



OUT OF THE FOG

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CA Mental Health Law Reform

By Jeong Shin

“California Mental Health Law Reform: What may be in store for the future ...” was the topic presented at the April 22 Grand Rounds at San Francisco General Hospital by Dr. Cameron Quanbeck, Forensic Psychiatrist and Carla Jacobs, Mental Health Activist

Before the California Lanterman-Petris-Short (LPS) Act of 1967, civil commitment of an individual required only the signatures of two medical doctors. The legislative intent of LPS was to end the inappropriate, indefinite, and involuntary confinement of mentally disordered persons. It also sought to safeguard individual rights through judicial review. LPS only provides for involuntary inpatient hospitalization. The criteria for an involuntary hospitalization under LPS include danger to self, danger to others, and/or gravely disabled (unable to care for self outside the hospital and no one else is willing to assume the responsibility).

Kendra’s Law in New York is a law concerning assisted outpatient treatment (AOT). It grants judges the authority to issue orders that require people who meet certain criteria to take psychiatric drugs, regularly undergo psychiatric treatment, or both. Proponents of AOT considered it improvement over current LPS legislation because it allows for intervention before an individual with severe mental illness engages in behavior that results in inpatient hospitalization or incarceration, using the following criteria: Two hospitalizations in the previous thirty-six months, one or more serious threats or acts of violence in the previous 48 months, and being likely to refuse treatment due to mental illness.

Dr. Quanbeck reported that in a Duke University study of Kendra’s Law, arrest rates dropped in half, hospitalizations decreased, duration of hospitalization decreased, and there was less substance misuse and better medication adherence. The concern with LPS is that the system is set up to wait until an individual is exhibiting dangerous behaviors rather than intervening when the person needs treatment. The timeline for commitment under a 5150 and 5250 hold is up to 17 days, and the current system fails to recognize the clinical reality that it often takes 30 days to respond fully to medication and appreciate benefits of treatment.

Failing to treat episodes of severe mental illness damages important brain regions. Psychotropic medications prevent this loss of brain tissue. Individuals with severe mental illness often lose the ability to recognize their illness that results in a loss of decision-making capacity. Dr. Quanbeck made the argument that sustained medication is what works and that objective measures of competency are necessary for individuals to give informed consent.

Carla Jacobs, Mental Health Advocate, co-founder of Treatment Advocacy Center, focused her presentation on how to get AOT implemented at the local level arguing that the decision to close down state hospitals and the subsequent failure of those funds to be invested in community based treatment facilities resulted in de-institutionalized people who were then trans-institutionalized out of the hospitals and onto the streets or prisons.

She pointed out that the behavioral standards established under LPS criminalize people with mental illness; there is a fine line between danger for hospitalization and prison. People who are very ill but not dangerous may engage in behaviors such as disturbing the peace, vagrancy, trespassing, taking them out of treatment and putting them in jails and prisons.

Laura's Law, similar to Kendra's Law in New York, is a California state law. However, each county Board of Supervisors must pass a resolution to enact it. San Francisco has not enacted this law. The obstacles identified include lack of funding and lack of political will. There will never be a time when there will be plenty of money and there is not enough money to continue on the current path.

Ms. Jacobs asserted that individuals who have the capacity to recognize their illness, are able to weight benefits and detriments, and see consequences...then they have the right to their decision and the responsibility of the consequences. However, the system must work not only for people well enough to ask for help, but also the people who we need help and protection.