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CMH: WISCONSIN RECIPROCTY

House Bill 4312 as introduced
First Analysis (3-9-93)

Sponsor: Rep. David Anthony
Committee: Mental Health

THE APPARENT PROBLEM:

In response to community needs, the bordering cities of Menominee, Michigan, and Marinette, Wisconsin, consolidated their health care systems in 1985. However, while the Bay Area Medical Center in Menominee contains a new sixteen-bed Center for Behavioral Medicine, mentally ill patients in Marinette who are residents of Wisconsin must be transported to a Wisconsin state facility some sixty miles away. Those involved in the care and treatment of these patients maintain that this practice, the subjection of a patient who is often depressed and in a state of agitation to a two-hour ride in the back of a police car, is clearly not in the best interests of the patient. In order to provide mentally ill patients from Wisconsin with access to the Bay Area Medical Center, legislation is needed to allow reciprocity between the Upper Peninsula community mental health program and its Wisconsin counterpart, permit medical providers in the two states to enter into contractual relationships, and permit patients from Wisconsin to remain under the jurisdiction of Wisconsin courts while they receive treatment in Michigan.

THE CONTENT OF THE BILL:

The bill would add a new section to the Mental Health Code that would allow reciprocity between Upper Peninsula Michigan county community mental health (CMH) programs with their Wisconsin counterparts. More specifically, the bill would allow Michigan CMH programs in Upper Peninsula counties bordering Wisconsin both to secure services from Wisconsin agencies for their clients and to provide services in approved Michigan treatment facilities for Wisconsin residents (except for Wisconsin residents involved in criminal proceedings), including involuntary commitment of clients.

Involuntary commitment. The bill would allow Michigan residents to be involuntarily committed ("for treatment or care of a mental disability") in

Wisconsin and Wisconsin residents to be similarly committed in Michigan under contracts described in the bill. To the extent that they were related to admission for treatment or care of a mental disability, court orders valid in the one state would be valid in the other and not subject to legal challenge in the courts of the state receiving the patient (the "receiving state"). Patients who were detained, committed, or placed under the law of one state and who were sent to the other under the bill's provisions would remain under the legal custody of the authority responsible for them in the original state ("the sending state"), and could not, except in emergencies, be transferred, moved, or furloughed from a facility in the second state without the specific approval of the agency in the original state.

Requests for discharge. If someone were receiving treatment voluntarily under a contract as specified by the bill and requested to be discharged, the institution would immediately have to notify the agency in the original state and return the individual within 48 hours upon the request of the "sending agency" (that is, the agency in the original state which sent the patient to the agency in the other state). When a "sending agency" received an individual who had been voluntarily confined in the other state and who had requested discharge, the agency would have to either immediately arrange for his or her discharge or else detain him or her under the emergency detention laws of the agency's state.

Unauthorized Leave of Absence. If someone who had been involuntarily committed under a contract described in the bill left the treatment facility without authorization, the agency would have to use "all reasonable means" to locate and return the individual, and immediately report the unauthorized leave to the agency that had sent the individual for confinement. The receiving state would be primarily responsible for the return of individuals within its borders, and would be just as liable for

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the costs as it would if a resident of its state left without authorization.

General legal jurisdiction. Except for laws and regulation of the original state relating to the length of involuntary inpatient treatment, reexaminations, and extensions of involuntary inpatient treatment, individuals confined under contract with agencies in the other state would be subject to all of that state's applicable laws and regulations. A Michigan citizen could not be sent to another state under the bill's contract provisions unless the other state had enacted a reciprocity law. Treatment of individuals under the bill's provisions would not result in changing the patient's state of residency.

Contracts. Contracts under the bill would not be valid until approved by the Department of Mental Health, and until the attorney general had certified that the other state's laws governing patients' rights were substantially similar to Michigan law.

The bill specifies certain requirements for interstate mental health treatment contracts. Contracts would have to:

- * establish the responsibility for the costs of all services to be provided under the contract and for the transportation of clients to and from the facility receiving the clients;
- * require the receiving agency to provide the sending agency with reports on the condition of each client covered by the contract;
- * require arbitration for disputes between the contracting parties that could not be settled through discussion;
- * include nondiscriminatory treatment provisions for employees, clients, and applicants for employment and services;
- * establish the responsibility for providing legal representation, both for clients questioning the legality of admission and the conditions of involuntary inpatient treatment, as well as for employees of the contracting agencies sued by clients;
- * include provisions about the length of the contract and how it could be terminated;
- * require that the receiving agency and its treatment facilities allow the sending agency and state access to the records and premises necessary to determine whether clients were receiving an appropriate standard of care;
- * require the sending agency to provide the receiving agency with all relevant legal documents authorizing involuntary inpatient treatment of

people who were admitted under the laws of the sending state and received services under a contract under the bill;

- * require people who voluntarily sought treatment to agree in writing to the bill's procedures concerning cases when such people asked to be discharged from treatment (and require that an employee of the receiving agency certified that the individual understood the agreement);
- * establish the responsibility for having a client reexamined and for extending a client's involuntary inpatient treatment;
- * include provisions saying when a receiving facility could refuse to admit or keep a client; and
- * specify circumstances under which clients would be allowed home visits and given passes to leave the facility.

MCL 330.1921

FISCAL IMPLICATIONS:

Fiscal information is not available at present. (3-5-93)

ARGUMENTS:

For:

Mentally ill patients and their families who live within one mile of a new medical center should be rid of the concern of being forcibly transported some 60 miles for treatment. First of all, transporting those who need psychiatric intervention, often against their will, casts a "criminal aura" over the situation: the patient understandably feels more like a prisoner than a patient who is about to receive help. Second, current research has shown that including a patient's family in the treatment process, in a form of family therapy, substantially increases a patient's success when he or she returns home. Third, the agencies involved in the treatment of the patient can be more involved in the aftercare treatment of a patient.

For:

The problems of escalating health care cost and shortages of health care professionals in rural areas have caused a crisis in health care in rural communities across the nation for many years. It is, therefore, rare for a city such as Menominee to have access to a local community inpatient psychiatric resource such as the Bay Area Center for Behavioral Medicine. The provisions of the bill would allow the bordering county community

mental health agencies of Marinette and Menominee, which are less than one-half mile apart, to employ cost effective methods to enable its program to prosper economically, and to cooperate in providing a continuum of mental health care to residents of the area. The bill would also enable the Bay Area Medical Center to project the image of a comprehensive medical care center, and to function as a community resource with facilities in both locations. In addition, the bill would have a positive economic impact upon the community. Marinette County currently transports an average of 75 involuntary commitment patients per year to its state facility. Having these patients admitted to the Menominee behavioral medical center instead would add \$202,000 to that center's budget. It is also estimated that the new patients would incur the hiring of additional staff, which could bring another \$250,000 into the local economy. In addition, area health professionals believe the provisions of the bill would provide the basis for the community mental health agencies involved to work cooperatively to fund innovative treatment programs that neither of the two systems could support alone.

The Bay Area Medical Center supports the bill. (3-4-93)

Against:

The behavioral medicine unit in Menominee's Bay Area Medical Center has only sixteen beds. If these beds are made available to mentally ill patients from Wisconsin, isn't it possible that Michigan patients could be turned away at the same time that the unit was full with patients from Wisconsin? Isn't it also possible that patients from other states could flood Michigan's mental health system?

Response:

The problem of overcrowding would be handled in the same manner as other overcrowding problems in the facility -- patients would be sent to the hospital in Marquette. In any case, since it is estimated that only some 75 Wisconsin patients per year will be involved, and the facility currently averages twelve patients, with an average length of stay of seventeen days, no problems are anticipated. Further, since the language of the bill specifically refers to "a state bordering the Upper Peninsula of Michigan," patients from states other than Wisconsin would be excluded from its provisions.

POSITIONS:

The Menominee Area Chamber of Commerce supports the bill. (3-4-93)