Testimony to House Judiciary

April 4, 2023

Re: S. 36

Mary Moulton, Executive Director, Washington County Mental Health Services

Thank you for allowing me this opportunity to testify on S. 36. I am also testifying for Vermont Care Partners which represents the DAs and SSAs in the State of Vermont. In reviewing the Bill, questions came to mind based on the current language and in view of known scenarios for people we serve and advocate for, particularly regarding individuals who are in need of treatment and/or who are extremely vulnerable to the Emergency Room environment. Basically, I'm going to testify on prevention of unintended consequences based on our current experience and observation.

As community responders, we also acknowledge the tremendous pressures on emergency department personnel. We are most appreciative of this Committee's attention to hearing from so many parties and working to find the balance between protecting the integrity of treatment for those in need and protecting the safety of staff as best we can.

A Couple of Concerns:

Law enforcement testified pretty clearly that they were now satisfied with the Bill due to the medical clearance language. As an entity that might have an alternative placement for an individual being removed from the emergency room, knowing that the patient has been medically cleared is essential. Medical clearance for people in mental health crisis did not used to exist. Thirty years ago, if a person was hospital bound for a psychiatric admission, they were admitted directly onto a unit. It was only in early 2000 that medical clearance came to pass for these admissions because medical emergencies were missed in a couple of cases. Dr. Bill McMains worked with hospital emergency room directors and psychiatric unit directors to develop criteria which included labs so that things like: lithium toxicity; brain aneurysms, delirium, alcohol detox, drug overdoses, electrolyte imbalances and more, were identified prior to admission. I've since heard testimony that the preference is that the language indicate that the person is stable, but want to be sure, as a provider, that this means medical clearance was actually completed as is implied in EMTALA. We do not want to turn back the hands of time.

Hospital staff are required to assure safety of patients per CMS and have the ability to implement emergency procedures. We understand that there may be times when police might be called if the hospital is overwhelmed but are concerned about the potential for arrest. Criminalizing people who are in need of treatment should not be an option and we would seek greater clarity within the Bill to assure that would not happen.

Suggestions for greater clarity in the Bill's language:

1) Tracking of these arrests and removals be required with detail on circumstances
2) People on a treatment track stay on a treatment track and language be developed that provides that assurance
3) Suggested language to create guardrails for treatment:

   Any person who has been determined to need voluntary or involuntary hospitalization due to a mental health crisis shall not be subject to the provisions in this bill that would

criminalize any resultant behavior. (This could also be the case for individuals requiring hospitalization for substance use treatment – voluntary only).

In addition, *any person with an Intellectual/Developmental Disability or Autism will not be subject to having their behavior identified as criminalized should that behavior be a result of a mental health crisis or manifestation of unmanageable stress directly related to their disability*

Any person who has dementia would not be subject to having their behavior identified as criminalized should that behavior be a result of a mental health crisis or manifestation of unmanageable stress directly related to their dementia …

4) Training , debriefing and support for ER staff
5) Follow-up Upstream Services: Within the community, we do not have enough services for alternative settings.
    - Crisis beds
    - Substance use/public inebriate programs
    - Mobile crisis screeners assessing a person in court
    - Housing
    - Mobile crisis screeners assessing a person immediately following discharge; if the need is determined that a person returns to the ER, there needs to be an open Support for consistent staff training - given the fact that law enforcement seldom, if ever, provides that level of support any longer in ERs (particularly in view of the new use of force
    - Urgent care psychiatric center

And at the root of all of this is the lack of upstream services for individuals who we hope would not be entering the emergency room if sufficient supports were in place for housing, mental health, substance use, and emergency room diversion units that could be staffed by mental health clinicians, psychiatric staff, and peers. I understand that the spirit of this Bill is a step to protect; we would really tackle the problem if we take steps to prevent. Prevention is our real problem.

Thank you!