H. 1419 - Modernize Massachusetts’ Civil Commitment Law

Massachusetts needs assisted outpatient treatment (AOT).
House Bill 1419, introduced by Representative Kay Kahn, would establish assisted outpatient treatment (AOT) in Massachusetts. AOT refers to a court order requiring that a person with a severe mental illness adhere to a prescribed community treatment plan. One of the main goals of AOT is to enable more consistent adherence to treatment for people whose severe mental illness impairs the ability to seek and voluntarily comply with treatment.¹ Treatment adherence is associated with improved outcomes for those experiencing symptoms of severe mental illness and with a reduction in societal consequences associated with non-treatment, e.g., demands on law enforcement, jails/prisons, hospitals and costs associated with these.²

Massachusetts is one of only six states without an AOT law.
Massachusetts is one of only six states whose statutes do not provide for AOT as a less restrictive alternative to involuntary hospitalization for people with severe mental illness.

The practical result of Massachusetts’ failure to adopt AOT is that community mental health services are only available to people who are well enough to accept services voluntarily. An estimated 22,700 people with schizophrenia and 58,000 people with severe bipolar disorder are left untreated.³ Some of these individuals deteriorate to the point that they pose a “likelihood of serious harm” to themselves or others.⁴ Many more experience employment, housing, health, family and other issues that reduce their quality of life and increase the demand for social services.

AOT addresses the most common reason for refusing treatment: lack of insight.
Extensive research since the early 1990s has found that about half of those with schizophrenia and bipolar disorder experience a neurological syndrome called “anosognosia,” a condition also commonly found in people suffering other brain disorders such as Alzheimer’s disease or complications from a stroke.⁵

Anosognosia impairs the ability of individuals to recognize that their symptoms are a sign of illness⁶ and is considered the most common reason that people with severe mental illnesses reject treatment.⁷ A severe lack of insight into illness can “seriously interfere with [a patient’s] ability to weigh meaningfully the consequences of various treatment options.”⁸

AOT works at reducing consequences of non-treatment and improving lives.
Several studies have clearly established the effectiveness of AOT in decreasing hospital admissions, rates of homelessness, arrests, and violent episodes.⁹
New York enacted Kendra’s Law to provide AOT in 1999. AOT recipients experienced far fewer negative outcomes while in court-ordered treatment than in the three years prior to their participation. Specifically, an OMH study conducted in 2005 found that for those in the AOT program:

- 74 percent fewer experienced homelessness;
- 77 percent fewer experienced psychiatric hospitalization;
- 83 percent fewer experienced arrest; and
- 87 percent fewer experienced incarceration.

The related findings of an independent evaluation published in 2009 were also impressive. AOT was found to cut both the likelihood of being arrested over a one-month period and the likelihood of hospital admission over a six-month period by about half (from 3.7 percent to 1.9 percent for arrest, and from 74 percent to 36 percent for hospitalization).

The 2009 independent evaluation also indicates the positive outcome of assisted outpatient treatment extends after the person is taken off the order, with the largest long-term improvement coming from people in AOT for 12 months or longer.\(^\text{10}\)

A new, long-term study published in the May 2011 issue of Psychiatric Services reports dramatic benefits of AOT to its participants and society. The study found:

- The population that never received AOT was twice as likely to be arrested as the group that did receive it.
- Among those receiving AOT, the risk of any arrest was 2.66 greater before participation than after.
- Among those receiving AOT, the risk of arrest for a violent offense was 8.61 times greater before participation in AOT than after.\(^\text{11}\)

**Empirical evidence shows that AOT reduces the consequences of non-treatment.** The most comprehensive, randomized control study of AOT, referred to as the Duke Study, involved people who “generally did not view themselves as mentally ill or in need of treatment.”\(^\text{12}\) The study compared people who were offered community mental health services with people who were offered the same services combined with a court order requiring participation in those services (i.e., the difference was the court order). The Duke Study showed that combining a court order with services for a long term (at least six months) resulted in:

- Reduced hospitalization (up to 74 percent);
- Reduced arrests (74 percent);
- Reduced violence (up to 50 percent);
- Reduced victimization (43 percent); and
- Improved treatment compliance (58 percent).\(^\text{13}\)

**Consumers believe the benefits of AOT outweigh the potential disadvantage of perceived coercion.**

In a survey of people with schizophrenia concerning preferences related to AOT, “being free to participate in treatment or not” was the least important outcome. When asked to rank their preferences, consumers responded that reducing symptoms, avoiding interpersonal conflict, and avoiding rehospitalization
outranked avoidance of outpatient commitment. Studies show that a majority of people with severe mental illnesses who received mandatory treatment later agreed with the decision.

An informal survey of consumers of services for people with severe mental illnesses by a fellow consumer revealed that a majority supported outpatient commitment. A formal survey published in July 2004 found that a majority of consumers regard mandated treatment as effective and fair. One prominent consumer advocate who has schizophrenia explained that those “who have been primarily interested in consumer rights and liberties … focus … on opposing the use of forced treatment. … On the other hand, consumer advocates who place a high value on the need for psychiatrically disabled persons to receive treatment tend to support [AOT].”

Massachusetts cannot afford not to have AOT. Massachusetts does not have sufficient state psychiatric hospital bed capacity. Medication nonadherence is a significant factor in hospital readmissions. A published study of Medicaid recipients with schizophrenia revealed that “individuals who were [medication] nonadherent were two and one-half times more likely to be hospitalized than those who were adherent.” The same study found that those who are nonadherent incur 43 percent more in service costs than those who adhere to medication. AOT can help reduce such costs by improving medication compliance and reducing hospital and emergency room visits.

The state of Massachusetts ranks 18th in the country in mental health expenditures per capita. Unfortunately, the effectiveness of community mental health services is compromised because Massachusetts does not have an assisted outpatient treatment law.

In the wake of deinstitutionalization, people with severe mental illnesses have filled prisons and jails and become one-third of the chronic homeless population. Many have taken their own lives and, less frequently, those of others. An estimated 10 percent of all homicides are committed by the tiny fraction of the population with untreated severe mental illness. The cause of these tragedies is more often than not the symptoms of these disorders for which there are effective medications.

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2 See infra.
3 NIMH prevalence rates (2010) applied to July 1, 2009 US Census Bureau population figures.
4 MASS. GEN. LAWS ANN. ch. 123, § 8(a).
10 Duke University School of Medicine et. al (June 2009). New York State Assisted Outpatient Treatment Program Evaluation; Kendra’s law: Final Report on the Status of Assisted Outpatient Treatment (New York: N.Y. State Office of Mental Health,


