The Subcommittee functioned as a taskforce with joint executive and legislative branch membership. The Subcommittee was directed to review involuntary hospitalizations with an emphasis placed on funding and system entry issues. As the Subcommittee could not sponsor legislation, it reported its findings and recommendations to the Management Council and, subsequently, the Joint Labor, Health and Social Services Committee.

### **2015 Subcommittee Report to Management Council (Attachment A)**

As found in its report to Management Council, the Subcommittee recommended legislation (16 LSO 132) that would have established a care alternative for patients in mental health crisis who do not require inpatient services at a mental hospital, created directed outpatient commitment, improved statutory law concerning convalesce leave, and better defined the responsibilities of the State and counties concerning the costs associated with the Title 25 process. The Subcommittee also requested to continue working through the 2016 interim to consider both using gatekeepers in the Title 25 program and the Department of Health's payment reform recommendations. During the 2016 Budget Session, the Joint Labor Committee successfully sponsored the legislation suggested by the Subcommittee, **2016 SF0058 Involuntary hospitalization and treatment (SEA No. 0056, 2016 Wyoming Session Law, Ch. 102)** (Attachment B).

### **2016 Subcommittee Report to Management Council (Attachment C, D, and E) <sup>1</sup>**

During the 2016 interim, the Subcommittee met and provided two, separate summaries of its work and recommendations to the Joint Labor Committee. During its last meeting of the interim, the Joint Labor Committee voted to sponsor **2017 SF0066 Title 25 payment obligations-federal entities (SEA No. 42, 2017 Wyoming Session Law, Ch. 109)** (Attachment F) and voted to *not* sponsor 17 LSO-195 Community mental health-payment reform during the 2017 General Session. In addition to the legislation sponsored by the Joint Labor Committee, during the 2017 session, the Legislature passed **2017 HB0156 Involuntary commitment-emergency detention amendments (2017 HEA No. 0064, 2017 Wyoming Session Law, Ch. 96)** (Attachment G), sponsored by Representative Barlow and Senator Peterson.

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<sup>1</sup> Attachment C, D, E, and F are the Subcommittee 2016 interim minutes. Of note, during its July 2016 meeting the Subcommittee discussed juvenile placements with the Department of Health, but the minutes contain limited details.



**JOINT SUBCOMMITTEE TO REVIEW TITLE 25 ISSUES**

# MEMORANDUM

**DATE:** December 9, 2015

**TO:** Speaker Kermit Brown, Chairman, Management Council  
President Phil Nicholas, Vice Chair, Management Council  
Members of Management Council

**FROM:** Senator Tony Ross, Co-Chairman, Joint Subcommittee to Review Title 25 Issues  
Representative Mary Throne, Co-Chairman, Joint Subcommittee to Review Title 25 Issues

**SUBJECT:** Title 25 Subcommittee Report to Management Council

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At its March 6, 2015 meeting, Management Council authorized the formation of a joint subcommittee to review issues related to Title 25 involuntary commitments. The minutes reflected the following action:

**JOINT SUBCOMMITTEE TO REVIEW TITLE 25 ISSUES**

Council authorized the formation of a joint subcommittee to review issues relating to Title 25 involuntary commitments, particularly funding and entry issues. The Executive branch will be invited to designate five members to participate with the joint subcommittee as a joint legislative/executive task force. The legislative subcommittee will be made up of two members each from the Joint Judiciary, Joint Labor, and JAC, plus two at-large members appointed by the President and Speaker. The executive branch will be asked to develop a proposed scope of work which will then be shared with the chairmen of the three designated committees. The chairmen will ask for volunteers to serve on the joint subcommittee and members will then be selected by the chairmen in consultation with the President and Speaker. The joint subcommittee will be authorized a budget of \$16,000 for expenses of the legislative members which will allow for four meetings.

Pursuant to Management Council's direction, a subcommittee was formed and, after receiving additional funding, the Subcommittee met four times during the interim. The members of the Subcommittee were: Senators Christensen, Ross, Peterson and Wasserburger, Representatives Barlow, Krone, Nicholas and Throne, Tom Forslund, Joshua Smith, Robin Sessions Cooley, David Monhollen and Wally Johnson. Senator Ross and Representative Throne were elected co-chairmen of the Subcommittee.

After studying a variety of Title 25-related issues, receiving testimony from a number of stakeholders and receiving public comment, the Subcommittee has developed two recommendations for Management Council's consideration:

**1) 16 LSO 132.9 –Treatment of mental illness.**

The Subcommittee recommends that Management Council consider sponsorship of legislation developed by the Subcommittee in the 2016 Budget Session. In the alternative, the Subcommittee recommends that the legislation be referred to the Joint Labor, Health and Social Services Interim Committee for consideration. The Joint Labor, Health and Social Services Interim Committee is scheduled to meet one more time this interim on January 7-8 in Cheyenne.

The legislation developed by the Subcommittee establishes a care alternative for patients in mental health crisis who do not require inpatient services at a mental hospital. The legislation creates directed outpatient commitment as a means of providing faster and better targeted services to patients who would benefit from the freedom of outpatient care. The legislation also improves statutory law concerning convalescent leave. Convalescent leave allows a patient who has been involuntarily committed to a Title 25 hospital to be released while being required to continue treatment. Finally, the legislation better defines the State's and County's responsibilities concerning the costs associated with the Title 25 process.

A copy of the proposed legislation is attached.

**2) Payment Reform / Gatekeepers**

During the interim, the Subcommittee received considerable testimony concerning the need for the Title 25 process to integrate gatekeepers. Gatekeepers could help assure the validity of the Title 25 commitment decision and monitor patient care after commitment. The Subcommittee also received a proposal from the Department of Health recommending a substantial modification to Wyoming's mental health services structure. Specifically, the recommendation proposed significant changes to Wyoming's funding of mental health services and the qualifications necessary for the receipt of government funded mental health services.

The Subcommittee believes that there is considerable merit to the use of gatekeepers in the Title 25 system and in the proposed funding and payment recommendations made by the Department of Health. These issues are complex, however, and the Subcommittee did not have the time or funding necessary to fully explore these issues this interim. For that reason, the Subcommittee recommends that Management Council reconstitute the Subcommittee during the 2016 interim for the limited purpose of considering gatekeeper and funding/payment issues. Further consideration of these issues would provide a more complete and necessary study of the factors that most significantly impact Wyoming's Title 25 system.

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FILE NO. SF0058

ENGROSSED

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AN ACT relating to hospitalization and treatment of mentally ill persons; modifying procedures for involuntary hospitalization; providing for directed outpatient commitment; amending convalescent status; providing for and modifying definitions; providing for access to patient records as specified; amending provisions relating to representation by the state and county of an involuntarily hospitalized or treated person; clarifying provisions relating to payment by the county for involuntary hospitalization and treatment; providing for the coordination of treatment and payment through gatekeepers as specified; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 25-10-110.1 and 25-10-128 are created to read:

**25-10-110.1. Directed outpatient commitment proceedings.**

(a) If the court finds based upon the recommendation of an examiner or on its own determination that the proposed patient is mentally ill but does not require inpatient hospitalization, the court shall consider issuing a directed outpatient commitment order. The court shall require directed outpatient commitment for the proposed patient for a period of time as determined appropriate by the court, not to exceed two (2) years with review by the court at least every six (6) months. The court may designate an outpatient care provider that will provide care to the proposed patient.

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(b) In considering whether directed outpatient commitment is appropriate, the court may consider one (1) or more of the following:

(i) The proposed patient is diagnosed as having a mental illness;

(ii) Without directed outpatient treatment, the proposed patient is likely to be dangerous to himself or others based upon noncompliance with prior medical directives;

(iii) The proposed patient is likely to suffer substantial medical or mental deterioration or become seriously disabled;

(iv) The proposed patient lacks present ability to make an informed decision concerning his need for treatment; or

(v) Any other information concerning the proposed patient's need for outpatient care.

(c) The terms and conditions of the treatment plan shall be established by an examiner in consultation with any gatekeeper designated by the department and approved by the court. In preparing the plan, the examiner shall consult with the county attorney, treating health care providers and the patient or the person responsible for the care and custody of the patient, if known.

(d) The treatment plan may require:

(i) Periodic reporting;

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(ii) Continuation of medication and submission to testing;

(iii) Restrictions on travel;

(iv) Restrictions on consumption of alcoholic beverages and drugs with requirements for any necessary testing;

(v) Use of community based group homes, crisis assistance centers or other available community based support services;

(vi) Temporary inpatient or residential treatment for stabilization;

(vii) Other conditions as agreed upon by the respective parties or as otherwise directed by the court.

(e) Treatment shall be provided by a treatment center or a court approved treatment provider.

(f) The treatment center or treatment provider or any other person identified in the treatment plan shall report to the county attorney and any gatekeeper designated by the department any material noncompliance by the patient with the treatment plan.

(g) By motion of an interested party or on its own motion, the court may revoke or modify the directed outpatient commitment if, after a hearing, the court finds by a preponderance of evidence that the patient violated any condition of the directed outpatient commitment order. If there has been a violation of the order, the court may modify the conditions of directed outpatient commitment,

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schedule an involuntary commitment hearing pursuant to W.S. 25-10-110, order any disposition for which private resources are available or order any disposition which is consistent with the best interests of the proposed patient and public safety.

(h) If a motion has been filed to modify or revoke the directed outpatient commitment, the court may enter an ex parte order for immediate detention of the patient if the court finds that the patient is a danger to himself or others. If the court enters an ex parte order of detention, the matter shall be set for hearing within seventy-two (72) hours. Notice of a hearing on a motion to modify or revoke the order for directed outpatient commitment shall be as provided in W.S. 25-10-110(d).

(j) The county attorney of the county where the directed outpatient commitment order is filed shall appear on behalf of the state at any hearing pursuant to this section.

**25-10-128. Access to patient information.**

Any disclosure of patient information required by this article shall be subject to limitations imposed by state and federal law. The department shall promulgate rules facilitating the exchange of information required by this article to the maximum extent allowed by state and federal law. At the discretion of the court considering a matter under this article, the court may order the disclosure of information required by this article. The court also may designate and direct the actions of a gatekeeper otherwise designated by the department under W.S. 25-10-112(g) for the purpose of allowing the gatekeeper access to patient information.

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**Section 2.** W.S. 25-10-101(a)(i), (ii) by creating a new subparagraph (D), (iv), (xiii), by creating new paragraphs (xiv) and (xvi) and by renumbering (xiv) as (xvii), 25-10-103, 25-10-104(a)(intro), (i) through (iv) and (vii), 25-10-109(e) through (j), 25-10-110(d)(intro), (v), (vi) and by creating a new paragraph (vii), (f), (h), (j)(intro), (i)(E), by creating a new paragraph (iii), by renumbering (iii) as (iv), (k), (n) and (o), 25-10-111(a) and (c), 25-10-112(c)(intro), (d)(intro), (g) and by creating new subsections (h) and (j), 25-10-116(a), 25-10-122(a)(intro), 25-10-127(a) through (c) are amended to read:

**25-10-101. Definitions.**

(a) As used in this act:

(i) "Court" means the district court which ordered detention, directed outpatient commitment or involuntary hospitalization of the person pursuant to this act, or the district court in the county where the person resides, is found or is hospitalized;

(ii) "Dangerous to himself or others" means that, as a result of mental illness, a person:

(D) While this definition requires evidence of recent acts or omissions of endangerment, either to self or others, a court may consider a person's mental health history in determining whether directed outpatient commitment or involuntary hospitalization is warranted.

(iv) "Examiner" means a licensed psychiatrist, a licensed physician, ~~an~~ a licensed advanced practice



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registered nurse, ~~with a clinical specialty in psychiatric and mental health nursing working in collaboration with a licensed physician, a licensed physician assistant,~~ a licensed psychologist, a licensed professional counselor, a licensed addictions therapist, a licensed clinical social worker or a licensed marriage and family therapist; ~~For purposes of emergency detention proceedings only, "examiner" includes a licensed physician's assistant;~~

(xiii) "Treatment" means diagnosis, evaluation, intervention, which may include psychiatric medication, individual and group mental health counseling, illness management diversion services such as immediate linkages to mental health services in the community and discharge planning. Treatment shall begin at the time of detention, if the person knowingly and voluntarily consents, and shall continue throughout involuntary hospitalization or directed outpatient commitment. Treatment may be given without the consent of the detained person or his parent or guardian when treatment is limited to diagnosis or evaluation or when treatment is necessary to prevent immediate and serious physical harm to the person or others. "Treatment" does not include observation or supervision;

(xiv) "Treatment center" or "treatment provider" means as defined by department rule;

(xvi) "Gatekeeper" means the single point of responsibility which may be designated by the department pursuant to W.S. 25-10-112(g);

~~(xiv)~~ (xvii) "This act" means W.S. 25-10-101 through 25-10-305.

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**25-10-103. Admission of persons with mental illness to hospital or treatment center.**

Subject to the rules and regulations of the hospital department, ~~the head of~~ a hospital or any other treatment provider providing treatment under this act may admit persons who have symptoms of mental illness ~~pursuant to W.S. 25-10-106, 25-10-109 or 25-10-110~~ for treatment in their hospital or treatment center.

**25-10-104. Duties of department of health as to hospitals other than state hospital.**

(a) The department, with respect to designated hospitals or other ~~licensed~~ treatment facilities providers other than the state hospital, shall:

(i) Adopt standards for the designation of hospitals or other licensed treatment ~~facilities providers~~ as qualified to accept patients and provide treatment under this act;

(ii) Designate hospitals or other licensed treatment ~~facilities providers~~ which qualify ~~under the standards adopted pursuant to paragraph (i) of this subsection~~ to provide services under this act;

(iii) Enter into contracts or agreements with designated hospitals or other ~~licensed~~ treatment facilities providers for the ~~inpatient~~ treatment of persons patients with mental illness; ~~and other services incident to the hospitalization of patients. Designated hospitals or other licensed treatment facilities having a contract with the department shall receive individuals detained under W.S. 25-10-109;~~

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(iv) Require ~~reports~~information from designated hospitals and other ~~licensed~~treatment facilities~~providers~~ concerning the services rendered to patients under the provisions of this act;

(vii) Promulgate rules and regulations for the administration of this act, including rules regarding reimbursement under W.S. 25-10-112.

**25-10-109. Emergency detention.**

(e) The law enforcement officer or examiner who initially detained the person shall make a written statement of the facts of the emergency detention. A copy of the statement shall be given to the detained person, to any gatekeeper designated by the department and to any subsequent examiner.

(f) When a person is detained under emergency circumstances, treatment may be given during the emergency detention period if the person voluntarily and knowingly consents. The parent or guardian of a minor or incompetent person may consent to treatment. If the parent or guardian of a minor patient does not consent to treatment, a petition may be filed under the Child Protection Act. Treatment may be given without the consent of the detained person or his parent or guardian when treatment is limited to diagnosis or evaluation or when treatment is necessary to prevent immediate and serious physical harm to the person or others. Prior to treatment, the person shall be fully advised of the scope of treatment, and a report of the treatment shall be provided to any gatekeeper designated by the department and filed with the court if directed outpatient commitment or involuntary

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hospitalization proceedings are commenced. An examiner or a physician who provides treatment in good faith pursuant to this subsection shall be immune from civil liability for the treatment except there shall be no immunity from liability for negligent acts or deliberate misconduct.

(g) At the time of emergency detention the person shall be informed orally and in writing of his right to contact his family and an attorney, of his right to appointed counsel if he is indigent, of his right to remain silent and that his statements may be used as a basis for directed outpatient commitment or involuntary hospitalization.

(h) When a person is detained in emergency detention and an application for directed outpatient commitment or involuntary hospitalization is filed by the county attorney, the court shall appoint an attorney to represent the detained person unless he has his own attorney, and the court shall conduct a hearing within seventy-two (72) hours, excluding Saturdays, Sundays and legal holidays, of the initial detention to determine whether continued detention is required pending directed outpatient commitment or involuntary hospitalization proceedings. The county attorney of the county where the application is filed shall appear on behalf of the state at the hearing. Any gatekeeper designated by the department pursuant to W.S. 25-10-112(g) shall appear at the hearing and provide testimony concerning continued detention and, if applicable, the issues outlined in subsection (m) of this section. Notice of the preliminary hearing shall be given to the county attorney, any gatekeeper designated by the department, the detained person and his attorney. The court may delay the hearing only at the request of the detained person or his parent, guardian or his attorney. An

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emergency detention hearing may be waived at the request of the detained person or the detained person's attorney.~~;~~  
~~except in cases where a licensed physician's assistant was the only examiner for the emergency detention.~~ If an emergency detention hearing has been waived, the court may immediately conduct the directed outpatient commitment or involuntary hospitalization hearing.~~;~~  
~~provided that a licensed physician's assistant shall not be the examiner for an involuntary hospitalization hearing.~~

(j) At the hearing the court shall advise the detained person and his parent, guardian or attorney of the contents of the written statement of emergency detention required in subsection (e) of this section and the application for directed outpatient commitment or involuntary hospitalization.

**25-10-110. Involuntary hospitalization proceedings.**

(d) Upon receipt of an application, the court shall issue notice thereof to the proposed patient, the person responsible for the care or custody of the proposed patient, any gatekeeper designated by the department and other persons designated by the court. The notice shall be served as provided by the Wyoming Rules of Civil Procedure. The notice shall apprise the proposed patient:

(v) Of the basis for the proposed hospitalization, including a detailed statement of the facts and supporting testimony;~~and~~

(vi) That a hearing will be held if warranted by the report of the examination of the proposed patient;~~;~~ and

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(vii) Of the identity of any gatekeeper designated by the department pursuant to W.S. 25-10-112(g).

(f) If the examiner reports the proposed patient is not mentally ill, the court shall terminate the proceedings. If the examiner reports the proposed patient is mentally ill, the court shall fix a date for and give notice of a hearing to be held as soon as possible. The notice shall satisfy the requirements of paragraphs (d)(i) through ~~(vi)~~ (vii) of this section.

(h) The proposed patient, the applicant, and all others to whom notice is required may appear at the hearing to testify and may present witnesses. The court shall consider the testimony of any gatekeeper designated by the department and may receive the testimony of other persons. The proposed patient shall be present at the hearing unless he waives his right to appear. All persons not necessary to protect the rights of the parties shall be excluded from the hearing. The hearing shall be conducted in as informal a manner as is consistent with orderly procedure and in a physical setting which will not have a harmful effect on the mental health of the proposed patient. Any hearing conducted under this subsection shall be recorded by the court reporter or by electronic, mechanical or other appropriate means.

(j) If, upon completion of the hearing and consideration of the record, the court or the jury finds by clear and convincing evidence that the proposed patient is mentally ill the court shall consider the least restrictive and most therapeutic alternatives, give consideration to any recommendations by the gatekeeper and shall:

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(i) Order his hospitalization, assign him to a hospital, and:

(E) Make findings as to his competence to make informed choices regarding treatment and his need for prescribed psychotropic medication. If the court finds the person incompetent to make an informed decision, the court may order the administration of prescribed psychotropic medication. The order for medication shall be reviewed by a physician upon commitment and by a psychiatrist upon admission to the hospital. The prescribed medication shall be continued if found medically appropriate by the investigation review committee of the hospital or institution, subject to review by the medical director of the hospital or institution. Any action by the medical director of the hospital or institution shall be reviewable pursuant to the Wyoming Administrative Procedure Act. All orders for prescribed medication or a summary of all orders shall be provided to the gatekeeper designated by the department under W.S. 25-10-112(g).

(iii) Order the proposed patient be treated in a directed outpatient commitment pursuant to W.S. 25-10-110.1 if the court finds continuous inpatient hospitalization is not required and the proposed patient would be more appropriately treated in a directed outpatient commitment; or

~~(iii)~~ (iv) Order any disposition for which private resources are available and which is consistent with the best interests of the proposed patient and with public safety.

(k) The court is authorized to appoint a special commissioner to assist in the conduct of hospitalization

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proceedings. In proceedings under this act, regularly appointed court commissioners may exercise the authority granted by W.S. 5-3-307. In any case in which the court refers an application to the commissioner, the commissioner shall conduct the directed outpatient commitment under W.S. 25-10-110.1 or the involuntary hospitalization proceedings under this section and on the basis thereof shall either recommend dismissal of the application or hold a hearing as provided in this section and make recommendations to the court regarding the disposition of the proposed patient and of the proceedings.

(n) The court shall inquire into the medical condition of every patient found to be mentally ill. If the court determines based upon the advice of a physician or other qualified professional, and in consultation with any gatekeeper designated by the department pursuant to W.S. 25-10-112(g), that the patient's present primary need is for medical treatment or care and whose need for psychiatric care is secondary, the court may delay ordering ~~the commitment~~ directed outpatient commitment or involuntary hospitalization of the patient ~~to the Wyoming state hospital~~ until such time as the patient receives medical care and the patient's need for psychiatric care is primary.

(o) In proceedings under this section involving a minor, the ~~department~~ court shall, to the extent feasible, consult with the minor's parents or legal guardian.

**25-10-111. Commitment or transfer to federal hospital; effect of orders by courts of other jurisdictions; powers of federal facility.**



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(a) The court, when ordering involuntary hospitalization pursuant to W.S. 25-10-110(j), may order a person hospitalized in a hospital or facility operated by the veterans' administration or another federal agency, if the court has received a certificate from the agency showing that facilities are available and that the patient is eligible for treatment therein.

(c) Upon receipt of a certificate from the veterans' administration or another federal agency that facilities are available for treatment of a patient involuntarily hospitalized under W.S. 25-10-110 and that the patient is eligible for treatment therein, the head of a hospital may transfer the patient to the veterans' administration or other federal agency for treatment. The court which ordered involuntary hospitalization shall be notified of the transfer by the hospital. No person shall be transferred if he is confined pursuant to a conviction for a crime or if he has been acquitted of a criminal charge solely on the ground of mental illness or deficiency, unless, prior to the transfer, the court which committed the person enters an order for the transfer after appropriate motion and hearing.

**25-10-112. Liability for costs of detention, involuntary hospitalization and proceedings therefor.**

(c) The county shall pay for the first seventy-two (72) hours as provided in subsection (a) of this section even if the patient waives the hearing required under W.S. 25-10-109 and proceeds to voluntary outpatient treatment, directed outpatient commitment or involuntary hospitalization proceedings. Subject to the provisions of subsections (d) and (e) of this section, if continued emergency detention is ordered pursuant to W.S.

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25-10-109(k)(iii), the county's liability for any costs of detention, treatment or transportation shall terminate after the first seventy-two (72) hours of detention, in addition to any Saturday, Sunday or legal holiday. The department shall be responsible for those costs after the expiration of the county's responsibility for payments of the costs. ~~The county attorney shall notify the department of the continued emergency detention order or involuntary hospitalization order within twenty-four (24) hours.~~ All costs of treatment, transportation and continued emergency detention incurred after the first seventy-two (72) hours of detention, in addition to any Saturday, Sunday or legal holiday, shall be paid by:

(d) The hospital or other treatment provider shall attempt to recover all costs of treatment from public and private health insurance, ~~from patients,~~ and from government benefit programs prior to seeking payment from the county or the department. The hospital or other treatment provider shall have discharged its obligation to recover costs under this subsection if it:

(g) The department in consultation with each board of county commissioners may establish a single point of responsibility to identify, make referrals to, intervene and coordinate with community or regional resources prior to and after an emergency detention. The single point of responsibility may be assigned to a community mental health center, designated hospital or other entity that is able to provide treatment as defined under this act or gatekeeper. Gatekeeper duties shall include, but are not limited to, providing guidance on issues of detention and involuntary treatment and monitoring and coordinating timely, efficient and effective patient treatment prior to, during and after any emergency detention or involuntary treatment under this

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act. No gatekeeper designated under this subsection shall provide inpatient psychiatric treatment to patients under this act, unless the gatekeeper has been approved by the department of health to provide these services.

(h) The county attorney shall notify the department and any gatekeeper of any detention, continued emergency detention order, directed outpatient commitment or involuntary hospitalization order within twenty-four (24) hours.

(j) The department, boards of county commissioners, designated hospitals, gatekeepers and other treatment providers may, upon contract or agreement, coordinate and monitor the services and payments required for the treatment of persons with mental illness as provided under this section. Pursuant to contract or agreement, the department may assume any part of the expenses associated with a gatekeeper which expenses would otherwise be the responsibility of a county under this act, including expenses for the transportation of patients to appropriate care settings.

**25-10-116. Periodic examinations of patients; determination of discharge or continued hospitalization; notice; hearing.**

(a) Three (3) months after each patient's admission to the hospital, the head of the hospital shall evaluate the progress of each patient and shall reevaluate the treatment and progress every six (6) months thereafter. The evaluation shall consider whether directed outpatient commitment is appropriate.

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**25-10-122. Records to be kept confidential;  
exceptions.**

(a) Records and reports made under this act which directly or indirectly identify a patient, a former patient or an individual for whom an application for directed outpatient commitment or involuntary hospitalization has been filed, shall be confidential and shall not be disclosed by any person unless:

**25-10-127. Convalescent status; discharge;  
readmittance.**

(a) After providing ~~fourteen (14) days~~ notice to the court, ~~and the~~ county attorney who initiated involuntary hospitalization procedures, any gatekeeper designated by the department and all interested parties, the hospital may release an improved patient on convalescent ~~status~~. ~~Release on convalescent status shall include a plan of treatment on an outpatient or nonhospital basis and other provisions for continuing responsibility to and by the hospital. Prior to the end of one (1) year on convalescent status, and not less than annually thereafter, the hospital shall reexamine the facts relating to the hospitalization of the patient on convalescent status and if the hospital determines hospitalization is no longer anticipated, the hospital shall discharge the patient and make a report of discharge to the court and county attorney involved in ordering the hospitalization, if any. leave subject to the following:~~

(i) The hospital has determined that the patient is likely to follow the conditions the hospital determines necessary for the patient;

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(ii) The hospital has determined that the patient will not likely be a danger to himself or others during convalescent leave; and

(iii) Release on convalescent leave shall include a plan of treatment on an outpatient or nonhospital basis and other provisions for continuing responsibility of the patient by the hospital. Prior to the end of one (1) year on convalescent leave, and not less than annually thereafter, the hospital shall reexamine the facts relating to the hospitalization of the patient on convalescent leave and if the hospital determines hospitalization is no longer anticipated, the hospital shall discharge the patient and make a report of discharge to the court, to any gatekeeper designated by the department and to the county attorney who initiated procedures for the involuntary hospitalization.

(b) The hospital from which the patient is given convalescent ~~status—leave~~ may readmit to the hospital ~~an~~ the involuntary hospitalized patient who has been released on convalescent ~~status—leave~~ if the hospital reasonably believes that it is in the best interests of the patient. The ~~person—patient~~ readmitted shall have all the rights he had upon admission to the hospital. Upon readmission he shall be given notice of his rights pursuant to W.S. 25-10-116. It is the responsibility of the hospital to provide or pay for any transportation or other services in connection with any revocation of a convalescent status.

(c) The hospital shall discharge any patient who has remained on convalescent ~~status—leave~~ for a period of two (2) continuous years.

**Section 3.** W.S. 25-10-104(a)(v), 25-10-110(j)(ii) and 25-10-112(d)(i) are repealed.

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FILE NO. SF0058

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**Section 4.** This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk

Draft Only  
Approval Pending  
**SUMMARY of  
PROCEEDINGS**



**JOINT SUBCOMMITTEE ON TITLE 25 ISSUES**

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**SUBCOMMITTEE MEETING INFORMATION**

**July 7, 2016**

**8:30 a.m.**

**3001 E. Pershing Blvd.**

**Cheyenne, WY**

**SUBCOMMITTEE MEMBERS PRESENT**

Senator Tony Ross, Cochair

Representative Mary Throne, Cochair

Senator Leland Christensen

Senator Jeff Wasserburger

Representative Eric Barlow

Representative Sam Krone

Representative Bob Nicholas

Travis Becker

Ed Buchanan

Robin Sessions Cooley

Thomas Forslund

Lou Hochheiser

**MEMBERS NOT PRESENT**

Senator Ray Peterson

**LEGISLATIVE SERVICE OFFICE STAFF**

Ian Shaw, Attorney

Samantha Mills, Program Evaluator

**OTHERS PRESENT AT MEETING**

Please refer to [Appendix 1](#) to review the Subcommittee sign-in sheet for a list of other individuals who attended the meeting.

*The Subcommittee Meeting Summary of Proceedings (meeting minutes) is prepared by the Legislative Service Office (LSO) and is the official record of the proceedings of a Subcommittee meeting. This document does not represent a transcript of the meeting; it is a digest of the meeting and provides a record of official actions taken by the Subcommittee. All meeting materials and handouts provided to the Subcommittee by the Legislative Service Office, public officials, lobbyists, and the public are on file at the Legislative Service Office and are part of the official record of the meeting. An index of these materials is provided at the end of this document and these materials are on file at the Legislative Service Office. For more information or to review meeting materials, please contact the Legislative Service Office at (307) 777-7881 or by e-mail at [lso@wyoleg.gov](mailto:lso@wyoleg.gov). The Summary of Proceedings for each Subcommittee meeting can be found on the Wyoming Legislature's website at [www.wyoleg.gov](http://www.wyoleg.gov).*

## **EXECUTIVE SUMMARY**

The Subcommittee heard testimony and received information relating to the Title 25 involuntary commitment system, including information on the expanding costs of the system, payment reform for community mental health and substance abuse centers, payment obligations in the system, and the use of gatekeepers. The Subcommittee received an update on Title 7 criminal placements which impact the availability of Title 25 facilities. The Subcommittee also received an update from the Department of Health on the implementation of 2016 Wyo. Session Law, Ch. 102 ("2016 SF 58") related to directed outpatient commitment. The public provided testimony.

## **CALL TO ORDER**

Co-chair Throne called the meeting to order at 8:36 a.m. The following sections summarize the Subcommittee's proceedings by topic. Please refer to [Appendix 2](#) to review the Subcommittee's meeting agenda.

## **REVIEW MANAGEMENT COUNCIL DIRECTION AND AUTHORIZING LEGISLATION**

LSO staff provided an explanation of Management Council's directive to the Subcommittee and reviewed additional guidance contained in a footnote to the Department of Health's budget in the Budget Bill. See [Appendix 3](#). Thirty thousand dollars (\$30,000.00) has been appropriated to the Subcommittee.

## **UPDATE ON STATUS AND EXPENDITURES IN THE TITLE 25 SYSTEM**

Stefan Johansson, Department of Health, provided updated data on Title 25 system costs and utilization. The information he presented is included in [Appendix 4](#). Appendix 4 includes information regarding Title 25 spending, the number of involuntary hospitalization orders, county specific involuntary hospitalizations, historical data, Title 25 costs by provider, and average length of stay data for the Wyoming State Hospital. Mr. Johansson discussed potential short and long-term solutions to Title 25 system cost overruns, no one of which will provide a complete fix. The Department projects a biennium funding shortfall for the state's funding obligations in the Title 25 system of \$12,929,144. The Subcommittee expressed its desire for as much detailed information as possible on factors which impact costs. The Department stated that more detailed data will be available within approximately six months as the result of a new reporting system that will be implemented on August 1, 2016.

## **REVIEW OF 2016 SF 58 – INVOLUNTARY HOSPITALIZATION / TREATMENT**

Mr. Johansson presented information regarding the implementation of 2016 Wyo. Session Laws, Ch. 102, 2016 SF 58-Involuntary hospitalization and treatment, which passed last legislative session ("2016 SF 58"). See [Appendix 4 and 5](#). The legislation created a new process by which a court can order "directed outpatient commitment," a new type of involuntary commitment that does not require inpatient hospitalization. Among other things, the legislation also allows the Department of Health to appoint gatekeepers to participate at all stages of the Title 25 process, amends payment obligations, clarifies and improves provisions related to convalescent leave and updates language regarding designated hospitals.



The Department of Health is preparing to implement directed outpatient commitment through new rules, an initial draft of which is being circulated to stakeholders. Existing community mental health and substance abuse centers likely will provide outpatient services at first, since it is unclear how other care providers would be paid by the Department.

Because the gatekeeper provisions of 2016 SF 58 are permissive, the Department of Health is developing a pilot program that should begin August 1, 2016. The pilot program was delayed because of the recent efforts to structure significant budget cuts within the Department of Health. Currently, the Department is working with Natrona County as an initial site for the pilot project. Other counties have been contacted to participate in the project. Subcommittee member Travis Becker indicated that Fremont County may be a proper site for a pilot program.

Mr. Johansson stated that the Department of Health will issue policy guidelines to courts, treatment providers, counties and other stakeholders regarding gatekeepers. The Department has submitted an application for a federal grant for directed outpatient infrastructure development which would provide \$1 million per year. Formal and permanent rules for gatekeepers will be developed based on the Department's experience with the pilot projects. The Subcommittee suggested that the Department educate the judiciary and stakeholders on the availability of directed outpatient commitment and the function of gatekeepers.

#### **PUBLIC COMMENT**

Campbell County Deputy Attorney, Carol Segar, suggested that Title 25 is a legal procedure that may not need additional amendment. Facility capacity and available resources are the main issues. She believes few patients will qualify for directed outpatient commitment and that it is unclear who will provide enforcement services. She believes good community resources prevent large numbers of patients in Campbell County from going into the Title 25 process. She will provide the Subcommittee with a chart of county detainees and their outcomes.

Madeline and Malcom Gray discussed their experience and frustration with the current mental health system in Wyoming. They have been unable to have Mr. Gray's brother involuntarily committed despite circumstances which clearly demand his need for treatment and commitment.

Brandon Wardell, CEO of Wyoming Counseling Center, provided a summary of the gatekeeping and Title 25 efforts Natrona County has undertaken since passage of 2016 SF 58. The county intends to initiate a pilot project which coordinates care for the top five service utilizers in the county, and then expands in additional sets of 5, as available. A gatekeeper, court liaison and 24-hour examiner will be used. Once fully operational, the process could require \$1.2 million in annual funding.

Mark Russler, Director of Yellowstone Behavior in Park County and Cloud Peak in Washakie County, supports the implementation of 2016 SF 58. He particularly supports use of convalescent leave and the new directed outpatient commitment option. Repeat patients are sometimes particularly well suited for this type of treatment. He also believes crisis stabilization is a valuable option which reduces a patient's time in crisis and, therefore, reduces costs. He

believes better discharge planning at designated hospitals would greatly improve the Title 25 system.

## **TITLE 7 – CRIMINAL PLACEMENTS / SERVICES**

Mr. Johansson and Cari Cuffney, Department of Health, presented an overview of Title 7 of the Wyoming Statutes which guides the operation of criminal law against suspects who may have psychological deficits. Ms. Cuffney discussed Title 14, Chapter 7 which guides mental evaluations for minors. Ms. Cuffney presented the information contained in [Appendix 6](#), including information about mental examinations related to criminal prosecutions and claims of mental incompetency. She explained shortages in the facilities available to offer the services required by Title 7, particularly since evidence indicates that the number of court orders requiring mental examinations is increasing. The Department typically must request from a court at least one extension of time in which to perform an ordered examination. Courts in other parts of the country have found that there are legal limits to how long a criminal defendant can be made to wait for a court ordered mental examination.

The Department of Health has recently implemented a new data collection system to better collect data regarding Title 7 utilization and to make the system more efficient. The new system includes the implementation of an electronic cue and an electronic means of tracking reports and evaluations as they become due. The Subcommittee suggested that the data be analyzed to determine what portion of available resources are being spent on defendants charged with minor crimes.

## **JUVENILE PLACEMENTS**

The Department of Health provided information about past problems with the handling of juvenile mental health cases. These problems have been addressed and there appear to be no current issues that must be handled apart from those issues facing the entire Title 25 system. Mr. Johansson agreed to review existing data to determine if it indicates the percentage of minors evaluated for psychological problems who eventually enter the adult Title 25 system.

## **COMMUNITY MENTAL HEALTH AND SUBSTANCE ABUSE CENTERS - PAYMENT REFORM**

Mr. Johansson discussed state funding for community mental health and substance abuse centers. The Department is working toward a revised funding model for the centers which will be implemented in July 2017. The proposed revised model would move away from general access treatment toward a system which would prioritize treatment for those in highest need and those who are creating the largest, avoidable costs in the mental health system. Mr. Johansson discussed the information and proposed funding modifications contained in [Appendix 7](#). The revised funding model is like that proposed to the Subcommittee during the Subcommittee's November 20, 2015 meeting, fully described in the minutes of that meeting. The revised funding model also was summarized for the Joint Labor, Health and Social Services Interim Committee at its April 28-29, 2016 meeting, as indicated in the minutes for that meeting.

The Department is currently working with various stakeholders to determine how the revised funding model should be implemented. Workgroups have been created to address individual issues. The Department does not want to shock the community mental health system with changes that are too sweeping.

The changes proposed by the Department include use of the Medicaid data system as a means of processing claims. This will allow significant enhancements in the processing and payment of claims as well as the collection of detailed data. Training will be provided to all groups that are required to submit claims under the new system. The new system will identify those patients who qualify for Medicaid assistance and, therefore, may reduce the expenditure of state general funds.

The recent budget cuts, which have affected provider reimbursement and program operations, are a concern to community mental health and substance abuse centers. The centers have informed the Department that they believe the payment reform and budget cuts should not be implemented in the same year.

Although the reformed funding system will not be operational before the Subcommittee's next meeting in August, the Department agreed to outline to the Subcommittee those statutory changes that will be necessary for operation of a revised funding system at the October meeting.

#### **PUBLIC COMMENT**

Erin Johnson, Wyoming Association of Mental Health and Substance Abuse Centers (WAMHSAC), and Deidre Ashley, Jackson Hole Community Counseling, cautioned against implementing budget cuts and payment reform in one year. Ms. Ashley described how the current system does provide for the prioritization of clients. Less funding may mean that some clients do not receive services.

Jodi Darrough, Deputy Fremont County Attorney, discussed various changes that could be made to the Title 25 system. She will talk with members of the County Attorneys' Association and provide LSO with a more specific proposal. Her proposed changes address transportation issues, county payment obligations during the first 72 hours of care, and better statutory guidance on when a patient becomes "involuntary."

Director Forslund asked that Fremont County put together a coalition to talk about Title 25 challenges and the high number of patients that come from Fremont County. The Department of Health will provide assistance and expertise and would be happy to attend any coalition meetings. The Subcommittee supported this request.

#### **TITLE 25 PAYMENT OBLIGATIONS – W.S. 25-10-112**

The Subcommittee reviewed revised payment obligations under W.S. 25-10-112. Mr. Johannsson stated that 16 SF 58 amended W.S. 25-10-112 and that payment can no longer be sought from a patient who is involuntarily committed.

**NEXT MEETING**

The Subcommittee will next meet on August 30<sup>th</sup> in Cheyenne. At this meeting, the Subcommittee may consider the Department of Health's recommendations for statutory changes concerning community mental health and substance abuse center funding reform. The Subcommittee also may consider Title 25 system improvement suggestions from Fremont County.

**MEETING ADJOURNMENT**

There being no further business, the meeting adjourned at 3:12 p.m.

Respectfully submitted,

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Representative Mary Throne, Chairman

# Subcommittee Meeting Materials

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| Appendix | Agenda Item  | Appendix Description  | Appendix Provider            |
|----------|--|---|------------------------------|
| 1        | Sign-In Sheet  | Lists meeting attendees   | Legislative Service Office   |
| 2        | Meeting Agenda   | Provides an outline of the topics the subcommittee planned to address at meeting                | Legislative Service Office   |
| 3        | Management Council Directives and Authorizing Legislation  | 2016 Budget Bill, Section 048 footnote and Management Council directives                        | Legislative Service Office   |
| 4        | Title 25 Status and Expenditures / Review and Implementation of 16 SF 58 / CMMSA Center Funding and Payment Reform | Department of Health Power Point presentation   | Wyoming Department of Health |
| 5        | Review and Implementation of 2016 SF 58  | 2016 LSO 58-Involuntary hospitalization / treatment   | Wyoming Department of Health |
| 6        | Title 7 Criminal Placements/Services   | Wyoming Department of Health Title 7 overview presentation                                      | Wyoming Department of Health |
| 7        | CMHSAC-Funding - Payment Reform  | Wyoming Department of Health overview presentation – graphical representation of funding reform | Wyoming Department of Health |

**Draft Only**  
**Approval Pending**  
**SUMMARY of**  
**PROCEEDINGS**



**JOINT SUBCOMMITTEE ON TITLE 25 ISSUES**

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**SUBCOMMITTEE MEETING INFORMATION**

**August 30, 2016**

**8:30 a.m.**

**3001 E. Pershing Blvd.**

**Cheyenne, WY**

**SUBCOMMITTEE MEMBERS PRESENT**

Senator Tony Ross, Co-chair

Representative Mary Throne, Co-chair

Senator Ray Peterson

Senator Jeff Wasserburger

Representative Bob Nicholas

Travis Becker

Robin Sessions Cooley

Thomas Forslund

Dr. Lou Hochheiser

**MEMBERS NOT PRESENT**

Senator Leland Christensen

Representative Eric Barlow

Representative Sam Krone

Ed Buchanan

**LEGISLATIVE SERVICE OFFICE STAFF**

Ian Shaw, Attorney

Samantha Mills, Program Evaluator

**OTHERS PRESENT AT MEETING**

Please refer to **Appendix 1** to review the Subcommittee sign-in sheet for a list of other individuals who attended the meeting.

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## EXECUTIVE SUMMARY

The Subcommittee heard testimony and received data and information from the Wyoming Department of Health relating to the Title 25 involuntary commitment system, including information on payment reform for community mental health and substance abuse centers, payment obligations in the Title 25 system, and an update on the promulgation of rules and regulations. Additionally, the Subcommittee received an update on Title 7 criminal placements. The Subcommittee also received proposals for legislative changes for the 2017 Session and passed a motion to draft legislation related to payment from the Veteran's Affairs Administration and other federal entities for Title 25 treatment.

## CALL TO ORDER

Co-chair Ross called the meeting to order at 8:37 a.m. The following sections summarize the Subcommittee's proceedings by topic. Please refer to [Appendix 2](#) to review the Subcommittee's meeting agenda.

## APPROVAL OF THE MINUTES

The Subcommittee approved the minutes from its meeting on July 7, 2016, without changes.

## TITLE 25 DATA- SUMMARY REVIEW

Stefan Johansson, Department of Health ("Department"), provided an update on the data available for Title 25 analysis. His PowerPoint presentation is in [Appendix 3](#). Mr. Johansson discussed the data available on Title 25 patients and on utilization of the Title 25 system. He noted the limitations to each data set. For example, he highlighted a lack of access to county level data and the problem of accessing proprietary data owned by designated hospitals. Related to community mental health and substance abuse centers, Mr. Johansson stated that there is data available about their services and utilization, but there are concerns regarding data integrity and only limited cost and claim data is available. Mr. Johansson provided a summary of utilization review data that is available through the Department's third-party contractor. Utilization review is currently taking place at the State Hospital and at designated hospitals. The Department will provide the Subcommittee with a summary of the utilization results and will attempt to determine if high utilizers exist. If they do exist, the Department of Health will attempt to determine some of their characteristics. The Department also will provide the Subcommittee with information concerning the average length of stay at each designated hospital. The Subcommittee understands that there may be some inaccuracies in the data used to construct final numbers.

Mr. Johansson informed the Subcommittee that the Department of Health implemented its new billing system for Title 25 on August 1, 2016. The new system is a Chart B Medicaid claims reporting system that will provide significantly more detailed information than has previously been available. With this new system, and the data it provides, there is opportunity to leverage federal funds and lessen the burden on state general funds by identifying federal pay sources. Other data available through the new system is listed within the presentation. Mr. Johansson explained that the first meaningful data will be available from the system in mid-September. The Department hopes to use this data to help move from a fee for service payment model to a model that identifies and addresses true costs.

Mr. Johansson next provided a document titled "The Department of Health's Title 25 cost projections: Modeled cost growth." See [Appendix 4](#). The document shows that, assuming all conditions remain the same, the Title 25 system will have a projected cost of \$23 to \$24 million in the upcoming biennium.

The Subcommittee asked the Department to review Natrona and Sweetwater county data to determine any discoverable reasons for the high-level costs in those areas. Mr. Johansson testified that there likely are a number of reasons for the high costs in those counties. However, several years ago there was an increase in cases in those areas that coincided with the creation of a new statutory criteria allowing a mentally ill person who has an "inability to care for self" to enter the Title 25 system. Additional study needs to be done to determine if there is any correlation.

## **PAYMENT REFORM**

Stefan Johansson and Chris Newman, Department of Health, provided an update on progress made by the Department of Health related to community mental health and substance abuse center payment reform. Their presentation is contained in [Appendix 5](#). Mr. Johansson started by assuring the Subcommittee that the Department has not accelerated the reform process or otherwise stopped working with stakeholders and its working groups to help shape the reform. At the Subcommittee's request, the Department outlined its proposed reform and drafted broad legislation that would authorize the reform. The Department wants to assure stakeholders that the reform is not moving forward without them.

Community mental health and substance abuse centers ("Centers") currently prioritize certain, high acuity patients. However, that does not translate into the payment side, which pays for services to any patient equally. As discussed last interim and at the Subcommittee's July meeting, the proposed payment reform would realign payment to encourage prioritization of higher acuity patients. The proposed payment reform is similar to that previously discussed, but with more detail and the inclusion of two phases, which allows a slower, but more complete and innovative reform. As more fully described in the presentation materials, Phase I of the reform would impose some new patient eligibility criteria and limited payment changes, but would be primarily intended to produce significant and important data that could be used to design a more comprehensive, effective, and fair reform in Phase II. Phase I would be implemented no earlier than fiscal year 2018. Ultimately, Phase II would include a system that would include bundled or capitated payments, mimic managed care and which would pay Centers according to defined performance parameters, centered around the success of each patient. When asked about stakeholder input and stakeholder willingness to move into a phase II-type reform, Mr. Johansson explained that workgroups have supported aggressive and innovative reforms. The details, however, still need to be solidified.

Mr. Johansson provided a short summary of the Department of Health's proposed legislative changes for the 2017 General Session, as provided in [Appendix 6](#). The legislation is broad and identifies larger goals and outcomes that the Department is required to accomplish. It is based on a Medicaid reform bill (2013 SF 60) which was passed by the Legislature in 2013. Although the Subcommittee requested that the Department prepare the proposed legislation, Mr. Johansson explained that the Department is not ready to proceed with payment reform at this time. After discussion, the Subcommittee agreed that the legislation is likely premature. The Subcommittee did ask that LSO place the legislation into an official LSO form.

Co-chair Ross asked for public comment. Ms. Susan Campbell, legal counsel for Sweetwater County Memorial Hospital, offered to provide Sweetwater County's county-level Title 25 data to the Subcommittee. She also summarized Sweetwater County's efforts related to Title 25. The County did place two psychiatrists on its hospital staff at approximately the same time that the county saw significant increases in its Title 25 utilization. She believes this might partially explain the increase in utilization.

Erin Johnson and Mark Russler, representing the Wyoming Association of Mental Health and Substance Abuse Centers, expressed concerns with the Department of Health's proposed legislation. They believe



the legislation is premature and requested more time to work on payment reform. Mr. Russler testified that payment reform does not address increases in Title 25 utilization or other core problems. If given more time, he believes that the workgroups who are currently working with the Department of Health may be able to accomplish payment reform without legislation. He testified that, no matter what reforms are adopted, they will not stop Title 25 budget shortfalls because the system is significantly underfunded.

Eric Boley, Wyoming Hospital Association, expressed concerns with small communities being able to provide infrastructure and community outreach to patients under the Phase I and Phase II changes discussed by the Department of Health. He also noted that the State does not have sufficient capacity for its Title 25 population.

Jeff Rice, Behavioral Health at Campbell County Hospital, expressed concerns with the ability of community-based centers to provide service to those suffering severe and violent mental illness. He noted that the gatekeeper concept will only work if good providers are available in the communities.

### **TITLE 25 PAYMENT OBLIGATIONS – W.S. 25-10-112**

Robin Session Cooley discussed the need to bill Title 25 treatment to the Veteran's Administration ("VA") for patients who qualify for VA benefits. She provided suggestions for legislative changes to W.S. 25-10-111 and W.S. 25-10-112, included in [Appendix 7](#). The Subcommittee approved a motion to have a bill drafted consistent with the language proposed by Ms. Cooley.

### **IMPLEMENTATION OF 2016 SF 58 – INVOLUNTARY HOSPITALIZATION/TREATMENT**

Mr. Johansson presented an update regarding the implementation of 2016 Wyo. Session Laws, Ch. 102, 2016 SF 58, Involuntary hospitalization and treatment, which passed last legislative session ("2016 SF 58"). The legislation allows the Department of Health to appoint gatekeepers to participate at all stages of the Title 25 process, creates an option for directed outpatient commitment, amends payment obligations, clarifies and improves provisions related to convalescent leave, and updates language regarding designated hospitals. Mr. Johansson stated that the Department of Health has drafted rules and regulations to implement the law and that the rules are currently going through the promulgation process. See [Appendix 8](#). The first directed outpatient commitment orders were issued this month. Cochair Throne encouraged members of the Subcommittee to discuss directed outpatient commitment with Wyoming's judges at the upcoming State Bar Convention.

Mr. Johansson stated that the Department of Health submitted an application for a federal grant for directed outpatient infrastructure development, which provides \$1 million per year. The grant was recently awarded to Wyoming and can be used for infrastructure.

Mr. Johansson provided an update on the Department of Health's work with stakeholders in Casper, WY to implement 2016 SF 58. He noted that the Central Wyoming Counseling Center is reorganizing its business model to provide 24/7 gatekeeping and the Department is working with the Center to provide more flexibility with its contract. The Subcommittee discussed the cost and independence level of the gatekeeper process. Currently, communities are responsible for providing and funding gatekeeper positions.

Shea Ward, Chief Operations Officer for Wyoming Behavioral Institute, offered public comment and testified that his group is working with the courts on the rules process and offered to report outcomes to the Subcommittee. He also testified in support of an independent gatekeeper, but noted that cost is a barrier for Natrona County.

Maureen Cadwell, Weston County Health Services, expressed concerns with the interaction between community mental health centers and law enforcement. She also explained that physicians at her facility have concerns with the potential liability associated with serving as a gatekeeper or otherwise treating Title 25 patients.

## **LOCAL APPROACHES TO TITLE 25 SYSTEM REFORM/IMPROVEMENTS**

Brandon Wardell, representing Central Wyoming Counseling Center, participated by phone. Mr. Wardell discussed the work that Natrona County is conducting to address problems in the Title 25 system. That summary can be found in **Appendix 8**. Mr. Wardell highlighted his work with a community coalition to identify the different stakeholders and their needs. He then discussed the timeline for implementation of a comprehensive, four phase, pilot program, as described in **Appendix 8**. Mr. Wardell stated that resources are limited, and he has had to remove \$700,000 from his capital reserves to implement the pilot program. He noted several areas of 2016 SF 58 that could benefit from clarifying language related to the definition of gatekeeper.

Jodi Darough, Fremont County Deputy Prosecuting Attorney, testified that in her community, the designated hospital contracts have lapsed. She testified that the county attorneys would like the contracts to be renegotiated with county input. She also expressed concerns regarding the inability to place aggressive patients. Ms. Darough stated that Joe Baron from the County Attorney's Association requested three considerations for Title 25. They are:

- 1) Department of Health to require that any entity which receives Medicaid reimbursement be required to accept Title 25 patients;
- 2) All designated hospitals be paid the Medicaid reimbursement rate; and
- 3) Hospitals be allowed to bill only the Medicaid equivalent rate for voluntary commitment.

In response to the recommendations of Mr. Baron, Eric Boley, Wyoming Hospital Association, stated that not all of the small facilities that accept Medicaid have the capacity to care for the mentally ill. He is in favor of renegotiating and establishing contracts between the Department of Health and designated hospitals.

Sharon Pendlebury, Cheyenne Regional Medical Center, testified that CRMC does accept violent patients. The hospital has a unit and staff to provide a safe and supportive environment for these patients. She also testified that the injury rate in that unit is very low.

Shea Ward, Wyoming Behavioral Institute, testified that his group also accepts violent offenders on a case-by-case basis.

## **TITLE 7 – CRIMINAL PLACEMENTS / SERVICES**

Mr. Johansson and Cari Cuffney, Department of Health, provided a presentation based on the recently implemented data collection system for Title 7 utilization. Ms. Cuffney presented the information contained in **Appendix 9**, including information about the Wyoming State Hospital wait times for evaluations, wait times for fitness to proceed and criminal responsibility evaluations, performance metrics, and information on outpatient persons not guilty by reason of mental illness. All data shows that wait times are trending downward. However, the State Hospital is not able to keep up with court ordered evaluations and must request extensions in many cases. The rate of extension requests is included in **Appendix 9**. In addition, a review of new data shows that the State Hospital is not receiving

collateral information for the evaluations in a timely manner. The Department of Health has met with members of the Wyoming Supreme Court to resolve incorrectly worded orders and to encourage disclosure of collateral information. The Court plans to distribute template orders and work with the Department of Health in the future to rectify the situation. The Subcommittee requested continued updates on Title 7. The Department of Health agreed to provide the Subcommittee with any proposed statutory changes what would assist in a more efficient operation of the Title 7 system.

The Chairman asked for public comment on Title 7 and there was none.

### **SUBCOMMITTEE PLANNING**

The next meeting will occur in Cheyenne on October 17th at 8:30 a.m.

At this meeting, the Subcommittee may consider:

- Community mental health and substance abuse center payment reform, including detailed comment from stakeholders regarding elements of the proposed reform that they support and those that they do not support. The Subcommittee may consider whether legislation is necessary at this point to allow development of the proposed reform;
- Draft bill concerning Title 25 payment obligations of the Veterans' Administration and other federal entities;
- Any proposed statutory changes to the Title 7, criminal placements, system;
- Title 25 data collection obligations, including what obligations exist and the need for a Department of Health employee to oversee data collection, gatekeepers and other aspects of the Title 25 system;
- Update on Title 25 billing using the new Medicaid Chart B system;
- Report on Title 25 utilization data / average length of stay data;
- Contents of interim report to the Joint Labor, Health and Social Services Committee.

### **MEETING ADJOURNMENT**

There being no further business, the meeting adjourned at 3:45 p.m.

Respectfully submitted,

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Representative Mary Throne, Cochairman

# Subcommittee Meeting Materials

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| Appendix | Agenda Item                          | Appendix Description   | Appendix Provider                 |
|----------|--------------------------------------|--|-----------------------------------|
| 1        | Sign-In Sheet                        | Lists meeting attendees who signed the sign in sheet   | Legislative Service Office        |
| 2        | Meeting Agenda                       | Provides an outline of the topics the subcommittee planned to address at meeting   | Legislative Service Office        |
| 3        | Title 25 Data                        | PowerPoint that provides an update on available data for Title 25 populations  | Wyoming Department of Health      |
| 4        | Title 25 Data                        | Provides projected expenditure data for Title 25 as of August 2016   | Wyoming Department of Health      |
| 5        | Payment Reform                       | Provides an update and outline on proposed mental health and substance abuse center payment reform                               | Wyoming Department of Health      |
| 6        | Payment Reform                       | Department of Health's proposed legislation authorizing mental health and substance abuse center payment reform                  | Wyoming Department of Health      |
| 7        | Title 25 Payment Obligations handout | VA and other federal entity payment obligations - proposed statutory changes to W.S. 25-10- 112                                  | LSO / Ms. Cooley                  |
| 8        | Local Approaches to Title 25         | Document describing pilot program to address Title 25 problems in Natrona County, initiated by Central Wyoming Counseling Center | Central Wyoming Counseling Center |
| 9        | Title 7-Criminal Placements          | Update on Title 7 data related to demand and capacity  | Wyoming Department of Health      |

**Draft Only**  
**Approval Pending**  
**SUMMARY of**  
**PROCEEDINGS**



**JOINT SUBCOMMITTEE ON TITLE 25 ISSUES**

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**SUBCOMMITTEE MEETING INFORMATION**

**October 17, 2016**

**8:30 a.m.**

**3001 E. Pershing Blvd.**

**Cheyenne, WY**

**SUBCOMMITTEE MEMBERS PRESENT**

Senator Tony Ross, Cochairman

Representative Mary Throne, Cochairman

Senator Leland Christensen

Senator Ray Peterson

Senator Jeff Wasserburger

Representative Bob Nicholas

Representative Eric Barlow

Representative Sam Krone

**TITLE 25 TASK FORCE MEMBERS PRESENT**

Robin Sessions Cooley

Thomas Forslund

Lou Hochheiser

**TASK FORCE MEMBERS NOT PRESENT**

Ed Buchanan

Travis Becker

**LEGISLATIVE SERVICE OFFICE STAFF**

Ian Shaw, Attorney

Heather Jarvis, Attorney

Samantha Mills, Program Evaluator

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**OTHERS PRESENT AT MEETING**

Please refer to [Appendix 1](#) to review the Subcommittee sign-in sheet for a list of other individuals who attended the meeting.

**EXECUTIVE SUMMARY**

The Subcommittee received an update from the Joint Legislative and Executive Branch Task Force on Department of Health Facilities related to its work on Level III Design at the Wyoming State Hospital and Wyoming Life Resource Center. The Department of Health provided an update on the newly implemented Chart B claims process, which will provide significant Title 25-related data. The Department of Health provided information relating to the Title 25 involuntary commitment system, including information on the expanding costs of the system, payment reform for community mental health and substance abuse centers, payment obligations in the system, and the use of gatekeepers. LSO staff provided a review of statutory and rule-based requirements for the disclosure of data within the Title 25 system. The Subcommittee received stakeholder testimony concerning proposed payment reform for community mental Health and substance abuse centers. The Subcommittee received an update and policy proposals concerning Title 7 criminal-related psychological evaluations.

The Subcommittee will forward for potential sponsorship, two pieces of draft legislation to the Joint Labor, Health and Social Services Interim Committee: 17 LSO 196-Title 25 payment obligations-federal entities and 17 LSO 195-Community mental health-payment reform. The Subcommittee will forward 17 LSO 218-Adult protective orders-time limit to the Joint Judiciary Interim Committee for consideration and potential sponsorship.

**CALL TO ORDER**

Cochair Ross called the meeting to order at 8:37 a.m. The following sections summarize the Subcommittee's proceedings by topic. Please refer to [Appendix 2](#) to review the Subcommittee's meeting agenda.

**APPROVAL OF THE MINUTES**

The Subcommittee approved the minutes from its August 30, 2016 meeting without changes.

**UPDATE ON HEALTH FACILITIES TASK FORCE**

Representative Nicholas provided an update on the Joint Task Force on Department of Health Facilities (Task Force). He described progress on Level III design at the Wyoming State Hospital and Wyoming Life Resource Center (WLRC). A working group, including two Task Force members, recently visited state of the art hospitals in Oregon and Montana to learn about potential design and programming options for the Wyoming facilities. The project architects, the state's owner's representative, Task Force Members, Department of Health personnel and construction management professionals from the State Construction Department constitute a formal working group that meets at least once a month at each Wyoming facility. Representative Nicholas explained that the Task Force will be reviewing cost projections and reviewing the work of the project architects. The Task Force is working closely with the owner's representative, MOCA, on this process. A bid for hazardous material assessment as well as geotechnical work was recently released and those services should be engaged by February. Director Forslund stated that, while the Task Force is accommodating an increasing Title 25 population within the facility designs, a systemic change will be necessary in order to address the long-term needs of the Title 25 population.

## TITLE 25 DATA

Stefan Johansson, Department of Health, provided an update on the data available for Title 25 analysis. His presentation can be found in a PowerPoint document in [Appendix 3](#). Mr. Johansson provided an update on the newly-implemented Chart B claims system. The Chart B system was put into place on August 1, 2016, in order to streamline data collection and to automate the provider payment system. Mr. Jesse Springer and Ms. Lindsey Schilling from the Department of Health Medicaid Office discussed data that will be available with the new Chart B system.

Mr. Johansson provided a comprehensive outline of challenges identified within the Title 25 and Title 7 systems over the past two interims and summarized actions taken by the Department of Health and the Subcommittee to address these problems. See [Appendix 3](#). Mr. Johansson explained the additional work that is needed, as outlined in [Appendix 3](#). He stated that barriers preventing the timely discharge of patients are one of the primary drivers, which is increasing Title 25 system costs. The State has taken actions to address this issue, but work is ongoing.

Mr. Johansson then briefed the Subcommittee on formal utilization reviews that were conducted by a third-party vendor at the State Hospital and select designated hospitals. The resulting reports provide data on Title 25 patients including diagnosis, average length of stay, barriers to discharge, and total volume. Mr. Johansson provided a detailed summary of each demographic area reported, as indicated in [Appendix 4](#). Although the utilization review data is very helpful and points to areas of concern, Mr. Johansson testified that additional statutory revisions to address any concerns are premature and that the reforms adopted in 2016 Senate File 58 should be given time to be fully implemented.

Ian Shaw, LSO attorney, provided a review of the statutory and rule-based requirements for the disclosure of data in the Title 25 system, as indicated in [Appendix 5](#). Mr. Shaw stated that the Department of Health has broad authority to collect and acquire information through its rules. However, data from the first 72 hours of treatment is not included in that authority. When asked if the Department of Health has the data they need to operate the Title 25 system, Director Forslund stated that the Department is satisfied and is not seeking authority to collect additional data at this time.

The Subcommittee then discussed any need for providing additional staff at the Department of Health for Title 25 operations. Director Forslund noted that there is no single person assigned to these duties. However, Director Forslund stated that the Department will not be seeking additional positions at this time. Rather, he plans to repurpose an existing position within the Department of Health to address Title 25 needs. That position will be charged with data collection, data analysis, and gatekeeper supervision.

## AWARD OF ASSISTED OUTPATIENT TREATMENT GRANT

Chris Newman provided an overview of a federal grant awarded to the Department of Health through the Substance Abuse and Mental Health Services Administration (SAMSA) in September 2016. This grant relates to the support of assisted outpatient treatments. Ms. Newman stated that the grant aligns well with Wyoming's new option for directed outpatient commitment, passed in 2016 Senate File 58. The grant totals \$3.7 million over four years and cannot be spent on construction. In the first year, a majority of the funds will be awarded to Central Wyoming Counseling Center because they were uniquely ready to apply the funds to new mental health reforms in their county. Funding also will be used to contract with consultants to provide guidance on gatekeeper pilot programs and to provide statewide training. The

grant required no match or maintenance of effort funding, but likely will be a one-time grant. Funds are being allocated with the assumption that no further funding will be available.

## **PAYMENT REFORM**

Erin Johnson, Executive Director, and Bob Hartley, President, of the Wyoming Association of Mental Health and Substance Abuse Centers (WAMHSAC), expressed concerns with the Department of Health's proposed payment reform for community mental health and substance abuse centers. The Department has proposed legislation which is now 17 LSO 195-Community mental health-payment reform, see [Appendix 6](#). They believe the legislation is premature and that more work with stakeholder groups is necessary prior to moving the legislation forward. Ms. Johnson and Mr. Hartley believe, as currently proposed, the reform represents a funding cut, not the redirection of funding. They do not believe funding should be focused on several hundred clients, to the exclusion of broader community mental health needs. Mr. Hartley believes the reforms may threaten the availability of mental health services in smaller communities by threatening to drive smaller mental health centers out of business.

Jeff Holsinger, representing Volunteers America, echoed the concerns of Ms. Johnson and Mr. Hartley. He acknowledges that there is a Title 25 population problem, but believes community-based options should be developed and maximized before payment reform is adopted.

Mr. Johansson and Ms. Newman then provided an update on the Department of Health's progress on payment reform. Mr. Johansson clarified that the Department of Health does not want to set rates for private providers and that community centers should establish their own policies. Mr. Johansson referenced the phased payment reform approach outlined at the Subcommittee's August meeting, included in the August 30, 2016 minutes as [Appendix 5](#). He noted that the Department of Health is trying to approach payment reform slowly and in a way that holds harmless community centers. Mr. Johansson believes reform could be implemented using a tiered structure, which would avoid harm to mental health centers in small communities. Further, phase I will adopt some reforms, but is primarily designed to collect data that can be used to inform and improve the implementation of phase II. Ms. Newman explained that the Department intends to reengage provider and stakeholder working groups. Only through significant work and stakeholder engagement can phase I of the reform be ready for potential implementation by July 2017. Ultimately, reform phase II may look very different from its current outline. Phase II is subject to substantial revision depending on the knowledge gained in phase I.

Cochairman Ross asked for additional public comment and there was none.

After hearing the testimony, the Subcommittee discussed recommending the payment reform legislation (17LSO-195-Community mental health-payment reform) to the Joint Labor, Health and Social Services Interim Committee for potential sponsorship. [Appendix 6](#). The Subcommittee generally agreed that the draft legislation may need additional work before it can be passed by the Legislature. Members of the Subcommittee explained that the legislation is one means of promoting innovation in the Title 25 system and addressing system deficiencies and cost overruns. After substantial discussion, Senator Wasserburger, seconded by Representative Nicholas, moved to recommend to the Joint Labor, Health and Social Services Interim Committee that it sponsor 17LSO-195 during the upcoming legislative session. The motion included direction for all stakeholders and community mental health and substance abuse centers to work closely with the Department of health to propose any changes to the draft legislation that will address the current concerns with the legislation. Suggested amendments should be proposed, debated and finalized in time for the Joint Labor Committee's December 12, 2016 meeting. On a roll call



vote, the motion passed, all present members voting in favor of the motion, except Senators Peterson and Christensen and Representatives Throne and Barlow, who voted no. No amendments were made to the draft legislation.

## **TITLE 25 PAYMENT OBLIGATIONS – W.S. 25-10-112**

Subcommittee member Robin Session Cooley summarized draft legislation 17LSO-196-Title 25 payment obligations-federal entities. This legislation would make clear that payment for Title 25-related services must be sought from the Veterans' Administration, Indian Health Service and other potential federal pay sources prior to payment by the State of Wyoming. [See Appendix 7.](#)

Eric Boley, Wyoming Hospital Association, testified that members of his organization have had significant problems getting the Veterans' Administration to respond to claims. He offered to provide more data and information to the Subcommittee if needed.

After discussing the legislation and potential methods of making demand on potential federal pay sources, Representative Nicholas, seconded by Senator Christensen, moved to recommend to the Joint Labor, Health and Social Services Interim Committee that it sponsor 17LSO-196 during the upcoming legislative session. On a roll call vote, the motion passed, all present members voting in favor of the motion. The Subcommittee adopted the following amendments to the legislation:

Page 2-line 21 Delete "and" insert "or". [LSO was advised to confirm that this amendment is appropriate and consistent with the Subcommittee's intent to assure that the subparagraphs do not conflict.]

Page 3-line 6 After "services." insert "Payment shall be deemed denied if a written demand is made and no response is received within six (6) months of being properly submitted.".

## **ADULT PROTECTIVE ORDERS**

Cochair Throne introduced 17LSO-218 Adult protective orders-time limit, included as [Appendix 8](#). The Laramie County Attorney's Office has suggested that extending the availability of adult protective orders for up to six months may provide appropriate treatment for certain adults who might otherwise end up in the Title 25 system. The draft legislation accomplishes that purpose. Ms. Cooley spoke in support of this legislation, stating that her previous experience indicates that adult protective care orders are an effective way to properly care for adults needing care and that they can avoid a crisis.

Cochairman Ross opened the discussion for public comment. There was none.

Representative Barlow, seconded by Senator Wasserburger, moved to recommend to the Joint Judiciary Interim Committee that it sponsor 17LSO-218 during the upcoming legislative session. On a roll call vote, the motion passed, all present members voting in favor of the motion. The Subcommittee adopted the following amendment to the legislation:

Page 3-line 5 After "for" insert "up to".

## **TITLE 7 – CRIMINAL PLACEMENTS / SERVICES - UPDATE**

Mr. Johansson and Cari Cuffney, Department of Health, provided information concerning the Title 7 criminal psychological evaluations system that can be found starting on Slide 17 in [Appendix 3](#), as well

as within an issue brief provided in [Appendix 9](#). Ms. Cuffney discussed a list of potential problems with Wyoming's Title 7 system and examples of policy options adopted in other states which are meant to address these problems. These problems and potential solution are listed in [Appendix 9](#). Among the other issues identified by Ms. Cuffney, she discussed in detail issues related to the failure of examiners to timely receive collateral information relevant to a client's evaluation, the volume of evaluation requests, and the cost of evaluations. The state policies reviewed by Ms. Cuffney include policies from Oregon, Colorado, Michigan, Montana, and Wisconsin.

Director Forslund described the work the Department of Health has done with the Wyoming Supreme Court to address various Title 7 issues, including potential revisions to forms issued by the Court and the adoption of uniform court procedures. Director Forslund believes that many of the solutions outlined by Ms. Cuffney can be accomplished administratively, without legislative changes.

The Department of Health provided a rough draft of legislation surrounding policies within the Title 7 system, but explained that the draft would not be ready for introduction to the Legislature. See [Appendix 10](#). The Subcommittee took no action on the draft.

### **SUBCOMMITTEE REPORT**

The Subcommittee directed LSO to draft letters to the Joint Labor and Judiciary Committees enclosing the legislation acted upon at this meeting and recommended for sponsorship. The letter to the Joint Labor Committee should advise the Committee that stakeholder and community mental health centers have been asked to propose necessary amendments to the payment reform legislation, 16LSO-195- Community Mental Health- Payment Reform.

### **MEETING ADJOURNMENT**

There being no further business, the meeting adjourned at 3:14 p.m.

Respectfully submitted,

Issued without Chairman review.

# Subcommittee Meeting Materials

| Appendix | Agenda Item   | Appendix Description   | Appendix Provider          |
|----------|---|--|----------------------------|
| 1        | Sign-In Sheet   | Lists meeting attendees  | Legislative Service Office |
| 2        | Meeting Agenda  | Provides an outline of the topics the subcommittee planned to address at meeting   | Legislative Service Office |
| 3        | Title 25 Data   | Power Point Presentation of Title 25 Data utilization  | Department of Health       |
| 4        | Title 25 Data   | Issue Brief on Title 25 Full description on variables impacting Title 25 utilization data  | Department of Health       |
| 5        | Title 25 Data   | Memo from LSO staff to the Subcommittee regarding statutory provisions requiring data submission and/or collection for Title 25 patients | LSO                        |
| 6        | Payment Reform  | 17 LSO-0195 v. 0.2 Draft legislation related to community health payment reform  | LSO                        |
| 7        | Title 25 Payment Obligations                          | 17 LSO-0196 v. 0.4 Draft legislation related to Title 25 payment obligations of federal entities   | LSO                        |
| 8        | Adult Protective Orders                               | 17 LSO-0218 v. 0.3 Draft legislation related to time limit extensions for adult protective orders  | LSO                        |
| 9        | Title 7 Criminal Placements/Services Update           | Policy Options brief on Title 7 policies and potential statute changes offered by the Department of Health                               | Department of Health       |
| 10       | Title 7 Placements/Services Update, draft legislation | Department of Health suggested legislative changes related to Title 7 forensic evaluations   | Department of Health       |

ORIGINAL SENATE  
FILE NO. SF0066

ENGROSSED

ENROLLED ACT NO. 42, SENATE

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING  
2017 GENERAL SESSION

AN ACT relating to the hospitalization of mentally ill persons; specifying the entities from whom payment for treatment shall be sought; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 25-10-112(d)(intro) and (ii) is amended to read:

**25-10-112. Liability for costs of detention, involuntary hospitalization and proceedings therefor.**

(d) The hospital or other treatment provider shall attempt to recover all costs of treatment from public and private health insurance and from government benefit programs, including the veterans' administration, the Indian health service of the United States department of health and human services and any other federal agency that may be responsible for the costs of treatment, prior to seeking payment from the county or the department. The hospital or other treatment provider shall have discharged its obligation to recover costs under this subsection if it:

(ii) Certifies to the county or the department that:

(A) The patient has no public or private health insurance;~~and that~~

(B) There are no other government benefit programs from which it can recover the costs of treatment;~~and~~  
and

ENROLLED ACT NO. 42, SENATE

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING  
2017 GENERAL SESSION

(C) If the patient might qualify for benefits, payment has been denied after submitting a written demand for payment to all federal agencies that may be responsible for the costs of treatment, including the veterans' administration and the Indian health service of the United States department of health and human services. Payment shall be deemed denied if a written demand for payment is made and no response is received within three (3) months of being properly submitted. If a demand is paid after having been deemed denied under this subparagraph, and after the county or department has paid the hospital or other treatment provider, the amount of the demand payment shall be remitted to the county or department, whichever entity paid the hospital or other treatment provider. If a county or the department has paid a hospital or other treatment provider, the county or the department shall have a subrogation right against any entity to whom the hospital or provider sent a written demand.

ORIGINAL SENATE  
FILE NO. SF0066

ENGROSSED

ENROLLED ACT NO. 42, SENATE

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING  
2017 GENERAL SESSION

**Section 2.** This act is effective July 1, 2017.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk

ORIGINAL HOUSE  
BILL NO. HB0156

ENGROSSED

ENROLLED ACT NO. 64, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING  
2017 GENERAL SESSION

AN ACT relating to involuntary commitment; amending provisions related to emergency detentions; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 25-10-109(a), (b)(intro), (ii), (d), (e) through (h), (k)(ii) and by creating a new subsection (n) is amended to read:

**25-10-109. Emergency detention.**

(a) A person may be detained when:

(i) A law enforcement officer or examiner has reasonable cause to believe a person is mentally ill pursuant to W.S. 25-10-101; ~~the person may be detained.~~

(ii) A court has entered an ex parte order for immediate detention of a person pursuant to W.S. 25-10-110.1(h);

(iii) A hospital revokes convalescent status release of a person pursuant to W.S. 25-10-127(b) based on a previous or current determination of mental illness.

(b) Immediately after detaining the person, the officer shall contact an examiner. A preliminary examination of the person shall be conducted by an examiner within twenty-four (24) hours after the detention. If a preliminary examination is not conducted within twenty-four (24) hours the detained person shall be released. If the person is detained following the preliminary examination, an examiner shall reexamine the person not less than every forty-eight (48) hours until the hearing under subsections

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(h) through (k) of this section. If the examiner giving the preliminary examination, or any reexamination as required by this subsection, finds that the person:

(ii) Was mentally ill, but is no longer dangerous to himself or others, the ~~person shall be~~ examiner shall, with patient consent, arrange follow up mental health care and the person shall be released immediately; or

(d) A person taken into custody under this section may be detained in a hospital or other ~~suitable facility~~ care setting which is appropriate under the circumstances and which complies with subsection (n) of this section. The person shall not be detained in a nonmedical facility used for detention of persons charged with or convicted of penal offenses except in extreme emergency or if there are no other reasonable alternatives. The law enforcement officer or examiner who detained the person shall immediately notify the person responsible for the care and custody of the detained person, if known, of the time and place of detention.

(e) The law enforcement officer or examiner who initially detained the person shall make a written statement of the facts of the emergency detention. A copy of the statement shall be given to the detained person, his parent or guardian, to any attorney representing the person, to the county attorney in the county where the person is detained, to any gatekeeper designated by the department and to any subsequent examiner.

(f) When a person is detained under emergency circumstances, treatment may be given during the emergency detention period if the person voluntarily and knowingly



ENROLLED ACT NO. 64, HOUSE OF REPRESENTATIVES

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consents. The parent or guardian of a minor or incompetent person may consent to treatment. If the parent or guardian of a minor patient does not consent to treatment, a petition may be filed under the Child Protection Act. Treatment may be given without the consent of the detained person or his parent or guardian when treatment is limited to diagnosis or evaluation or when treatment is necessary to prevent immediate and serious physical harm to the person or others. Prior to treatment, the person shall be fully advised of the scope of treatment, and a report of the treatment shall be provided to the county attorney, to any gatekeeper designated by the department and shall be filed with the court if continued detention is sought, or if directed outpatient commitment or involuntary hospitalization proceedings are commenced. An examiner or a physician who provides treatment in good faith pursuant to this subsection shall be immune from civil liability for the treatment except there shall be no immunity from liability for negligent acts or deliberate misconduct.

(g) At the time of emergency detention the person shall be informed orally and in writing of his right to contact his family and an attorney, of his right to appointed counsel if he is indigent, of his right to remain silent and that his statements may be used as a basis for continued detention, directed outpatient commitment or involuntary hospitalization.

(h) When a person is detained in emergency detention and continued detention is sought, or an application for directed outpatient commitment or involuntary hospitalization is filed by the county attorney, the court shall appoint an attorney to represent the detained person unless he has his own attorney., ~~and~~ The court shall conduct a hearing within seventy-two (72) hours, excluding

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SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING  
2017 GENERAL SESSION

Saturdays, Sundays and legal holidays, of the initial detention to determine whether continued detention is required pending directed outpatient commitment or involuntary hospitalization proceedings. The county attorney of the county where the application is filed shall appear on behalf of the state at the hearing. Any gatekeeper designated by the department pursuant to W.S. 25-10-112(g) shall appear at the hearing and provide testimony concerning continued detention and, if applicable, the issues outlined in subsection (m) of this section. Notice of the preliminary hearing shall be given to the county attorney, any gatekeeper designated by the department, the detained person and his parent, guardian and attorney. The court may delay the hearing only at the request of the detained person or his parent, guardian or his attorney. ~~An emergency detention~~ The hearing for continued detention may be waived at the request of the detained person or the detained person's parent, guardian or attorney. If ~~an emergency detention hearing~~ a hearing for continued detention has been waived, the court may immediately conduct the directed outpatient commitment or involuntary hospitalization hearing.

(k) The standard of proof in an emergency detention hearing shall be by a preponderance of the evidence. If the court finds at an emergency detention hearing that:

(ii) The person is mentally ill and has applied for and received voluntary admission, the court may dismiss the proceedings; or

(n) Treatment provided as a result of an emergency or continued detention pursuant to this section shall be provided in the least restrictive and most therapeutic setting available with consideration given to requests of

ORIGINAL HOUSE  
BILL NO. HB0156

ENGROSSED

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the detained person, his parent, guardian or attorney, and recommendations of any gatekeeper. Treatment may include the treatment options outlined in W.S. 25-10-110.1(d).

**Section 2.** This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk