Outpatient Commitment: A Competency Based Justification

Albert J. Grudzinskas  
University of Massachusetts Medical School

Jeffrey L. Geller  
University of Massachusetts Medical School

Jonathan C. Clayfield  
University of Massachusetts Medical School

See next page for additional authors

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De-Institutionalization/ Criminalization

Competence-Based Medicalization Model

Competency-Based Approach to Outpatient Treatment

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 psychiatric outpatient, and Schneider-Beer (1986) has presented a single case report from New Mexico.

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 compared 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 services use.


Outpatient Commitment

Albert J. Grudzinskas, Jr., J.D., Jeffrey Geller, M.D., M.P.H., Jonathan Clayfield, M.A., LMHC, William H. Fisher, Ph.D.

"For 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 morally sick person." Yablonski, 1981. In Yablonski, A. (ed.). The Willful Herd: An Ethical Casebook. Cambridge, MA: Harvard University Press, 1981, p. 101.


"Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by well-intentioned rulers. The greatest danger to liberty exists in institutions enroaching by area of real, well-meaning but without understanding." Sutherland, E.H. (1950). The Diffusion of Sexual Psychopath Laws. American Journal of Sociology, 55, 69-94.


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