

**State of Connecticut**  
**GENERAL ASSEMBLY**



**CVH WHITING TASK FORCE**

**MEETING SUMMARY**

Co-chairwoman Linda Schwartz convened the meeting.

Ms. Schwartz asked members to introduce themselves. Members present included Ms. Schwartz, Mike Lawlor, Shaun Mastroianni, Nancy Alisberg, Paul Acker, Kimberly Beuregard, and Lori Hauser.

Invited guest speakers present included Kathy Flaherty, Executive Director at Connecticut Legal Rights Project. Also present were Hal Smith and Tobias Wasser, CEO and Medical Director of Whiting Forensic Hospital, respectively.

John Rodis, CEO of Saint Francis Hospital, was not in attendance of the meeting. Ms. Schwartz read an email from Mr. Rodis sent to the chairs of the task force. In the email, Mr. Rodis expressed his appreciation for his appointment to the task force, however, he also addressed the challenges of being in attendance for all meetings and asked that he be allowed a designee for such instances.

Ms. Schwartz noted that Brenda Cisco was in attendance of the meeting as a public member, but in lieu of Mr. Rodis and opened up the topic for discussion.

Mr. Lawlor suggested that the task force receive input from the leadership of the Public Health Committee.

Ms. Alisberg stated that she is not comfortable with Mr. Rodis casting votes if he is not present at meetings. She also stated that the task force is too important for a member to not be in attendance.

Ms. Schwartz stated that it would be a challenge for any large hospital president to be in attendance at every meeting.

Ms. Beuregard made a motion for task members to take a position on Mr. Rodis' request and for an official vote to be part of the agenda at the next task force meeting.

Those in favor of the request included Ms. Schwartz, Mr. Lawlor, Mr. Mastroianni, Mr. Acker, Ms. Beuregard, and Ms. Hauser.

Those opposed included Ms. Alisberg.

There were no abstentions.

Kathy Flaherty, Executive Director, Connecticut Legal Rights Project, Inc., presented:



Patient Bill of Rights  
June 17, 2019.pdf

Ms. Flaherty stated that unless there are specific exceptions outlined for Whiting Forensic Hospital, then all other general rules apply. She also noted that the General Assembly has not given Whiting a blanket exception for rules, but only for specific instances.

Mr. Lawlor asked if the patient bill of rights applies to the Department of Corrections (DOC).

Ms. Flaherty answered that it does not because the main purpose of DOC is corrections, whereas the main purpose of a hospital is treatment.

Ms. Alisberg noted that Ms. Flaherty's presentation was specific to psychiatric patients' bill of rights. There are other patient bills of rights, such as nursing home patient bill of rights.

Ms. Flaherty also stated that patients should be present while their possessions are being searched. If there is a reason that allows for this right to be restricted, then that reason must be documented.

Ms. Alisberg stated that as an advocate for individuals who reside in psychiatric facilities, she notices that often patients are not wearing their own clothes. The documents reflect absent without official leave (AWOL) as a reason, although that is not a medical reason, and is considered a violation of patient rights.

Ms. Schwartz asked if there is a validity of assertion review when a decision is made to not allow a patient in their own clothing.

Ms. Flaherty stated that she does not believe there is but believes that it should be.

Ms. Acker asked whether lawsuits settled by the case are sealed.

Ms. Flaherty said that every lawsuit is different. Sometimes people ask to seal them as part of a settlement, and other times they want their stories told. Ultimately, they are guided by the client.

Ms. Alisberg stated that it is harder to have a sealed order with the Department of Mental Health and Addiction Services (DHMAS) because it is a public agency and freedom of information rules would apply.

Ms. Flaherty stated that she would appreciate the opportunity to present a historical background for the psychiatric patient bill of rights so people can realize what led to the establishment of such rights.

Ms. Beauregard said that she would like such a presentation because the history of the patient bill of rights is very important, and Mr. Acker echoed her statement.

Mr. Lawlor asked if there were any substantial amendments made overtime since the bill of rights was established in 1971.

Ms. Flaherty said most changes have been technical, such as to reflect hospital name changes from Whiting Forensic Institute to Whiting Forensic Hospital, apart from an exception that was made explicitly for Whiting in 1993. She stated that she is not sure what occurrence led to that exception.

Mr. Lawlor asked what is being sought in the legal cases against Whiting.

Ms. Flaherty said that there are a lot of legal cases involving Whiting. The Connecticut Legal Rights Project is involved in some of them but not all. Some of these cases are seeking declaratory judgment that the current statute as it exists is unconstitutional, and there are others where damages are being sought.

Ms. Schwartz asked if there were any objections to Ms. Flaherty returning to the task force for a presentation, and hearing none, it was decided that Ms. Flaherty would return.

Hal Smith, CEO, and Tobias Wasser, Medical Director, Whiting Forensic Hospital, presented:



Whiting Forensic  
Hospital June 17, 201

Mr. Smith and Mr. Wasser introduced themselves.

Mr. Smith noted that he has worked exclusively in forensic behavioral health for four and a half decades, and has been the CEO of Whiting since June 1, 2018.

Mr. Wasser stated that he became the Medical Director at Whiting in July, 2017, shortly after the events that led to the creation of this task force came to light in April, 2017.

Mr. Wasser stated that Connecticut Valley Hospital (CVH) has for many years received funding from Center for Medicare and Medicaid Services (CMS). As a result of incidents involving the one that formed this task force, CMS conducted many surveys of CVH, and during those surveys, they informed CVH that they felt patients residing in the Whiting Forensic Division did not meet their conditions of participation to qualify for funding. They also informed DHMAS that in order to continue receiving funding for CVH, it would have to be separated from the Whiting Forensic Division. As a result, Governor Dannel Malloy issued an executive order on January 2, 2018 instructing DHMAS to separate Whiting from the rest of CVH.

Mr. Lawlor asked if other states face similar obstacles to obtaining funding, and if they deal with them in a similar manner as Connecticut.

Mr. Wasser answered that all states must meet CMS' condition requirements, however, the determination that the forensic beds don't meet the criteria because of the discharge process is not uniformly applied for all states.

Mr. Lawlor asked if they were aware of the process other states used to overcome this obstacle such as possibly involving patients in their discharge process.

Mr. Wasser answered that the biggest difference between Connecticut and other states is that Connecticut, and possibly only two or three other states, has a Psychiatric Security Review Board which would make it very difficult to meet CMS criteria.

Ms. Smith stated that DHMAS and CMS explored many options but were unable to find a better solution.

Ms. Alisberg noted that in many states, including Massachusetts, the forensic facilities are not part of their mental health but rather DOC.

Mr. Lawlor asked if these states get reimbursements.

Ms. Alisberg said they do not because they are not a hospital but a prison.

Mr. Smith emphasized that Whiting is the safety net hospital for the entire state for individuals who have been deemed too dangerous in any other setting. The patients residing at Whiting are amongst the most challenging patients.

Mr. Wasser stated that when patients throughout Connecticut are admitted to other psychiatric institutions and display aggressive behavior, Whiting receives a referral for those patients. The referral process goes through an extensive review process, including Mr. Wasser and DHMAS medical director.

Ms. Alisberg asked if a probate court is required to move these patients.

Mr. Wasser said that it depends on their status in their current hospital. If they're a voluntary transfer then they would require a civil commitment to Whiting, but if they're already deemed by a probate court then they are unable to object to the transfer.

Mr. Smith said that once they are hospitalized at Whiting, they can be presented, among others, by the Connecticut Legal Rights Project.

Mr. Lawlor asked Mr. Smith and Mr. Wasser if they are able to provide a breakdown of Whiting employees by position, gender and race.

Mr. Smith answered that the executive board is very diverse and consists of a female person of color, three other females, a Hispanic man, and two Caucasian men, who are Mr. Smith and Mr. Wasser. He added that he would compile this data for the rest of Whiting employees.

Ms. Alisberg asked about the process Whiting uses if a patient requires language translators.

Mr. Wasser said that they have a language bank. He also stated that they have a contract for deaf and hard of hearing patients. They try to schedule translators and interpreters for the most meaningful conversations between Whiting staff and the patients, but are unable to employ them at all times.

Mr. Smith and Mr. Wasser are employees of Yale. Yale and DHMAS have a long standing staffing contract. Their timesheets are overseen by Dr. Michael Norko who is also an employee of Yale.

Mr. Lawlor asked how this is characterized.

Mr. Smith answered that he reports daily to the DHMAS commissioner, Mriam Delphin-Rittmon, and meet with her in person for supervision every other week.

Mr. Lawlor asked if this contract is extended to people who are on staff at Whiting.

Mr. Wasser answered that it is currently not extended.

Ms. Schwartz asked whether their loyalties may be challenged if there is a disagreement between DHMAS and Yale.

Mr. Smith and Mr. Wasser answered that it never has, and cannot imagine any scenario where it could in the future.

Mr. Lawlor and Ms. Schwartz asked that Whiting provide the contract to the task force for viewing.

Ms. Alisberg asked how long the video tapes are kept.

Mr. Smith answered that they are kept on average about 45 days, so it may be 43 days or 47. If they are asked to keep them longer for an investigation then they will do so.

Mr. Acker asked whether a patient at Whiting can request to view a video where if he feels that he was mistreated by a staff member.

Mr. Wasser answered that all patient allegations are taken seriously and investigated by a review committee. If it is found that there no merit to the allegations then a case is closed and the staff member in question is returned to work.

Mr. Lawlor asked how mandated overtime works.

Mr. Wasser answered that mandated overtime is utilized in order to keep people safe and it's mandated when there aren't enough staff members prebooked or not enough staff members have volunteered.

Mr. Smith added that they have budget meetings twice a month with the DHMAS commissioner's office where human resources, fiscal, and hospital leadership are present.

Ms. Schwartz noted that the time was closing at 3:00pm and the presentation would have to end, however she offered task force members to compile a list of any remaining questions

they may have had for Mr. Smith and Mr. Wasser and send them to the Public Health Committee staff.

The next task force meeting will take place on Monday, July 8, 2019 at 12:00pm.