

State of Connecticut
GENERAL ASSEMBLY



CVH WHITING TASK FORCE

MEETING SUMMARY

Co-chairman Mike Lawlor convened the meeting.

Mr. Lawlor asked members to introduce themselves. Members present included Mr. Lawlor, Ms. Schwartz, Ms. Beuregard, Ms. Hauser, Ms. Alisberg, Mr. Acker, Mr. Mastroianni, and Dr. Rodis.

Invited guest speakers present included Kathy Flaherty, Executive Director at Connecticut Legal Rights Project; Tobias Wasser, MD, Medical Director at Whiting Forensic Hospital; and Harold I. Schwartz, MD, Psychiatrist-in-Chief Emeritus at the Institute of Living and Hartford Hospital.

Mr. Lawlor referred to the recent mass shootings in Texas and Ohio and said the task force had the perfect opportunity to discuss mental illness and how it can manifest differently for those suffering.

Ms. Schwartz stated that if members have any individuals in mind that they would like to invite to make a presentation to the task force, then they should invite them as it is important that the task force hears from all the people who may be impacted by our charges.

Ms. Alisberg suggested a standing recommendation that if there are any topics during our meetings that contemplate the rights of the people who are not necessarily able to speak for themselves, then a lawyer should always be present during such meetings.

Mr. Lawlor proceeded to Section III of the agenda, discussion, item #1: Evaluate the membership of the Advisory Board for the Whiting Forensic Hospital established pursuant to Sec. 17a-565 of the general statutes, as amended by this act.



Whiting Forensic
Hospital Advisory Boa

Mr. Lawlor stated that there are many boards similar to the Whiting Forensic advisory board that meet very infrequently or not at all, but noted that this board meets regularly.

Ms. Hauser asked if the task force has any information about the mission of the board and their governing purpose so that the task force is aware if the current makeup of the board is appropriate or if changes should be recommended.

Dr. Wasser noted that he was not prepared to speak on this particular topic, however, he stated that he does have some general information about the board. Dr. Wasser stated that the membership and mission are outlined in statute and has been there for one or two decades. The board meets quarterly and its overarching purpose is to offer advice pertaining to the hospital to the commissioner of the Department of Mental Health and Addiction Services (DMHAS).

Ms. Schwartz requested board meeting minutes, and noted that there were two member slots not filled and asked if there is a process by which they are filled.

Dr. Wasser noted that they are actively trying to fill those slots. He stated that he believed the process included the office of the commissioner of DHMAS making recommendations to the governor for member appointments.

Mr. Acker stated that the only person with a voice on the advisory board is the DHMAS commissioner and that there isn't a designated slot for a civil attorney or for someone with a voice for the people who reside at Whiting Forensic Hospital.

Ms. Hauser asked if the advisory board covered Connecticut Valley Hospital (CVH) as well as Whiting Forensic Hospital.

Dr. Wasser noted that he risks misspeaking by answering the question, however, he stated that he believed the board's existence predates Whiting being internalized into CVH and therefore it is specific to Whiting Forensic Hospital. He stated that he believes CVH has its own advisory board.

Dr. Rodis echoed Ms. Schwartz request for the hospital to provide board meeting minutes to the task force and additionally asked for the hospital to provide the board bylaws.

Ms. Beauregard also asked that the hospital provide information on how the board handles complaints brought before them, and the number and nature of the complaints.

Mr. Lawlor proceeded to Section III of the agenda, item #2: assess the implication of a patient at Whiting Forensic Hospital being permitted to be present during a search of his or her possessions.

Dr. Wasser, Medical Director, Whiting Forensic Hospital presented:



DMHAS Procedure
1.11 Patient Searches

Dr. Wasser noted that the search policy used at Whiting is specific to Whiting as a maximum security hospital.

Mr. Lawlor asked whether there is a search distinction that is made for patients at Whiting who would otherwise belong at Dutcher if there were enough beds for them at Dutcher.

Dr. Wasser answered that the security is based on the institution as a whole rather than individual patients and therefore no distinctions are made.

Ms. Alisberg asked about the rationale Whiting uses behind their policy to not allow patients to be present during a search of their belongings. She expressed several concerns, one being that Whiting is a hospital and not a prison. She also expressed concern over the relationships between patients and staff as they're supposed to have a therapeutic relationship, however the searching of patient belongings without their knowledge may hinder such a relationship. The searches do not build trust or a positive and therapeutic clinical relationship.

Dr. Wasser stated that Whiting is open to suggestions and is willing to look into their security to see if there are better options. However, there must always be a balance of safety for staff and patients, and their rights and therapeutic relationships. If a patient is violent to a degree that they cannot be managed in any other setting besides Whiting due to serious mental illness, and they manifest their illness in an aggressive behavior, then they may become aggressive towards the staff. Other concerns include individuals who are pathological and can memorize the search pattern and hide items in places that the search pattern doesn't include. Dr. Wasser reiterated that Whiting is open to improving this process and is actively looking to see if there are better ways of handling security while balancing it with safety.

Ms. Schwartz asked what the difference is in searches between a patient at Whiting and an individual in a prison. She wondered how a staff person who is supposed to provide therapeutic value also performs a search.

Dr. Wasser answered that a patient being present during a search of their belongings is not more likely to enhance their therapeutic relationship with a staff person. He stated that maybe Whiting can look into the option of not having the person in direct care of a patient perform searches for that patient. He also stated that, while not fully knowledgeable of the Department of Correction policies, he believes individuals in a prison do not have the right to be present during a search of their belongings.

Mr. Lawlor asked if searches are individualized or if there is a blanket rule.

Dr. Wasser answered that there are random searches or planned searches because of a specific item that has gone missing that could be used to hurt someone. Patient rooms are searched during meal times and they are searched by the police.

Mr. Lawlor asked if patients are informed that their room was searched after the fact.

Ms. Hauser spoke from personal experience and stated that many times when patient rooms are searched they are left exactly as they were so the patients do not become aware that their rooms have been searched.

Mr. Lawlor asked about the frequency of random searches.

Dr. Wasser said that the room and unit assignments are chosen randomly, however, weekly searches are part of regular practice.

Mr. Lawlor asked if any contraband items have been found in patient rooms.

Dr. Wasser answered that they regularly find contraband items in patient rooms, however items of significant concern are found less frequently.

Dr. Rodis commented that it is challenging to balance patient rights with the right to search. He asked whether Dr. Wasser, in his professional opinion, feels this may impede the ability to search patients effectively.

Dr. Wasser answered that he does not believe it does, but the balancing of safety with patient rights is always a struggle in forensic institutions. Whiting wants to put treatment first, however they must also have practices that allow keeping everyone who lives and works there to also be safe.

Mr. Lawlor proceeded to Section III of the agenda, item #3: Review the statutory definitions of abuse and neglect in the behavioral health context.

Ms. Flaherty, Executive Director at Connecticut Legal Rights Project; Mr. Wasser, Medical Director at Whiting Forensic Hospital; and Mr. Schwartz, MD, Psychiatrist-in-Chief Emeritus at the Institute of Living and Hartford Hospital presented:



Abuse & Neglect in
Behavioral Health Fac



Statutory Definition
of Abuse WFHTF.pdf



DMHAS Client Abuse
CPS.pdf

Ms. Flaherty stated that given some of the changes that she has seen exhibited by the leadership at Whiting, she can see that they are trying very hard to enhance living conditions at Whiting. She also stated that while there are certain exceptions in statute for Whiting, removing these exceptions still gives Whiting the ability to make exceptions on an individualized basis rather than using the same restrictive policies for all patients. One of the recommendations Ms. Flaherty stated she hopes the task force will consider is to change the definition of a behavioral health facility in the Connecticut statutes to match the definition of a facility in the Patient's Bill of Rights.

Ms. Hauser clarified that the majority of patients living at Whiting belong at Whiting and not Dutcher. She also noted that there are patients at Whiting with whom staff has yet to familiarize themselves and blanket policies allow staff to safely determine the right approach to deal with individual patients.

Dr. Schwartz stated that in a general hospital, while the term “right” is not used, allowing patients to be present during searches is considered best practice. There are exceptions to this practice, although the policy does not delineate what the exceptions should be. Should an exception be required, it must be escalated to other departments for approval. The policy states that patients shall or should be offered the opportunity to be present but patients are also allowed to decline the opportunity. Dr. Schwartz also noted that the Institute of Living has admitted patients that should not have been admitted because the setting is inappropriate as their aggressive behavior and violence is beyond the ability of management in a general hospital. He added that the process of correcting an impromptu decision is very difficult.

Dr. Schwartz added that for some patients with a paranoid psychosis the experience of observing their personal belongings being search could theoretically enhance their therapeutic alliance. There are also patients with a significant paranoid psychosis and believe they are being oppressed and are the victims of a delusional scheme. The enhancement experience would not be available to these patients but only make matters worse. Dr. Schwartz stated that while the current mechanism of searching needs to be addressed, if the default process is reversed the exceptions need to be such that they do not fly in the face of clinical wisdom.

Ms. Alisberg commented on the definitions of abuse and neglect and referred to federal regulations code 42 CFR § 51.2 for members to review.

Dr. Schwartz referred back to Ms. Flaherty’s recommendation to change the definition of a behavioral health facility. He expressed concern stating that should the definition of neglect were to change and apply to private and public psychiatric hospitals, then the burdens of care that a society should offer but has failed to do so may fall on hospitals that offer continuum care such as outpatient and residential services. He elaborated his concern by saying that at times hospitals have to discharge patients who are homeless or live in shelters. Once these patients are discharged, the hospital does not have the resources to keep track of their lives at all times and therefore, that should this change occur, we must be careful of the unintended consequences.

Ms. Flaherty expressed the same concern. She stated that if the change in definition were to somehow be interpreted in a way that requires hospitals to become responsible for any ills not addressed by society, then it may lead to hospitals wanting to institutionalize people.

Ms. Hauser asked Ms. Flaherty to clarify her recommendations to the task force and whether the definition change of a behavioral health facility was intended to apply to both public and private hospitals.

Ms. Flaherty answered that it was her intention for the recommendation to apply to all hospitals. If the task force reviews the mandatory reporting of abuse and neglect at behavioral health facilities, then task force members should take the opportunity and ask why we are only caring enough about abuse incidents at state operated facilities, rather than any behavioral health facility.

Dr. Rodis stated that all hospitals have behavioral health patients, and all hospitals have an obligation to report abuse.

Ms. Alisberg noted that the CVH Whiting task force is only tasked with making recommendations for the CVH and Whiting hospitals, therefore reviewing the practices of

private hospitals, while they might inform our recommendations regarding our charge, are beyond the task force's mission.

Mr. Lawlor proceeded to Section IV of the agenda: Whiting Forensic Hospital and Dutcher patient/staff meeting.

Dr. Wasser stated that CVH and Whiting want the patients' voice to be heard and will set up the meetings. He added that the logistics of setting them up, however, would be complicated. There are concerns or potential implications that may involve possible HIPPA violations. He reiterated that the meetings will be scheduled, only that sufficient discussion must occur before they take place.

Ms. Schwartz commented that should these meetings not be planned correctly, then they may turn out to not be very informative.

Ms. Alisberg noted that she was appointed to the task force as an advocate for the patients, and as such, she does not believe that the task force can move forward without speaking to the patients. She recommended that if HIPPA is a concern, then the task force can invite a FOIA representative for clarification and ask if the member and patient meeting could be exempt from being open to the public.

Mr. Lawlor stated that it is clear that such a meeting would be conducted as part of an executive session.

Members of the task force discussed and unanimously decided that a subcommittee should be formed for the purpose of detailing the structure of the patient and member meetings so that the meetings may be appropriate and successful once they occur. The task force chose Mr. Acker and Ms. Alisberg as the subcommittee members who would be in charge of this task. The details and structure of the meetings will be reported at the next task force meeting.

The task force discussed potential dates for the tour at Connecticut Valley Hospital. Possible dates included September, 27, 2019 from 9:00-12:00pm, and October 4, 2019 from 9:00-12:00pm. DHMAS will be in contact with Public Health Committee staff to inform them of the chosen date.

The next task force meeting is scheduled for Monday, September 16, 2019 from 12:30-2:30pm.