Mental health help, civil liberties at odds

State House Dome - Dave Solomon

SENATE MAJORITY Leader JEB BRADLEY likes to play the role of fixer at the State House, finding the right compromise or amendment to guide controversial legislation through a thorny thicket of competing interests in a way that leaves most stakeholders comfortable if not entirely satisfied. But the state’s chronic shortage of mental-health beds, and the effect it’s having on the constitutional rights of mental-health patients, is proving intractable even for the longtime Republican state senator and former congressman from Wolfeboro.

Last week, Bradley put forward a proposal that he hoped would immediately end the practice of holding mental-health patients for weeks on an involuntary basis, while denying them the due process that state law says they are entitled to within three days of their admission. His proposal came after a May 1 letter from Michael Skibbie, policy director for the Disabilities Rights Center, which four years ago filed a class action lawsuit against the state over deficiencies in its mental-health system that led to a $30 million settlement.

While commending Bradley for House Bill 400, which promises to create new mental-health beds throughout the state at an estimated cost of $20 million over the next two years, Skibbie said the issue of due process prior to involuntary admission cannot wait any longer. “Even under the most optimistic scenarios, it appears that we have several months ahead of us during which adults and children will be confined pursuant to state statutes without the most basic protection of their right to liberty – the opportunity for timely review of the legality of their confinement,” he wrote.

On May 4, Bradley submitted an amendment to an unrelated House bill that was designed to solve the problem. It would require the state to hold a probable cause hearing within three days of a patient’s certification for involuntary admission, wherever they are being held, rather than the current practice of providing a hearing within three days of their admission to New Hampshire Hospital. Three days later, Commissioner of Health and Human Services Jeffrey Meyers wrote Bradley to express his “serious concerns.”

“The proposed amendment does not provide a clear solution to the stated problem, but rather complicates its overall resolution, raising more questions than answers,” according to Meyers. While New Hampshire Hospital in Concord, and so-called “designated receiving facilities” for psychiatric patients in Manchester, Portsmouth and Franklin, are set up for such hearings, the 26 hospitals in the state are not, even though their emergency rooms are often crowded with mental-health patients.

Where will these hearings be conducted? Meyers asks. Will patients be transported to courthouses in restraints? Who will line up lawyers, conduct the more extensive psychiatric evaluations required by
law, contact witnesses and family members to testify? Ken Norton, executive director of the state chapter of the National Alliance on Mental Illness, says the state has to find an alternative, and can’t wait until new beds become available a year or more from now. “We are concerned about the prospect of denying people civil liberties based on what is convenient to us because we don’t have space,” he said.

The law mandating a hearing in three days never anticipated the warehousing of mental-health patients in hospital emergency rooms while they wait weeks for a bed at the state psychiatric hospital. While there has always been a wait list of hours or days, it has exploded into weeks and even months. The average number of patients awaiting admission in one of the 26 hospital emergency rooms around the state tripled between April 2015 and April 2017. Through April of this year, the average was more than 40 adults and one child in a mental-health crisis waiting for an inpatient bed every day.

Some of them are ultimately deemed inappropriate for involuntary admission, after having been held without due process for weeks. At a public hearing last week with Meyers, Norton, Skibbie and other stakeholders present, a consensus emerged that due process by video conferencing from hospital emergency rooms might be the best interim solution while new beds are being created. Norton pushed for a deadline of Sept. 1 for a plan that could be implemented by Nov. 1. “I’m OK with that,” said Bradley, the fixer sounding a bit frustrated.

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AHCA and substance abuse programs in NH

By Karen Dandurant
PORTSMOUTH — While there are many concerns over the new health care bill, approved by Republicans and heading to the Senate for consideration, some aspects of the bill have those working to address the current opioid crisis frightened. After failing the first time, the revised American Health Care Act passed last week in the House in a 217-to-213 vote, with 20 Republicans voting no on the measure. Now it moves to the Senate where the word is that it will face many changes before moving forward.

The bill, if passed as written, will allow states to decide whether “essential benefits like maternity care and mental health will be covered, and how coverage will affect people with pre-existing conditions. It defunds Planned Parenthood and cuts Medicaid funding, which provides health coverage for low income people. The bill would cut the recently approved expanded Medicaid in New Hampshire. That money is being used to start new substance abuse programs, beef up existing ones and allowing many of the state’s most vulnerable people health care coverage to seek help for addiction.

Those working with this population say they fear that many of those people seeking help will no longer be able to get it. They say the state is in real danger of moving backward on the crisis instead of
continuing the forward momentum started with the help of an expanded Medicaid program. “It’s amazing to me that a health care bill could be put forward that does not adequately address, and may even inhibit care for this huge problem we are facing,” said Dr. Will Torrey, professor and vice chair of clinical services for the department of psychology at Dartmouth Medical Center. “This will impact those in need of services, those trying to build services and the families of people who need help, and we all know of someone today.”

Torrey said there were a lot of advantages to the Affordable Care Act, including good provisions for mental health care and addiction services, provisions that are in danger under the proposed bill. Jay Couture, executive director of Seacoast Mental Health Services, with locations in Portsmouth and Exeter, said she hopes that the Senate makes significant changes, because otherwise the effect on services will be detrimental. “If expanded Medicaid goes away, many people will be lost to us,” Couture said. “We are seeing 500 people covered by this, and it has allowed us to expand our services. If this goes away we are unlikely to be able to sustain our current level of substance abuse treatment programs. Given this crisis, we hope we are not about to lose that. The number of people covered and the scope of care we can offer is in real danger of being lost. And where does that leave people who need services?”

The other part of the new health care bill Couture finds alarming is the proposal that will allow states to have the ability to opt out of pre-existing conditions. “If that happens on a state level, I fear large companies will soon follow suit,” Couture said. Torrey said the bill would give states the option when it comes to pre-existing conditions and that includes mental health and substance abuse. “Many mental health and addictions begin in the early 20s,” Torrey said. “They need care then to steer them in the right direction. That makes it a pre-existing condition. Many of them are covered now under expanded Medicaid, so the problem is obvious. We will have a large group that have had the security of expanded coverage, suddenly be without the means to get help.”

Peter Fifield, behavioral health services manager at Families First Health & Support Center, said that if Medicaid coverage is eliminated, he fears it will mean that fewer people will seek care. “Motivation to seek treatment is mercurial enough,” Fifield said. “If standard coverage for substance use disorder services (medications, therapy and transportation) are repealed, it will be a significant hurdle for patients seeking services.” Helen Taft, executive director of Families First, talked about its efforts to address substance abuse disorders, and how the current health care bill will change that. “Families First launched a medication-assisted treatment program for our patients battling addiction in December 2015,” Taft said. “The program includes Suboxone and Vivitrol, medications that reduce cravings and withdrawal symptoms. Suboxone costs $100 to $200 per week, and Vivitrol costs $1,400 per month. “Of the 100 patients who have been in the MAT program to date, 87 percent are covered by expanded Medicaid. If these patients were uninsured, Families First would still offer them counseling and primary care visits on a sliding fee scale, but the Suboxone and Vivitrol would not be affordable. And for many patients, these medications make the difference between success and failure in overcoming addiction.”
On the side of delivering services, Torrey said that if funding goes away, New Hampshire cannot train and build the work force needed to address mental health and substance abuse. “We want and need to train people who will stay in New Hampshire and work with our residents,” Torrey said. “If we can’t provide the training and income for them, it isn’t going to happen.”

Kerry Norton is a co-founder of Hope on Haven Hill, a residential program for pregnant women with a substance abuse disorder and their babies. It opened less than a year ago, in response to a very specific need of the opioid crisis. “If we lose expanded Medicaid over 6,000 people in New Hampshire will lose coverage — all my women at HHH will lose coverage — it will be devastating,” Norton said. “All of the residents at HHH are covered through expanded Medicaid. All of our wait list and the women who come to us seeking to be put on our wait list without insurance — who we assist to apply for Medicaid — will lose all hope for access to treatment.”

Norton said she already sees the need to expand on the work happening at HHH and now she fears for the agency’s future. “How can we expand if we are at risk to not even be able to continue this work,” asked Norton. She said she hopes a lot more work is done on the new bill, which repealed and replaced the Affordable Care Act. “Part of me wants to be optimistic,” Couture said. “We have great things happening in this state right now when it comes to treating substance abuse. We feel we have a responsibility to our patients and we would do everything we can to preserve these programs, but if the funding is not there — who knows?”

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**Sununu looks outside government for top posts**

By The Associated Press

CONCORD — As first-term Gov. Chris Sununu builds out his cabinet, he’s largely turned to appointees with little to no professional experience in the departments they’re being asked to lead. For education, he tapped Frank Edelblut, a businessman who homeschooled his children. For labor, it’s Ken Merrifield, a city mayor and former state employee, but one without experience in labor relations. For administrative services, the state’s fiscal management arm, Sununu’s pick is Charlie Arlinghaus, his budget director and long-time head of a free market think tank. “What I’m trying to do is not look within state government just to find more state government people to move up the chain, but really bring outside perspective from folks who have some association or area of expertise,” Sununu, a Republican, told The Associated Press.

Sununu’s immediate predecessor, Democratic Gov. Maggie Hassan, often reappointed choices of the governor before her, also a Democrat, and occasionally conducted formal searches. Critics say Sununu has failed to cast a wide net to find the best people for the job, although the Executive Council has
confirmed three of four nominees so far. Arlinghaus had a public hearing Wednesday and is up for a confirmation vote later this month. “There's been a dearth of documented experience and competence in the area they're being asked to managed,” said Democratic Councilor Andru Volinsky, a critic of some choices.

Supporters, meanwhile, say Sununu’s nominees are well-qualified and note Sununu has inherited a government largely built by members of the opposing political party. Before Sununu, Democrats held the corner office since 1996, with the exception of Republican Gov. Craig Benson’s single term. “You’ve had 18 years of Democrats, so there is not a ready corps of experienced Republican nominees to throw into these things,” said Tom Rath, a former Republican attorney general and member of Benson’s transition team. “The bureaucracy he’s dealing with is one that’s been picked by Democrats.”

Commissioners are appointed for terms typically of four to five years, meaning many of Hassan’s picks will stay on through much of Sununu’s term. All gubernatorial nominees must be approved by the 5-member Executive Council, a unique check on executive power. For half of Hassan’s four years in office, she dealt with a council led by the opposite party.

Of Sununu’s five picks so far, all have been well-known in Republican political circles, whether as donors or operatives. Hassan, for her part, made several political picks, including her attorney general. Sununu has nominated no women, and conducted no formal search committees. Instead, he’s largely chosen people who have come to him offering to serve. His most widely praised choice was Gordon MacDonald, who was confirmed 5-0 as attorney general. Unlike the other nominees, MacDonald has a long history in the field, working as a prominent attorney in Manchester and leading several legal organizations. Republicans and Democrats alike lauded his nomination.

But two others — Edelblut and environmental services nominee Peter Kujawski — were highly contested. Edelblut's nomination prompted hundreds of calls and emails to councilors from teachers and others concerned he would undermine public education. Kujawski, meanwhile, was dropped before the council even took a vote after he showed a lack of knowledge of environmental projects and regulations during his confirmation hearing. Kujawski acknowledged he offered to join the administration, but hadn’t specifically sought the environmental job. “It doesn’t seem like it’s necessarily finding a person that fits into the job, it’s almost like finding a job that fits the person,” said Jay Ward, political organizer for the state employees union.

Even Republican Councilor Joe Kenney said he’d appreciate a more thorough approach. He’d like to see more search committees, like the one Hassan created to find a new transportation head. That job went to Victoria Sheehan, a former Massachusetts’ transportation official. Still, Kenney has backed each of Sununu’s nominees and says they are well qualified. “I think the governor has come in as a change agent, he wants his people in place that are going to carry out his policies,” Kenney said. Sununu, for his part, said he was elected to bring fresh voices to Concord. “We’ve just had a dozen or so years of a lot of the same people churning through government,” he said.