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Outpatient Commitment: A Competency Based Justification

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Competence-Based Medicalization Model

**Outpatient Commitment**

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**De-Institutionalization/Criminalization**

*A recent survey of state statutes for outpatient commitment (Torrey and Kaplan, 1995) indicates that while thirty-five states and the District of Columbia have laws permitting outpatient commitment, Massachusetts is not one of them. Rather, Massachusetts uses a competency-based, substituted-decision-making model for the involuntary administration of medication in the community. To appreciate the Massachusetts model, it is important to understand how this court-ordered involuntary outpatient treatment fits into the overall scheme of outpatient commitment and how it is structured.

A review of involuntary outpatient treatment (IOT) literature indicates that it is prudent to distinguish between outpatient commitment, conditional release, and conservatorship-guardianship (Torrey and Kaplan, 1995). Two states whose IOT is based on the guardianship process and is described in the literature are California and New Mexico. Lamb and Weinberger (1992, 1993) have discussed California’s use of guardians for the gravely disabled outpatient and Schneidman-Beers (1986) has presented a single case report from New Mexico.

**Method**

This study continues work from an earlier study on the same group of patients (Geller and others, forthcoming). In the previous study, both the pre-treatment and post-treatment periods were six months long. In this study, we have extended the post-treatment period to two years. These two years are divided into four six-month segments. Within each six-month period we computed the number of inpatient admissions and days for each patient.

The data used for analysis come from the Massachusetts Department of Mental Health (DMH) client tracking system (CTS). This data set contains information on demographic, clinical, and services utilization for case-managed clients statewide, beginning July 1, 1991. We first compared the IOT patients during the pre-treatment period with their own post-treatment data. Second, we compared the IOT patients with patients matched on demographic variables.

Finally, we compared the IOT patients with patients matched on inpatient service use.

“Fore a century or more two rival policies have been used in criminal justice. One is the punitive policy, the other is the treatment policy. Treatment tends to be organized on the assumption that the criminal is a socially sick person.” (Yablonoff, 1992, The Wisdom of Treatments [Paperback], 181-186).

“It is old news that the field of law known as mental health is especially susceptible to these guideline-likeencies... It is... tendency in itself from one positioned extreme to the other.” (Brakel & Cavanaugh, 2000). Of Psychopaths and Pendulums: Legal and Psychiatric Treatment of Sex Offenders in the United States. (2000). Jossey-Bass Publishers.

“Experience should teach us to be ever on our guard to protect liberty when the Government’s purposes are beneficent. Mere knees in freedom are naturally alert in egalitarian states. The greatest danger to liberty lurk in insidious encroachment by area of evil, well-meaning but without understanding.” (Morland, L., A Field Study of Involuntary Psychiatric Hospital Admissions, 416-418, Jossey-Bass Publishers, 1948).