MIAMI-DADE COUNTY
FINAL OFFICIAL MINUTES

Mayor's Mental Health Task Force
Baker Act/ Involuntary Outpatient Placement (IOP) Subcommittee

Rhode State Building
401 NW 2nd Avenue, N-423
Miami, Florida 33128

December 9, 2005
As Advertised

Harvey Ruvin, Clerk
Board of County Commissioners

Kay Sullivan, Director
Clerk of the Board Division

Judy Marsh, Commission Reporter
(305) 375-1967

CLERK'S SUMMARY AND OFFICIAL MINUTES
BAKER ACT /INVOLUNTARY OUTPATIENT PLACEMENT
SUBCOMMITTEE MEETING
DECEMBER 9, 2005

The Baker Act/Involuntary Outpatient Placement (IOP) Subcommittee of the Mayor's Mental Health Task Force (MMHTF) met at the Rhode State Building, 401 NW 2nd Avenue, N-423, Miami, Florida 33128 at 10:23 a.m. on December 9, 2005, there being present Co-Chair Silvia Quintana, Substance Abuse & Mental Health Program Supervisor, District 11 – Florida Department of Children and Families and Co-Chair Honorable Maria Korvick, Administrative Judge of the Probate Division, 11th Judicial Circuit of Florida; (Co-Chair Representative Rene Garcia was absent); and members Honorable Lewis Kimler, Magistrate, Labor Act of the Courts; Anders Madsen, Esq., Administrative Office of the Court; Ms. Deborah Dummitt, Adult Mental Health Manager, Department of Children and Families (DCF); Ms. Jennifer Holtz, Licensed Mental Health Supervisor, Substance Abuse and Mental Health Program; Mr. Tom Ogazon, Jackson Memorial Hospital; Assistant Public Defender Hugh Keough; Assistant State Attorney Lourdes Roberts; Mr. Joseph George, Jr., Substance Abuse and Mental Health Corporation Florida; Mr. Tim Coffey, Assistant Mental Health Project Coordinator, 11th Judicial Circuit Criminal Mental Health Project; Ms. Joanna Cardwell, Adult Mental Health Coordinator, (DCF); Ms. Yamile Diaz, DCF; Mr. Jose Cio, Miami Behavioral; Ms. Carmen Gomez; Ms. Jennifer Morgan, Community Participant; Ms. Carmen Cantero, Citrus Health Network; Ms. Maricela Jimenez-Rivero, Citrus Health Network, Outpatient Services Administrator; Ms. Orissa Russ, Clerk of Courts; Mr. Mark Martinez, Clerk of Courts; Mr. Roland Berthold, Quality Assurance Specialist, DCF; Ms. Teresa Thompson, South Florida Providers; Ms. Andrea Paler, Jackson North Community Mental Health Center; Mr. Juan De Los Santos, Mercy Hospital; Ms. Hilda Rodriguez, Mercy Hospital; Mr. Bernie Breiter, Mercy Hospital; Ms. Pat Cawley, Clinical Director, Camillus House; Ms. Mireya Mayor, Westchester/Southern Winds Hospital; Ms. Marta Alamo, Director, Case Management, Westchester/Southern Winds Hospital; Ms. Claire Villati, Social Work Case Manager, Westchester General Hospital; Ms. Sandra Sorrentino, Division Director, Bayview Center; Mr. Kale Baker, Division Director, Bayview Center; Ms. Portia Newbold, Assessments and Admissions Coordinator, New Horizons Community Mental Center; Miami-Dade County Commissioner Natacha Seijas, District 13; Mr. Kevin McDonald, Intake Coordinator/Case Manager, Parkway Hospital; Ms. Dawn Knowles-Forbes, Northshore Medical Center; Ms. Diana Salinas, Jackson Memorial Hospital; Ms. Kathleen Melo, Southern Winds Hospital; Ms. Rachel Diaz, Families of Untreated Mentally Ill Persons; Ms. Sheila Siddiqui, Miami-Dade Department of Corrections; Ms. Maria Robau, Project Manager, Mayor's Mental Health Task Force; Ms. Valda Clark Christian, Miami-Dade County Attorney's Office and Deputy Clerk Judy Marsh.

Also present were Mr. Nelson Diaz, Clerk of the Board's Office and Mr. John Kowall, Volunteer Mental Health Advocate.

1. Welcome and Introductions

The Task Force members and other participants at today's Baker Act/Involuntary Outpatient Placement (IOP) Subcommittee introduced themselves.

2. Review of Purpose for the District IOP Workgroup – establish District Policies and Procedures for the Implementation of IOP

Ms. Quintana called the Baker Act/Involuntary Outpatient Placement (IOP) Subcommittee meeting to order at 10:23 a.m. She advised that today's meeting comprised members of the Department of Children and Families' IOP Workgroup and members of the Mayor's Mental Health Task Force (MMHTF) Baker Act Subcommittee. Ms. Quintana noted Honorable Maria Korvick, Representative Rene Garcia and herself were the co-chairs of this Subcommittee. She acknowledged the presence of Miami-Dade County Commissioner Natacha Seijas, District 13. Ms. Quintana noted recommendations regarding implementation of the Involuntary Outpatient Placement (The Baker Act Reform Bill) would be presented by representatives of the Criteria/Target Workgroup, the Legal Issues/Guardian Advocate Workgroup and the Provider/Resource Workgroup.

Judge Korvick pointed out that funding was provided for implementation of Kendra's Law upon its passage in New York, however, the Florida Legislature did not provide any funding for the Baker Act Reform.

3. Reports & Written Recommendations from Workgroup Subcommittees:

Criteria/Target Group Subcommittee – Cindy Schwartz

Ms. Maricela Jimenez, representing Ms. Cindy Schwartz, Criteria/Target Workgroup, presented the Workgroup's recommendation regarding the Involuntary Outpatient Placement (IOP) legislation (The Baker Act Reform Bill). She noted the Workgroup agreed that the IOP should be utilized for individuals who were frequently hospitalized and/or incarcerated. Ms. Jimenez said these individuals would be high recidivists to inpatient Crisis Stabilization Unit (CSU) hospitalization and state hospitalization and/or jail because of non-compliance with treatment and were the most difficult to serve within the existing mental health system. She noted it was the Workgroup's recommendation that individuals who met the criteria for IOP have access to all necessary treatment interventions and services upon discharge that were identified by an individualized treatment-planning process and that individuals were engaged by community-based treatment teams before release from CSU/hospital to ensure successful transition to the community.

Ms. Deborah Dummitt requested that the State Attorney's Office review the recommendations of the Criteria Workgroup.

Legal Issues/Guardian Advocate Subcommittee – Diana Salinas

Ms. Diana Salinas, Jackson Memorial Hospital, presented the report/recommendations of the Legal Issues/Guardian Advocate Workgroup regarding the impact of the new Involuntary Outpatient Placement (IOP) legislation (The Baker Act Reform Bill) on the judiciary and legal process. She noted the legislation expanded the role of guardian advocates in the involuntary outpatient setting which resulted in a shortage of attorneys to serve as guardian advocates. The guardian advocates, Ms. Salinas noted, cited liability issues, increased danger to themselves due to closer and longer term involvement with patients outside of the hospital setting.

Judge Korvick said family members rarely attended Baker Act proceedings and many mentally challenged individuals relocated to Miami-Dade County because they were seeking the anonymity of the big cities.

Ms. Salinas said efforts to recruit guardian advocates through nursing programs and law schools proved futile due to potential liability.

Judge Korvick noted under the new legislation, the guardian advocates had no way of knowing whether the person was taking his/her medication or was dangerous.

Responding to Ms. Quintana, Judge Kimler said the training course tape for the guardian advocates was completed, however, no-one requested training.

In response to Commissioner Seijas' inquiry whether there would be more advocates should the liability issue be addressed, Judge Kimler said individuals serving as outpatient guardian advocate would be subjected to potential harm. He noted the liability issues were astronomical.

Judge Korvick noted individuals currently serving as inpatient guardian advocates related incidents of having been hurt by mentally challenged individuals.

Discussion ensued among the Subcommittee members and participants at today's meeting regarding the liability concerns for individuals who would be serving as outpatient guardian advocates.

Commissioner Seijas offered to present language revisions proposed by the Subcommittee relating to the potential liability concerns of individuals serving as involuntary outpatient guardian advocates and the funding issues relating to the IOP legislation to the appropriate County Commission committee for review and inclusion in the Commission's 2006 State Legislative Package.

Ms. Quintana requested that the Legal Issues/Guardian Advocate Workgroup develop appropriate language relating to the potential liability concerns of individuals serving as involuntary outpatient guardian advocates and the funding issues relating to the IOP legislation. She asked that the proposed language be forwarded to Commissioner Seijas and the Department of Children and Families.

Mr. Joseph George suggested that the proposed language be placed under the Guardian Advocate section.

Ms. Rachel Diaz, representing Families of Untreated Mentally Ill Persons, suggested that the Subcommittee look at how the liability issue was addressed in other states.

Ms. Quintana said the Subcommittee would be looking at efforts being undertaken in other cities to facilitate implementation of the new law.

Further discussion ensued regarding potential danger to guardian advocates while administering outpatient treatment.

Judge Korvick said more individuals would be willing to serve as guardian advocates if they were sent as teams to administer outpatient treatment and Ms. Quintana suggested universal precautions be included in the guardian advocate training.

Ms. Deborah Dummitt said it was not always possible to obtain a medical disclosure on a mentally challenged individual, and everyone had to be treated with universal precautions. Responding to Mr. Madsen's suggestion, she noted including a law enforcement escort for guardian advocates might be an extremely costly situation.

Mr. Kevin McDonald said he worked in a hospital in New York State where mobile treatment, funded from Kendra's Law, was conducted. He noted up to three monthly home visits were paid for by New York State Medicaid.

Responding to Mr. George's comments, Assistant Public Defender Hugh Keough said the Public Defender's Office would not agree to the abolishment of the guardian advocate system.

In response to Mr. Tim Coffey's comments that the economic issues regarding implementation of the IOP legislation also needed to be addressed, Judge Kimler said the Legislature was apprised of these issues before adoption of the legislation.

Judge Korvick advised that a study was conducted by the Judicial Administration in Tallahassee regarding the cost of implementing the IOP legislation in the court system. She suggested that funding be allocated to the receiving facilities to provide outpatient treatment.

Mr. John Kowall, volunteer mental health advocate, suggested the Subcommittee access information regarding the implementation of the IOP legislation in other states.

Ms. Dummitt recommended that Ms. Diane Salinas meet with Ms. Darlene Adams, Jackson Memorial Hospital, regarding training on universal precautions and that Mr. Madsen be provided with this information. She also recommended that Mr. Tim Coffey chair a finance sub-committee.

Ms. Dummitt clarified there were community mental health centers through the Department of Children and Families that would provide follow-up treatment to individuals, however, there were some mentally challenged individuals who refused treatment. She noted the IOP legislation was an unfunded mandate.

Responding to a question from Ms. Carmen Cantero, Citrus Health Network (CHN), Ms. Dummitt said training for guardian advocates would be discussed at the January 13, 2006 Baker/Act Guardian Advocate meeting.

Judge Korvick suggested an addendum to the guardian advocate training be prepared.

Provider/Resource Subcommittee

Ms. Carmen Cantero, Citrus Health Network, summarized the recommendations of the Provider/Resource Workgroup regarding administering involuntary outpatient services to the mentally challenged population. She noted the Workgroup's recommendations included a low-demand approach within the more comprehensive Recovery Model be used to provide services for the mentally challenged population; initial medical services for involuntarily committed clients would be a physical examination; the development of teams in each Community Mental Health Centers that would involve case managers, physicians and peer counselors working from a small residential facility.

In response to Ms. Quintana, Ms. Hilda Rodriguez, Mercy Hospital, noted the Workgroup had discussed empowering mentally challenged individuals by changing the way they felt about mental illness.

Following discussion between the Subcommittee members and participants at today's meeting, Ms. Quintana requested that the Provider/Resource Workgroup develop legislative recommendations relating to a referral system through the courts that recommended a low-demand recovery model.

Ms. Rachel Diaz, representing Families of Untreated Mentally Ill Persons, said the community lacked understanding of mental illness. She pointed out that mentally challenged individuals could recover if given the appropriate medication.

Ms. Kathy Melo, Southern Winds Hospital, said it was difficult for mentally challenged patients to comply with treatment when historically they were non-compliant.

Mr. John Kowall, volunteer mental health advocate, noted whether treatment was mandated or expedited through education, mentally challenged individuals were responsible for taking their medication.

4. Discussion and Recommendations

Ms. Quintana recapped the following recommendations discussed at today's Subcommittee meeting as follows:

Mr. Tim Coffey, in conjunction with Mr. Anders Madsen, would research the financial impact of the Involuntary Outpatient Placement (IOP) law on the Public Defender's Office, the State Attorney's Office, the Courts and the Guardian Advocate issues.

The Provider/Resource Workgroup would prepare for the Subcommittee's review, recommendations for language changes and a recovery model approach for the mentally challenged population.

Ms. Diana Salinas would research the universal precautions training and Ms. Carmen Cantero would explore safety training so that it could be added to the Guardian Advocates of the Court.

Ms. Cantero would look at a curriculum of de-escalation techniques that could be utilized to deal with people who were becoming aggressive and the precautions for infectious disease.

Ms. Cantero indicated that a written recommendation regarding the outpatient treatment recovery model would be submitted to the Subcommittee.

Judge Korvick requested that Ms. Cantero include numbers with her proposals. She noted the Legislature might wish to look at the cost involved in going one route versus going the other route, or perhaps emphasizing one model and using the other model as a backup.

Mr. Joseph George offered to work with Miami-Dade County Commissioner Natacha Seijas and her staff to develop an immunity component for the volunteers. Ms. Quintana asked that Mr. George forward any recommendations that were developed to the Department of Children and Families.

Ms. Quintana noted the legislative session would soon begin and the group needed to expedite any recommendations for legislative changes, in order to provide Commissioner Seijas with these changes. She suggested the Subcommittee consider all the financial

impacts and also consider the recovery model method and send their recommendations to Tallahassee.

Mr. George referred to an Interagency Agreement between the Florida Department of Corrections and the Florida Department of Children and Families' Mental Health Program Office, regarding adequate continuity of mental health care for inmates with mental health needs as they reenter the community from state correctional institutions.

Ms. Quintana said at the next Committee meeting, the recommendations included within the Agreement would be reviewed and adopted.

5. Next Meeting

Ms. Dummitt recommended that on January 13, 2006, from 9:00 a.m to 10:00 a.m. the Baker Act Guardian Funding Meeting be held, and from 10:00 a.m. to 12:00 noon the Baker Act Subcommittee be held.

Adjournment

There being no further business to come before the Baker Act Subcommittee, the meeting was adjourned at 11:52 a.m.

_____

Ms. Sylvia Quintana, Co-Chair
Baker Act/IOP Subcommittee
Mayor's Mental Health Task Force

Florida Department of Children & Families

State of Florida
Department of Children and Families

Jeb Bush
Governor

Lucy D. Hadi
Secretary

Charles M. Hood, III
District Administrator

Involuntary Outpatient Placement (IOP)

Workgroup Meeting

December 9, 2005

Agenda

1. Welcome and Introductions including new workgroup members from the Mayor's Task Force – Baker Act/ Involuntary Outpatient Placement Subcommittee – Judge Maria Korvick, Silvia Quintana, Representative Rene Garcia

2. Review of purpose for the district IOP workgroup – establish district policies and procedures for the implementation of IOP

3. Reports & Written Recommendations from Workgroup Subcommittees:

- Criteria / Target Group Subcommittee - Cindy Schwartz
- Legal Issues / Guardian Advocate Subcommittee – Diana Salinas
- Provider / Resource Subcommittee – Mario Jardon

4. Discussion and Recommendations

5. Next Meeting

INVOLUNTARY OUTPATIENT PLACEMENT (IOP)
WORKGROUP MEETING

December 9, 2005
10:00 AM - 12:00 NOON
Room N-423

PLEASE PRINT LEGIBLY

NAME	AGENCY	SIGNATURE	PHONE	E-MAIL ADDRESS
Silvia Quintana	DCF-SAMH		305 377 5029	
Honorable Maria Korvick Designee Anders Madsen, Esq	11th Judicial Circuit Court			
Honorable Rene Garcia	Dade Delegation			
Brother Majella Marchand Designee Pat Cawley	Camillus House		374-1065 305 x 317	patecamillusors
Carolyn Wilson	New Hope Drop-Inn Center			
Joseph P. George, Jr.	SAMH Corporation Florida		305-670-6706	joepgeorge@aol.com
Judith Robinson Designee Mark Zimmer	NAMI			
Bernadette Baeza	Miami Behavioral Health Center			
Cyndy Schwartz	Jail Diversion Program			
Hugh Keough	Public Defender's Office		305 545-3348	hkeough@pdmiami.com
Ileana Garcia	Miami Behavioral Health Center			
Jennifer Morgan	Community Participant			
Julianne DeMaria	Public Defender's Office			

INVOLUNTARY OUTPATIENT PLACEMENT (IOP)
WORKGROUP MEETING

December 9, 2005
10:00 AM - 12:00 NOON
Room N-423

PLEASE PRINT LEGIBLY

NAME	AGENCY	SIGNATURE	PHONE	E-MAIL ADDRESS
Kale Baker	Bayview Center	[illegible]	305-892-4658	kbaker@bayviewcenter.com
Tom Ogazon	JMH	[illegible]	305 355 8234	TOGAZON@UM-JMH.org
Carmen Gomez	DCF	[illegible]		
Roland Berthold	DCF	R. Berthold	305-393-5549	
Jennifer Morgan	private (Milne & Smith)	J Morgan	305 476 8200	jennifersmorgan@aol.com
MARTHA ALAMO	Westchester/Southern Winds Hospitals	[illegible]	305-558-9700	MALAMO1026@AOL.com
Claire Villate	Westchester/South Wind	[illegible]	305 264-5252 EXT 1117	Villat1@AOL.com
Carmen Cantero	CHN	C Cantero	305-588-0151 x380	carmenc@citrushealth.com
Deborah J. Dennett	DCF	Deborah Dennett	305-377-5811	
Kevin McDonald	Parkway Regional Center	[illegible]	305 654-5266	Kevin.J.mcdonald@tenet.com
Jose M. Cio	Miami Behavioral	[illegible]	305-724-3603	MCio@MBHC.org
Lourdes F. Roberts	SAO.	[illegible]	305-324-3005	lourdesroberts@miamisao.com.
Joanna Cardwell	DCF	Joanna Cardwell	305 377-5454	
Andrea Baker	Jackson North CMHC	Andrea Baker	786-466-2800	abaker@um-jmh.org.

INVOLUNTARY OUTPATIENT PLACEMENT (IOP)
WORKGROUP MEETING

December 9, 2005
10:00 AM - 12:00 NOON
Room N-423

PLEASE PRINT LEGIBLY

NAME	AGENCY	SIGNATURE	PHONE	E-MAIL ADDRESS
Maria Robau	Mayor's Office	Maria R. Robau	305-375-5080	robau@miamidade.gov
Mark Martinez	Clerk of Courts		305 349-5872	[illegible] miamidade.gov
Teresa Thompson	South Florida SFPC Provider Ctr.	Teresa Thompson	305-858-3335	Teveset@SFPC.us
Tim Coffey	Co Courts		3055485223	tcoffey@judll.flcourts.org
Sandra Sorrentino	Bayview Ctr.		(954)518-4080	Ssorrentino@bayviewcenter
Wilda Rodriguez	Mercy Wosp		(305) 285-2618	HR@[illegible]mercymiami.org
Juan De los Santos	Mercy Hospital		305 854-4400 x2583	jde los santos@mercymiami.org
ORISSA RUSS	Clerk of Courts	Orissa Russ	305-349-7485	BL2@miamidade.gov
Dawn Knowles-Forbes	North Shore Medical Center		305-694-3728	dawn.knowles@tenethealth.com
Portia Newbold	New Horizons Clinic		(305)635-0364	
Jean Rhoy	City Left Mental Health Advocate		305 259-4004	
Anders Malen Huk	AOC - Courts		305-349-7226	amalen@judll.flcourts.org
Mireya Mayor	Westchester Healthcare	M Mayor	3052645252	mmayor@westchesterhospital.com

INVOLUNTARY OUTPATIENT PLACEMENT (IOP)
WORKGROUP MEETING

December 9, 2005
10:00 AM - 12:00 NOON
Room N-423

PLEASE PRINT LEGIBLY

NAME	AGENCY	SIGNATURE	PHONE	E-MAIL ADDRESS
Diana Salinas	Jackson Memorial Hosp	[illegible]	305 355 7021	Crouite@Gmail
Rachel H Diaz	Families of M. Dade	Rachel H Diaz	305-274-3076	RHDiaz@aol.com
Kathleen Melo	Southern Winds Hospital	Kathleen Melo	305-558-9700 x 204	MELONAZ@AOL.com
Valda Clark Christian	M-D County Attorney's Off.	[illegible]	305-585-7159	vchris@miamidade.gov
Jennifer Holtz	DCF	[illegible]	305 349 1451	jennifer_holtz@dcf.state.fl.us
Sheila Siddiqui	Corrections	[illegible]	(786) 263 6035	siddi@miamidade.gov

Outpatient Involuntary Commitment Committee
Services Sub-Committee
Meeting Minutes
November 23, 2005

In attendance were the following members:

Bernie Breites, Mercy Hospital
Juan De Los Santos, Mercy Hospital
Hilda Rodriguez, Mercy Hospital
Kale Baker, Bayview Center
Fred Victor, South Florida Provider Coalition
Mohamed Hafidh, C.H.I.
Hector Castillo, M.B.H.C./Spectrum
Jose M. Cid, Miami Behavioral Health Center
Teresa Thompson, South Florida Provider Coalition
Mario E. Jardon, C.H.N. [Chairing the Mtg.]

Mr. Jardon encouraged members attending to make recommendations suitable to the target population. The population to be served was seen as composed of consumers who refused services due to perceptions or actual experiences of patient/doctor interactions to which they had been exposed. Myths and beliefs regarding psychiatric treatment as well as the very real stigma attached to it also seem to play a role, among other things. It was decided by the committee members that an authoritative approach was out of the question. Traditional services requiring appointments at a clinic setting also seemed highly ineffective and prone to failure. Instead a "low-demand" approach as required by the Homeless Trust within the more comprehensive Recovery Model is to be used, the cornerstone of which is the consumer's visualization and expression of life goal(s) that best will help him/her define his/her self and the kind of life he/she desires as a free person with disabilities. The services that were selected by consensus are the following:

Case Management:

In keeping with a Recovery Model of Care, the case manager is the person to first establish contact and then, assist the consumer in the formulation of personal goal(s) and related objective(s). Characteristics to be required of the envisioned case management service are that it be intensive and that it be provided on an outreach basis as needed.

Housing:

In view of the U.S. Housing and Urban Development's present policy that seeks the placement of chronically ill persons in housing even if other services are pending, the so-called "housing first" policy, it was recommended by the Committee that targeted consumers have access to housing or housing alternatives, in order that a change in environment of choice be made available not only to serve as a landmark towards the consumer's empowerment but also, to ensure that follow up services to the consumer will be facilitated.

Exhibit

Physical Examination/Primary Care:

When addressing the need for psychiatric care that persons reluctant to receive services may have but may refuse, it was observed by the members that most homeless chronically ill persons more quickly accept to be physically examined by a physician. It was recommended then that the first medical service for the involuntarily committed client be a physical examination. It is a necessary step even if psychiatric examination is subsequently accepted and it can serve as a basis for a new doctor/patient relationship in which the consumer plays an empowered role.

Other Psycho-Social Services:

When considering the fact that many of the referred consumers had to be engaged on the street, it was suggested by the members that provisions be made for staff to provide food to the consumer. In fact, a wrap-around budget that would facilitate minor but essential items such as a bus-pass, would also be conducive to successful engagement of the patient.

To summarize, committee members visualized the development of teams in each C.M.H.C. that would involve case managers, physicians and peer counselors working out of a small residential facility (about 12 beds), where consumers might visit for a meal or a talk, be housed temporarily if needed and, receive the essential medical psycho-social services wanted as necessary and appropriate.

Respectfully submitted,

Mario E. Jardon

BAKER ACT INVOLUNTARY OUTPATIENT PLACEMENT WORKGROUP

LEGAL GROUP RESPONSE

This is in response to the inquiry from the Department of Children & Families (DCF) in District Eleven regarding the impact of the new involuntary outpatient placement laws, Florida Statute 394, mental health proceedings (The Baker Act) on the judiciary and legal process. Below follows a brief discussion addressing the apparent legal challenges inherent in these new laws.

Background:
We will lead this response with what seems to be one of the chief difficulties in implementing the new involuntary outpatient placement process in this district. If a person with mental illness is being ordered to involuntary placement and is adjudicated incompetent to consent to treatment, section 394.4598, Florida Statutes, provides for the appointment of a Guardian Advocate. In accordance with the statutes, a guardian advocate must agree to the appointment and generally meet the qualifications of a guardian contained in Chapter 744. Prior to exercising his or her authority, the guardian advocate must attend an approved training course of not less than four hours. Following the health care surrogate, the statutes list, in order of preference, the following persons who may serve as a Guardian Advocate: the spouse, an adult child, a parent, the adult next of kin, an adult friend, or an adult trained and willing to serve.

For the past five years, the State Courts System has consistently pointed out that there is a chronic shortage of individuals to serve as Guardian Advocates in Baker Act cases. Over one-half of the judges and general masters, more than one-third of the public defenders, and about a quarter of the state attorneys surveyed by the Supreme Court Commission on Fairness reported that when no family members or friends are available, there are not enough trained and experienced persons available in their jurisdiction for appointment as a Guardian Advocate.[1]

It is well established that many Floridians, particularly elders and homeless, are geographically distant from family members who would normally be available to serve as Guardian Advocates should the need arise. Individuals may designate a surrogate decision maker prior to the need for such a service; however, in spite of the statewide initiative to implement Mental Health Advance Directives, people may either still not be aware this option exists or those that have been made aware of it can't exercise their right because of the lack of a support system in their lives.

Further, according to testimony before the Commission on Fairness, a potential problem with a family member or friend serving as a Guardian Advocate is that the Guardian Advocate may be put into the position of forcing treatment on the patient against the

---

[1] See *Judicial Administration of the Baker Act and Its Effect on Florida's Elders: Report and Recommendations,* Supreme Court Commission on Fairness, December 1999; published by the Office of the State Courts Administrator, 500 S. Duval Street, Tallahassee, Florida 32399.

Exhibit

patient's will. That may create a conflict with the patient's only community support structure, upon which the patient may need to rely on after discharge.

Testimony before the Commission on Fairness indicated that liability concerns also prevent many people from serving as a guardian advocate. Guardian Advocates have no statutory protection from lawsuits, and some psychotropic medications can be deadly or cause permanent damage.

Impact of Involuntary Outpatient Placement:

In an attempt to address the "resolving door" syndrome wherein some individuals with mental illness repeatedly cycle through the mental health and/or criminal justice systems, during the 2004 sessions the Legislature passed Chapter 2004-385, Laws of Florida, which authorizes involuntary outpatient placement for individuals with mental illnesses who meet certain criteria.

The legislature significantly expanded not only the court's role in mental health proceedings but also the role of guardian advocates. In presenting its concern about the legislation to the Florida Sheriff's Association (the bill's primary proponent), the Legislature, and others, the court system repeatedly pointed out the lack of qualified individuals to serve as Guardian Advocates. [2]

When the involuntary outpatient placement law became effective on January 1st, 2005, the Guardian Advocate situation became even more critical. In the Eleventh Judicial Circuit, the nine (9) attorneys who have served as Guardian Advocates for the past several years have notified the court that, as a result of passage of the involuntary outpatient placement law, they will not accept Guardian Advocate appointments on these cases. [3] The attorneys cite the greatly expanded role of a Guardian Advocate in the involuntary outpatient setting, liability issues, the increase in danger to themselves due to closer and longer term involvement with patients outside of the hospital setting, among other concerns.

In adding to the problem, following Article V revision 7, Miami-Dade County refused to continue providing the small fee paid to these current attorneys serving as Guardian Advocates for inpatient treatment. Even though the court requested payment and was refused, the eight Miami-Dade County attorneys continued to serve as Guardian Advocates, pro bono, for six months, in order to not have our mental health delivery of inpatient treatment come to a complete halt. However, these attorneys are unable to continue serving without minimum compensation. Consequently, in order to resume recompense for truly needed Guardian Advocate services in our district, the court in conjunction with the already financially burdened 17 receiving facilities, facilitated a

---

[2] See for example *Judicial Impact Statement* for SB 700, January 5th, 2004, prepared by the Office of the State Courts Administrator, which states, "The bill expands the court's authority to appoint guardian advocates. There is currently a critical shortage of available persons who are willing, able and trained to serve as guardian advocates."

[3] See June 11, 2004, letter from Joy Carr to Judge Maria Korvick.

temporary resolve where each facility contributed $2,250.00 into an account managed by Jeremy Johnson, Vice President of South Florida Hospital & Healthcare Association for 2005. Thus the attorneys serving as Guardian Advocates are compensated a nominal amount of $250.00 per case regardless of the amount time involved.

Furthermore, and in addition to the challenges already discussed above, impediments facing Guardian Advocates in an involuntary outpatient placement include: the length of time involved in the assignment (some individuals may require involuntary outpatient placement for life), the difficulty and amount of time involved in providing Guardian Advocate services in the community setting; the complexities and dangers of administering medications outside a hospital setting; and safety concerns especially in regard to Guardian Advocate who are elderly.

The court in the Eleventh Judicial Circuit has attempted to provide Guardian Advocates for Involuntary Outpatient Placement. Unfortunately, it has been unable to obtain such services. Family members are not stepping forward as they are either non-existent, unwilling or unable to perform these enormous and burdensome responsibilities. The court has approached the existing nine attorneys acting as Guardian Advocates, the members of the Probate Section of the Dade County Bar Association, the members of the Guardianship Section of the Florida Bar as well contacting several Bar leaders, all give the same response. Attorneys are unable to perform these duties for reasons already stated, including the lack of coverage through their malpractice insurance.

The court also approached nursing programs and law schools at major universities in Miami-Dade County in an attempt to establish a volunteer student program to perform the duties of Guardian Advocates. The universities were unable to allow their students to participate in such programs due to liability and personal concerns. We understand that the Seventeenth Judicial Circuit in Broward County, another large jurisdiction, had made similar attempts to no avail due to similar reasons.

If the court cannot locate an individual who is willing, able, and trained to serve as Guardian Advocate for a person who is incompetent to consent to treatment and ordered to involuntary outpatient placement, no treatment decisions can legally be made. Those individuals will languish without treatment, which is not only contrary to the health and welfare of that individual but will also exacerbate the revolving door syndrome the legislature endeavored to address through passage of Chapter 2000-385, Laws of Florida. Accordingly our state appears to be without an existing remedy for the extreme shortage of Guardian Advocate, who fulfill a critical role in Baker Act cases.

Impact on the Probate and Civil Divisions:

This legislation expands the court system's role in mental health proceedings and requires additional judge time, general master hours, supplemental case management staff, staff attorneys, Assistant Public Defenders, Assistant State Attorneys and other court related staff.

Specific items in the Involuntary Outpatient Placement that impact on the probate, guardianship and mental health division and general civil division, in which Baker Act proceedings are handled, include added judicial workload, time consuming preparation of detailed outpatient placement orders including a host of issues ranging from community treatment to vocational training. Consequently, the new law will necessitate two or three times as many court reviews in some cases, thereby backlogging civil cases that impact local families and businesses. In addition, this law creates a new category of cases, hearings on continued involuntary outpatient placement, increasing judicial workload.

In the Eleventh Judicial Circuit, the court will need one fulltime circuit judge to hear exceptions, three additional Assistant State Attorneys, four Assistant Public Defenders, one fulltime General Magistrate to conduct these lengthy and highly contested hearings. The Involuntary Outpatient Placement process would also require the court to provide additional support staff such as clerk's office personnel as well as courtrooms and added security. Any modification of the court ordered treatment plan requires another lengthy court hearing with all parties being noticed and present.

Other factors that influence the probate court workload in Baker Act cases include the seventeen receiving facilities within Miami-Dade County; the presence of the state hospital, Atlantic Shores; the swelling population of homeless people and undocumented aliens, without benefits, who migrate to Miami-Dade County during winter months and the aging of Florida's population. The Eleventh Judicial has made inquiries to other jurisdictions around the state to determine if the Involuntary Outpatient Placement has been able to successfully implement a system that can work in a circuit the size of Miami-Dade County. To date all the information received is that a total of ten cases have been filed in the state.

Finally, in order to begin any successful implementation of the new Involuntary Outpatient Placement, the statute must provide ample funding as well as address adequate means of enforcing ordered treatment.

Involuntary Outpatient Placement (IOP)

Criteria Workgroup
Summary

November 8, 2005

Attendance: Cindy A. Schwartz (Jail Diversion Expansion Program), Jan Roelofs (Fellowship House), Maricela Jimenez-Rivero (Citrus Health Network), Sandra Mc-Queen Baker (Fresh Start), Andrea Paler (Jackson North CMHC) and Tom Ogazon (JMH)

1. Reviewed and discussed the mandated nine part criteria for Involuntary Outpatient Treatment (IOP).

(a) The person is 18 years of age or older.

(b) The person has a mental illness.

(c) The person is unlikely to survive safely in the community without supervision, based on a clinical determination.

(d) The person has a history of lack of compliance with treatment for mental illness.

(e) The person has:

> 1. At least twice within the immediately preceding 36 months been involuntarily admitted to a receiving facility or treatment facility as defined in s. 394.455, or has received mental health services in a forensic or correctional facility. The 36-month period does not include any period during which the person was admitted or incarcerated; or
>
> 2. Engaged in one or more acts of serious violent behavior toward self or others, or attempts at serious bodily harm to himself or herself or others, within the preceding 36 months.

(f) The person is, as a result of his or her mental illness, unlikely to voluntarily participate in the recommended treatment plan and either he or she has refused voluntary placement for treatment after sufficient and conscientious explanation and disclosure of the purpose of placement for treatment or he or she is unable to determine for himself or herself whether placement is necessary.

(g) In view of the person's treatment history and current behavior, the person is in need of involuntary outpatient placement in order to prevent a relapse or deterioration that would be

Exhibit

likely to result in serious bodily harm to himself or herself or others, or a substantial harm to his or her well-being as set forth in s. 394.463(1).

(h) It is likely that the person will benefit from involuntary outpatient placement.

(i) All available less restrictive alternatives that would offer an opportunity for improvement of his or her condition have been judged to be inappropriate or unavailable.

2. Workgroup reviewed and discussed current information regarding about IOP.

3. Workgroup discussed profiles of individuals that might benefit from IOP.

4. Consensus of the workgroup agreed that IOP should be utilized for individuals that are frequently hospitalized and/or incarcerated. These would be high recidivists to psychiatric hospitalization and jail because they are not compliant with treatment and are the most difficult to serve within the existing mental health system. These would be individuals that pose a great risk to self-and/ or public safety.

5. Workgroup would like to recommend that individuals that meet the criteria for IOP have access to all necessary treatment interventions and services upon discharge that are identified by an individualized treatment-planning process and that individuals are engaged by community-based treatment team before release from CSU/hospital to ensure successful transition to the community.

6. Concerns were discussed regarding responsibility for ensuring individual's treatment compliance and follow-up. Clarification is requested about this item.

Jeb Bush

Governor

State of Florida

Department of Children and Families

Lucy D. Hadi

Secretary

June 30, 2005

The Honorable Stephen R. Wise
Senator, 5th District
The Florida Senate
3520-2 Blanding Boulevard
Jacksonville, Florida 32210-5353

Dear Senator Wise:

Enclosed is the 'Interagency Agreement Between the Ftorida Department of Corrections and the Florida Department of Children and Families' Mental Health Program Office." The Agreement was developed in accordance with a recommendation in the report, "Aftercare Planning for Inmates with Mental Health Needs Released to the Community from State Correctional Institutions," dated December 23, 2004.

We appreciate your continued interest in ensuring adequate continuity of mental health care for inmates with mental health needs as they reenter the community from state correctional institutions.

We recognize that continuity of mental health care serves the interests of both the inmate and the community. We pledge that our respective departments will continue to work cooperatively to implement the provisions in the Agreement.

Sinc ely,
i~ –

Li Seo~etary-~
Department of Children and Families
Enclosure

Sincerely,

James V. Crosby, Jr.
Secretary
Department of Corrections

1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

Mission: Protect the Vulnerable, Promote Strong and Economically Self-Sufficient Families, and Advance Personal and Family Recovery

Exhibit

And

The Florida Department of Children and Families
Mental Health Program Office

I. Purpose

This Interagency Agreement ("Agreement"), establishes the processes through which the Department of Corrections ("DC") and the Department of Children and Families ("DCF"), will collaborate to ensure that DC inmates with severe and persistent mental illnesses have access to adequate aftercare planning prior to their release.

II. Agreement Goals

The goals of this Agreement include the following:

1. To promote continuity of care for inmates being released from Department of Corrections' facilities; and
2. To facilitate stronger interagency collaboration between DC and DCF.

Ill. Term of Agreement

The term of this Agreement shall be for one year or until June 30, 2006, whichever occurs first. This Agreement may be renewed thereafter for successive one-year periods upon mutual agreement of the parties. Either party may initiate the renewal at least thirty (30) days in advance of the expiration date.

IV. Definitions

The terms listed below utilized in this Agreement have the following meanings, unless the context clearly requires a different construction and interpretation:

"Aftercare Planning" means a range of activities, typically performed by the inmate's assigned case manager, with the inmate's consent, which are intended to facilitate continuity of necessary mental health care and adequate adjustment when the inmate is released to the community.

"Case Management Services" consist of activities aimed at identifying the recipient's needs, including planning services, linking the service system with the person, coordinating the various system components, monitoring service delivery, and evaluating the effect of the services received.

"Community Mental Health Center" (CMHC) means any provider that is contracted to provide one or more adult mental health services purchased by the Department of Children and Families.

"Community Case Managers" means individuals hired by community mental health centers to perform activities aimed at identifying the recipient's needs,

including planning services, linking the service system with the person, coordinating the various system components, monitoring service delivery, and evaluating the effect of the services received.

"District/Region Adult Mental Health Forensic Coordinator" means an individual hired by the District Mental Health Program Office to coordinate aftercare planning for inmates with severe and persistent mental illnesses who are being released from prison.

"Institutional Case Managers" means Department of Corrections' staff that provides case management services for inmates with a mental illness.

"Medication Management" means the review of relevant laboratory test results, prior pharmacy interventions (i.e., medication dosages, blood levels, if available, and treatment duration), and current medication usage. Medication management includes the discussion of indications and contraindicatiofls for treatment, risks, and management strategies with the recipient or other responsible persons.

"Severe and Persistent Mental Illnesses" means conditions involving an Axis I or Axis II mental disorder as defined in the most current Diagnostic and Statistical Manual of Mental Disorders, and co-existence of any of the following:

- Documented evidence of long-term psychiatric disability;
- Current or past eligibility for public financial assistance (e.g., SSI, SSDI, Veterans or other) for mental health reasons;
- Age 60 or older and unable to perform independently in day-to-day living (e.g., personal hygiene, dressing appropriately, obtaining regular nutrition and housekeeping); and
- At risk of institutionalization or incarceration for mental health reasons.

V. Legislative Relevance

The Department of Corrections is a state agency governed by Chapter 945, Florida Statutes and the Department of Children and Families' Mental Health Program Office is an organizational unit within a state agency governed by Chapter 394, Florida Statutes. The parties are authorized to enter into

this
Agreement to carry out the provisions of the referenced statutes.

VI. Jointly Shared Responsibilities

In entering into this Agreement, the parties agree to carry out the following responsibilities:

1. Strengthen the linkages between the two agencies for the benefit of individuals receiving services as a result of this Agreement;
2. Develop a mechanism to share information and data, through the identification of state-level contact liaisons, as authorized by applicable state and federal laws and rules, including but not limited to compliance with the Health Insurance Portability and Accountability Act of 1996 (42 U. S. C. 1320d-8'i, and all applicable regulations promulgated thereunder;

3. Strengthen linkages with the Social Security Administration, as necessary, to facilitate timely initiation or reinstatement of benefits;
4. Initiate a process of joint planning of in-service training events and provision of technical assistance with at least one event focusing on applying for Social Security benefits;
5. Initiate a joint process for evaluating on a semi-annual basis the relative effectiveness of aftercare planning for inmates with severe and persistent mental illnesses, and complete a report of findings and recommendations;
6. Identify and solicit participation of key stakeholders in the annual review of this Agreement and in the semi-annual evaluation of aftercare planning;
7. Update and revise the aftercare planning procedure, as needed; and
8. Provide information to the courts on the benefits of using split sentences for inmates with severe and persistent mental illnesses to ensure post-release community supervision and continuance of necessary treatment.

VII. Individual Responsibilities

A. The Department of Corrections shall carry out the following responsibilities in support of this Agreement:

1. Within available resources, begin aftercare planning for inmates with severe and persistent mental illnesses at least 180 days prior to release;
2. When feasible, the Institutional Case Manager shall contact the District/Region Adult Mental Health Forensic Coordinator, as needed, for assistance with aftercare planning; and notify the DCF of qualified inmates end of sentence (EOS) 150 days prior to EOS; and
3. Track the number of inmates referred to aftercare services.

B. The Department of Children and Families, Mental Health Program Office, shall carry out the following responsibilities in support of this Agreement:

1. Within 30 days of its request, advise DC of the Community Mental Health Center (CMHC) and Community Case Manager to which the inmate with severe and persistent mental illness will be referred for an initial intake and medication evaluation and management appointment(s);
2. When feasible, within 30 days of advising DC of the CMHC and Community Case Manager to which the inmate will be referred, advise DC of the initial intake and medication evaluation and management appointment date(s) scheduled within 30 days of the inmate's EOS;
3. Establish and maintain a current directory of community-based providers on the DCF internet so that it is consistently available to DC staff during aftercare planning; and
4. Assess the fiscal impact of providing aftercare services for former inmates with severe and persistent mental illnesses.

VIII. Resolution of Disputes

3

In the event of a dispute between the parties as to the carrying out of any provision set forth in this Agreement, each agrees to make a good faith attempt to resolve the dispute at the lowest management level possible. Dispute resolution shall proceed to the next highest management level and so on until the dispute is resolved to the mutual satisfaction of both parties. In no event shall resolution be carried past the level of agency head. Resolution at this level shall be by jointly issued written determination.

IX. Evaluation of Effectiveness of Agreement

The success of this Agreement shall be evaluated based upon the achievement of the performance targets set forth below:

1. Completion of an aftercare plan at least 30 days prior to release for each inmate with severe and persistent mental illness who consents to aftercare planning.
2. When feasible one hundred percent (100%) of aftercare plans will include an initial appointment at a Community Mental Health Center, and a provision regarding continuity of psychotropic medications, when indicated.

X. Financial Obligations of the Parties

The parties acknowledge that this Agreement is not intended to create financial obligations as between the parties. However, in the event that costs are incurred

as a result of either or both of the parties performing their duties or responsibilities under this Agreement, each party agrees to be responsible for their own costs.

XI. Termination for Default

Either party may terminate this Agreement for cause with seven (7) days notice to the other party in writing sent by certified mail, return receipt requested. Cause shall be limited to the failure by a party to timely carry out any of its responsibilities under this Agreement absent excuse, or extenuating circumstances.

XII. Agency Contacts

The following individuals are named as Agency Contacts for purposes of administration of this Agreement:

FOR DC:

Mr. John Burke
Deputy Assistant Secretary for Administration
Office of Health Services
Department of Corrections
2601 Blair Stone Road,
Tallahassee, Florida 32399-2500
(850) 41 0-4657

4

FOR DCF:

Roderick L. HaLL. Ph.D., Director
Mental Health Program Office
Department of Children and Families
1317 Winewood Blvd. Building 6
Tallahassee, Florida 32399-0700
(850) 413-0935

XIII: Review and Modification:

1. Upon request of either party, both parties will review this Agreement at least annually in order to determine whether its terms and conditions are still appropriate. The parties agree to renegotiate terms and conditions hereof if it is mutually determined that significant changes in this Agreement are necessary. There are no obligations to agree by either party.

2. Modifications to the provisions of this Agreement, with the exception of Section IV, Agreement Management, shall be valid only through

execution of
a formal written amendment to the Agreement.

XIV. Effective Date of Agreement
This Agreement shall become effective upon signature.

In Witness Whereof, the parties have caused this five (5) page Agreement to be
implemented by their authorized officials on the date and year written below.

(
ames V. Crosby, Jr.
Secretary
Department of Corrections

Date
Secretary
Department of Chi~dren and FamiLies
5
Date (.

12-8-05
JGray

State of Florida
Department of Children and Families

Jeb Bush
Governor

Lucy D. Hadi
Secretary

June 30, 2005

The Honorable Stephen R. Wise
Senator, 5th District
The Florida Senate
3520-2 Blanding Boulevard
Jacksonville, Florida 32210-5353

Dear Senator Wise:

Enclosed is the "Interagency Agreement between the Florida Department of Corrections And the Florida Department of Children and Families' Mental Health Program Office." The Agreement was developed in accordance with a recommendation in the report, "Aftercare Planning for Inmates with Mental Health Needs Released to the Community from State Correctional Institutions," dated December 23, 2004.

We appreciate your continued interest in ensuring adequate continuity of mental health care for inmates with mental health needs as they reenter the community from state correctional institutions.

We recognize that continuity of mental health care serves the interests of both the inmate and the community. We pledge that our respective departments will continue to work cooperatively to implement the provisions in the Agreement.

Sincerely,

Luci Hadi
Secretary
Department of Children and Families

Sincerely,

James V. Crosby, Jr.
Secretary
Department of Corrections

Enclosure

1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

Mission: Protect the Vulnerable, Promote Strong and Economically Self-Sufficient families, and Advance Personal and Family Recovery

 Exhibit