Content Notes
4/28/00 Meeting
Florida Commission on Mental Health and Substance Abuse
Orlando, FL

Following the Commission's Business Meeting, the Commission focused on the day's theme: Emergency Behavioral Health Care. Attendance was as follows:

Present:
Allen, Terry
Cohen, Jeri
Haley, Rob (attending for Dan Lestage)
Holmes, Patsy
Kang, Rodney
McKinnon, Mary
Morris, Charlie
Parks, Sallie
Pomm, Raymond
Schuck, Laura
Singleton, Jerry
Spellman, Michael
Steele, Diane
Williams, Irving

Absent:
Haines, John
McCampbell, David
Murman, Sandra
Sharpe, Bob
Slate, Risdon
Sloyer, Phyllis
Williams, Bob

Invited Testimony (10:15 – 12:15)

***** (10:15) Martha Lenderman, consultant, Lenderman & Associates, Baker Act Training,** gave an overview of the Baker Act, including a description of who is covered by the Act, how mental illness is defined, and how involuntary psychiatric admissions and exams are carried out. She explained that the purpose of the Baker Act, which can hold individuals involuntarily for 72 hours (during which time they are examined by a physician or licensed clinical psychologist), is to protect the rights of the individual and provide due process. The administration of the Baker Act involves a collaboration between the Florida Department of Children and Families (DCF) and the Agency for Health Care Administration (AHCA).

Cindy Meftah, Chief, Adult Mental Health, FL Department of Children and Families. Ms. Meftah talked about the Baker Act from the DCF perspective, noting that it differs from other DCF services in that it is broadly defined and available to all individuals who need to be assessed

for services. She pointed out that a lot of people pay attention to Baker Act procedures (judges, law enforcement, etc.), so advocacy can occur throughout the community. It is important, she said, to stress that the Baker Act involves protecting people's rights, not "locking them away." Coordination of all the constituencies involved is critical.

Commissioner Kang asked the speakers if some areas of the state do a better job with the Baker Act than others, and Ms. Lenderman noted that Hillsborough County has a good centralized intake system and coordination with providers. Hillsborough, she said, has the highest per capita funding and Pinellas County the lowest. Dr. Kang shared the opinion that local communities must want to have a better system and that local government must participate in funding. Commissioner Schuck mentioned the importance of consumer voices being heard in Baker Act discussions.

**** Jim Berko, Executive Director, Seminole Community Mental Health Center, Fern Park, FL,** a public mental health center. He noted that public access to emergency behavioral health services has decreased all over Florida; Seminole County now has only two Baker Act receiving facilities. He told the story of a 40-year-old woman who was delusional and depressed and his limited options in getting her into treatment. Her family thought all the intervention options available were too dangerous. "How can we offer less dangerous and restrictive situations? Patients have to come to a crisis stabilization unit (CSU), but the best care for them might not be there. CSU limitations are a major concern."

Regarding financing, he noted that his agency's 20-bed unit is 55% funded through the State and staffed with master's level clinicians and psychologists, who are expensive. "Our CSU runs a deficit, and we have to offset this somehow, yet it's the most crucial part of the system." The state pays $200-$225 a day, or just 70% of the inpatient Medicaid day rate, so they are very under-funded. "The State supports 3.3 crisis beds versus the 20 I have!" They don't bill for Medicaid services, he said. In addition, he said, we need to "tweak the system" to consider medical conditions as well as psychiatric problems. "This is a clinical/social problem. People with mental illness are not part of the infrastructure." He suggested getting County officials involved in the funding. "The solutions are resources and money and a crisis intervention system that involves advance directives so we know what the desires of the person with mental illness are should there be a crisis."

**** Dev Chacko, MD, Chairman of the Department of Psychiatry at Florida Hospital South, Orlando**, a private facility since 1979. Dr. Chacko said that only three hospitals in central Florida are Baker Act facilities. These hospitals are gateways for individuals who need to be involuntarily committed. Private psychiatrists take turns taking emergency calls. Dr. Chacko said that police in his area often use the Baker Act inappropriately. He described an Arabic woman who spoke no English and was thought by police to be suffering from mental illness, a man who had AIDS, and people who need alcohol detoxification, not mental health treatment. Crisis units claim they are full, refusing patients admission so that they are kept inappropriately in hospital emergency rooms. Patients who are held under the Baker Act can be kept for two to six days in emergency department holding areas because there are simply not enough acute psychiatric beds in Central Florida, and those that exist have long waiting lists. Then psychiatrists are often not paid for evaluating and/or treating involuntary patients, especially indigent patients. Managed care problems abound. Dr. Chacko recommended a centralized intake facility like Hillsborough County's. "We need more money and beds."

John Lamos, MD, chair of the Emergency Department at Florida Hospital. His group of physicians contracts with six hospitals in several counties. Dr. Lamos pointed out that the federal

government mandates that all patients, including psychiatric, who present in emergency departments, must be evaluated and stabilized. Sixty five percent of emergency patients, he said, cannot pay for services, so the department has to write off the cost of their care. "When we tie up the few beds we have and fill our holding areas with patients who can't pay, we aren't caring appropriately for anyone."

Patients fall into three groups: those voluntarily seeking treatment; those whose families are seeking involuntary treatment for them; and those who are brought in involuntarily, often by law enforcement. "After we do a medical exam and substance abuse evaluation, we need to send them to a mental health facility, but there is no place to send people! They often sit there for two to four days. Fifty percent of our beds are filled by Baker Acted patients with no place else to go. This exposes emergency doctors to huge liability. We don't have staff to watch people all the time, but we can't keep them strapped down. They often leave against medical advice. Many are a danger to themselves and others. The system is backlogged, and there's no exit point." The situation, he added, can be even worse for voluntary admissions, such as depressed patients, because their options are so limited. Many can't get a psychiatric appointment for three to four months, and suicide sometimes results. "We are in a crisis and the system has to change NOW." The problems, he summarized, are inappropriate Baker Acting, abuse of hospital emergency departments, shortage of beds and caregivers, and lack of available follow-up care.

Commissioner Cohen pointed out the similarity to the courts, which also have nowhere to send people who need treatment.

*****(11:20 a.m.)James Herndon, PhD, staff psychologist, Orange County Sheriff's Office.** Dr. Herndon explained Baker Act premises as related to law enforcement officers (LEOs), noting that LEOs must transport patients to the nearest designated receiving facility, and that facility must accept the patient. Two complications are that receiving facilities "come and go." In Orange County currently there is only one public and one private receiving facility, and, in fact, they don't always accept LEO transfers, leaving officers confused and frustrated. He acknowledged two sides to the story. Law enforcement wants to comply with the Baker Act, but limited space and finances can force facilities to "bounce clients around." The result is that there are too few receiving facilities, and it can take up to two hours to transport a client to a facility. When they get there, public facility staff often challenge law enforcement's decisions about criteria and proximity. "Private facilities often pit emergency departments against psychiatric departments within their hospital, with law enforcement caught in the middle." LEOs have no place to take crisis clients except to jail. The conclusion, he said, is that a solution should consider the whole system, including client demand, facility location and cooperation, and LEO requirements to carry out the law. "Diversion from jail and swift, effective treatment will reduce the revolving door now in effect."

****(11:50 a.m.)Alice Petree, family member of individual killed in Baker Act stand-off and member of Orlando area task force on behavioral health care.** Ms. Petree told the story of her brother Alan, diagnosed in 1983 with paranoid schizophrenia. Friends and family struggled for years to get Alan into appropriate treatment and knew he collected guns and ammunition, but his illness progressed and he increasingly lacked insight into his need for treatment. The family was told repeatedly that unless he was clearly a danger to himself or others, nothing could be done. In July 1998 a 13-hour standoff between Alan and Sheriff's Deputy Gene Gregory resulted in the death of both men. Since then, Ms. Petree and Linda Gregory, Deputy Gregory's widow, have formed a friendship and partnership to advocate for strengthening Baker Act laws and involuntary commitment procedures throughout the state. "The Baker Act requires the most

severely mentally ill to decompensate to the point of imminent danger," she said, "rather than protecting those with a known history of mental illness, hospitalizations, and noncompliance to allow them to receive treatment before reaching the point of dangerousness." State confidentiality laws are confusing and unclear and do not protect those who are mentally ill by precluding efforts by family members to share important facts and history about the individual. Ms Petree questioned whether current levels of care even meet the American Psychiatric Association's treatment guidelines. She and Linda Gregory together urged the Commission to strengthen the Baker Act and treatment standards and change confidentiality laws to prevent other tragedies like theirs. "It is time to recognize that defending an individual's right to remain psychotic is mindless."
(12:10 p.m.) Bob Constantine, Executive Director, Florida Council for Community Mental Health, briefly discussed Baker Act issues in terms of three areas: funding; priority populations; and service planning and strategies. He said that per capita funding has fallen 45% between 1992-93 and 1999-2000. "The attitude of the State Legislature toward mental health funding has changed; they are more willing to concede that the system is under-funded." He urged Commissioners not to give up on the Legislature in their efforts to improve the state's mental health and system abuse systems. Dr. Constantine has submitted full written testimony in which he details his concerns regarding emergency care.

Public Testimony

(12:15 p.m.) Cheryl A. Malone, LMHC, said that licensed mental health counselors are mandated by license and malpractice insurance to provide clear, comprehensive mental health services to clients yet are not legally able to involuntarily admit patients. "This is not a fiscal but a clinical issue. My license and malpractice insurance holds me responsible for proper care of patients. I should have the ability to [use involuntary treatment], not just call law enforcement."
Juanita Hernandez-Black, President/CEO of the Mental Health Association of Central Florida, asked for financial support for Guardian Advocate Training. She urged Commissioners to look at the comprehensive community care system and make use of both traditional and nontraditional partnerships.
****Rachel Diaz, family member, represents District 11 on the State Mental Health Planning Council of Florida (SMHPC).** Mrs. Diaz told of her husband's struggle with a biological brain disorder. He is noncompliant with treatment and lives as a recluse. She asked Commissioners to take patients' lack of insight into their own illnesses and treatment needs into account, and asked that the mental health system be allocated additional funds, be assisted in coordinating resources, and that entities be given the authority to implement necessary changes.
Dr. Tirso Negron, Emergency Department Director, Orlando Regional Seminole Hospital. He spoke of the high number of patients who are inappropriately admitted into their hospital using the Baker Act. He stated that physicians should have the ability to release the hold and not admit inappropriate patients.
Ruth Ward, family member, has a son with schizophrenia who has been hospitalized 53 times in a short period of time. Newer medications have been very helpful but Medicaid would not pay for them, putting him on older drugs that caused psychosis. He killed a male nurse, was jailed, tried, and judged not guilty by reason of insanity. He is now on a newer medication in the hospital and doing well. A life may have been lost because of his inability to get medicine that worked for him.

Carey Manuel, Deputy Sheriff in Seminole County, asked for more resources and funding.

(1:45 p.m.) Eric Eisenberg, facilitator and chair, Department of Communications, USF. In preparing Commissioners and others to divide into their workgroups, Dr. Eisenberg reviewed the vision statement and the change model, reminding everyone that the goal was to achieve alignment between the current reality and the vision. He reviewed the four tracking steps: assessment, access, quality, and outcomes tracking and noted the underlying issues of information systems, financing, stigma, public education, and higher education. "We're doing complex systems change, and there is no one right way to do it." The pitfalls, he said, are 1) fragmenting to death; 2) systems change is always messy, with lots of overlap and different interests; 3) using a top down approach due to complexity; 4) limiting alignment to what we know how to do; and 5) applying Band Aids rather than devising big solutions.

He asked participants to do three things in their groups:

1) map the system as it is, using tools like a chart, grip or flow chart. He urged everyone to be creative and devise their own tools as needed.
2) Ask what information is not available to complete this chart or tool.
3) Create a map system that aligns with the Commission's vision.