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26th District



Oklahoma Senate Health & Human Services Committee  
Chairman Standridge

Ohio Court Ordered Assisted Outpatient Treatment Program  
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Thank you Chairman Standridge and members of the Senate Health & Human Services Committee for allowing me to speak with you today on a topic that has grown very near to my heart in court ordered outpatient treatment. It is an honor to be able to travel here today to your state capital to share some of my observations and insights from the court-ordered outpatient treatment program that we have implemented in Ohio.

First I would like to provide some background to Senate Bill 43, which was signed in to law by Governor Kasich on June 16<sup>th</sup>, 2014. Prior to the passage of Senate Bill 43, assisted outpatient treatment was permissive per Ohio law, but the allowable statute was very unclear as to which “least restrictive alternative” for individuals with severe mental illness who meet the criteria for court-ordered treatment would be most suitable. Only a few probate court judges throughout Ohio felt court-ordered outpatient treatment was within their purview, while most were hesitant to use it because of conflicting and confusing statute. The clarification of statute in Ohio has eliminated a major hurdle in establishing court-ordered outpatient treatment programs statewide, and we certainly expect more usage as probate judges begin to utilize this cost-saving and effective resource.

I would first like to take a moment to give a brief outline of Ohio’s mental health delivery system. In Ohio, a large majority of our individuals suffering with a mental illness are either uninsured or enrolled in Medicaid for services. Services are offered and coordinated on the local level by county behavioral health boards. The state does provide funding for these operations and services, but many local boards have their own levy to fund additional services as well. We have recently accepted Medicaid expansion in Ohio, which has helped bring more uninsured individuals into a managed care setting, despite

still having a bifurcated system of mental and physical health coverage and delivery in Ohio. We are currently working to integrate mental health services into the full Medicaid managed care plans, which will allow for increased care coordination and improved health outcomes. Considering the current makeup of the mental health system in our state, implementing this policy had some hurdles that Oklahoma will not have.

Oklahoma already has the luxury of having a comprehensive state run mental health system that should help eliminate some of the discrepancies over who would and would not be able to afford to provide the services.

In Summit County, which is one of Ohio's larger urban counties that encompasses the City of Akron, we have one of Ohio's most effective court-ordered outpatient treatment programs. Summit County had utilized court-ordered outpatient treatment prior to passage of Senate Bill 43, and reviewing an economic analysis of the services delivered from 2001-2007, it was found that the annualized aggregated costs per person declined 50% from a mean of \$35,104 before court-ordered outpatient treatment to \$26,137 during court-ordered assisted outpatient treatment participation, and further to \$17,540 after participation in the program. Much of these savings were in reductions in hospitalization rates, mental health assessment by non-physicians, individual counseling, and mental health pharmacologic management services. I certainly understand that our structure for mental health services and Medicaid programs in Ohio will certainly vary from Oklahoma in available services, costs, and operational structure. However, it is important to note that in Ohio we have identified and utilized treatment programs that actually decrease costs in areas that should translate to most programs in one way or another.

In Ohio law, there are several criteria that an individual must meet to be subject to court-ordered outpatient treatment, and are fairly strait forwarded.

- The person must represent “a substantial risk of physical harm to self...”
- The person must represent “a substantial risk of physical harm to others...”
- The person must represent “a substantial and immediate risk of serious physical impairment or injury because the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community.”
- The person would benefit from mental illness treatment
- And one of the following:
  - The person is “unlikely to survive safely in the community without supervision, based on a clinical determination.”
  - The person has “a history of lack of compliance with treatment for mental illness...”

- The person, as a result of the person's mental illness, is “unlikely to voluntarily participate in necessary treatment.”
- In the person's treatment history and current behavior, the person “is in need of treatment in order to prevent a relapse or deterioration that would be likely to result in substantial risk of serious harm to the person or others.”

When we were debating this legislation in Ohio, we did hear several concerns from the judicial branch that I would like to share with you, and some ways we worked with their concerns. There was a notion that this program would make it so probate judges were going to make a clinical diagnosis of the participant when determining a ruling. This was not the case, as in other civil cases, the judge will simply make a determination of whether or not an individual has the competency to exercise their right to care about their mental illness. It is simply the judge’s responsibility to determine, based off of the collective evidence and testimony, whether there is beyond a shadow of a doubt that the individual in question could be a danger to self or others. Prior to this legislation, judges across the state had two choices when determining how to handle these cases. The judge could either dismiss the case or subject the individual to inpatient mental health hospitalization, despite the knowing that individuals heal faster and we see more positive long term results when individuals heal at home in a familiar environment.

When we are faced with tragic instances where an individual with a mental illness has inflicted harm or death on themselves or others, we often ask, “How didn’t anyone see this coming?” Generally, the answer to this question is, “Yes, we did see it coming.” However, more often than not, there was no recourse within the justice system that could be exercised to deviate from the inevitable fate. The only recourse would be available after the individual committed a crime that resulted in them being brought into court.

In Ohio, we have created a simple system to allow family members and loved ones to file an affidavit that is available on the Attorney General’s website with the court requesting treatment for a mentally ill individual when they feel someone is a danger to themselves or others. Once the affidavit is filed, we begin an evidentiary civil process where those filing the affidavit must provide to the court proper evidence such as police and medical records if applicable and other evidence that would warrant concern. The court then holds a bench hearing where the defendant has the right to an attorney if they wish to defend themselves. If it is determined by the judge beyond a shadow of a doubt that the individual needs assisted outpatient treatment, they may issue proper treatment. This process gives recourse to allow us to be proactive instead of having to be reactive when it is often already too late.

One of the final concerns raised in our state was from mental health providers. There was a fear that the outcomes and results of individuals who were ordered to outpatient treatment would factor into provider quality ratings and evaluations. This concern was remediated by clarifying that providers could not be held liable for patients who were court-ordered. While the issue was addressed, I do raise this as an item because I do not find physicians refusing to accept complicated patients who may have had a triple-bypass surgery recently because they are afraid of effecting their quality evaluations. With that being said, I am not concerned if the provider community has caution about accepting these patients or not, as they need to be treated.

The goal in Ohio is simple; to keep our loved one with untreated mental illness from becoming so ill that they are ready to hurt themselves or someone else. We understand that this type of treatment may not be best suitable for every single individual in this situation, but for some it could mean the difference between life and death. It is hopeful that by utilizing these best practices it will help put an end to the revolving door of the current justice system and put individuals on a path to recover in the least restrictive setting possible. This program not only provides important services to these individuals who need them most, but it also engages the individual in the process. This program encourages them to become an engaged patient, which ultimately plays an impactful role in producing a positive outcome for both the individual and the greater community.

Thank you for allowing me to testify to this issue and I would be glad to answer any questions that you may have.