CBHL Member Roundtable: Deconstructing Non-Compliance and Exploring a Counterargument to Forced Treatment (February 23, 2023)

Roundtable Summary

From New York to California, policies are being implemented which lead to the increased use of forced treatment orders, reverting to policies of years past. Attempts to address community challenges around homelessness, poverty, and crime are often conflated with mental health challenges and regarded as public safety versus public health issues. This leads to strategies resulting in involuntary hospitalizations and incarcerations. There are numerous research findings demonstrating the damaging, discriminating, and inequitable effects of forced treatment, so why are policymakers reverting to these policies?

The College for Behavioral Health Leadership (CBHL) held a Member Roundtable on February 23, 2023 to de-construct non-compliance and explore a counterargument to forced treatment.

This Roundtable featured a number of panelists, listed hereafter in alphabetical order by Last Name:

- Cherene Caraco | CEO, Promise Resource Network
- Caitlin Garbo | Public Policy & Advocacy Manager, National Alliance on Mental Illness of New York City (NAMI-NYC)
- Vesper Moore | COO, Kiva Centers; Indigenous activist, trainer, writer, and psychiatric survivor
- Keris Jän Myrick | Vice President of Partnerships, Inseparable; Podcast Host, Unapologetically Black Unicorns
- Leslie Napper | Senior Peer Advocate, Disability Rights California
- Jodi Nerell | Director, Local Mental Health Engagement, Mental Health and Addiction Care, Sutter Health
- Harvey Rosenthal | CEO, New York Association of Psychiatric Rehabilitation Services

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The roundtable opened around these areas of discussion:

High-Level Overview

- Policies leading to increased use of forced treatment orders are being implemented throughout the U.S. and have been making national headlines
    - These policies focus particularly on people with mental health conditions who are experiencing houselessness and are deemed non-compliant
    - These policies disparately impact underrepresented groups
- There are false narratives and messaging around non-compliance

    - An example of this messaging is that as a result of non-compliance, people are ending up unhoused, involved in the criminal justice system, and have a propensity for violence toward self and others
    - Another piece of messaging related to anosognosia, or "lack of insight" as a symptom of SMI that impairs a person's ability to understand and perceive their illness
- Related to these narratives, there is a flawed belief that strengthening civil commitment laws is the solution
- The current narratives around public safety and mental health do not into account public health
    - Removes the conversation of social determinants of health, equity, racism in our systems, impact of trauma, and access to quality resources, supports, and alternatives
    - There is a separate false narrative that "jail confinement is bad, hospital confinement is good" but both can be harmful and ineffective
- Ultimately, involuntary commitment can be both lifesaving and life destroying for people

Overview of New York Forced Treatment Policy Landscape

- Kendra's law passed in 1999
    - A law concerning involuntary outpatient commitment (assisted outpatient treatment)
- Intensive and Sustained Engagement and Treatment (INSET)
    - Helps to bridge the gap for people who are currently in the hospital, jail, or have recently been discharged/released by providing more intensive services and facilitating connections to treatment services and natural supports
    - Criteria of the group is people who would qualify for Kendra's Law
    - Has recently been funded for 3 teams

Links related to New York policies:

- https://www.nytimes.com/2022/11/29/nyregion/nyc-mentally-ill-involuntary-custody.html
- https://www.nydailynews.com/opinion/ny-oped-coercion-mental-health-20220130-j7tqo575knab3bwxytcqy3r5gi-story.html

Overview of California Forced Treatment Policy Landscape

- Community Assistance, Recovery and Empowerment (CARE) Court
    - Forcing people with SMI into coercive treatment
- Expanding involuntary commitment laws around hospital commitment and conservatorship/guardianship
    - Disparate number of Black men being ordered into treatment systems
- Individuals who are running for office are trying to solve a public perception of the problem – which the public has perceived to be homelessness/unhoused people
    - But the causes of homelessness are lack of affordable housing
        - Solution is not just building more housing, but looking at mechanisms to take the housing that is not being used and use it to support people who are most in need

Links related to California policies:

- Disability Rights California Information on CARE Act https://www.disabilityrightsca.org/latest-news/disability-rights-california-information-on-care-act
- California CARE Court: https://www.gov.ca.gov/wp-content/uploads/2022/03/Fact-Sheet_-CARE-Court-1.pdf

Role of Families and Caregivers

- Need to invest in and support families and caregivers to be part of recovery process
- Looking at family and caregiver support systems as concentric circles around individuals with serious mental illness (SMI)
    - Family members and caregivers know the person best, may be the first person to understand when a crisis is coming
    - Move out toward providers
    - Social safety net – the process of finding behavioral health services covered by insurance, finding affordable housing, etc.
    - It is more difficult to help people with SMI navigate these complex systems without their loved ones
- Families and caregivers may not know where to turn when their loved one is experiencing a mental health crisis, which may lead to decisions that their loved one does not agree with
    - Need to increase the dialogue around alternatives - what steps to take with loved ones before use of forced commitment begins
        - Psychiatric Advance Directives (PADs) – a person can identify their preferences for if they end up in crisis and are unable to make decisions themselves
        - PADs can help an individual maintain autonomy while maintain the right care at the right time
        - Be cautious around talking about PADs at the same time as forced treatment – a PAD should be created when the person is **not** in crisis
- Lack of focus on what families need and family support in these movements
    - What is it that the peer communities can do to support family members
- In these discussions, important to remember that while relationship with family is critical, not everyone wants their family involved
    - Need to consider **chosen** family, not just biological family

Counterarguments / Action Steps

- Focus on the root causes
    - Identify what is causing non-compliance – often related to social determinants of health (lack of transportation, trauma, etc.)
- Look at this as a public health crisis, not a public safety problem

- Involuntary treatment is often due to not being able to engage people in services – which should not be viewed as a failure of the individual, but a failure of systems
    - Develop alternative services – it's not just about hope and dignity, but about the effectiveness of services
    - Post-discharge plans / use of a person to walk alongside someone in recovery to break the cycle of readmission – "peer bridgers"
- Coalition building is key – align with other movements
    - Consider other perspectives (i.e., peer, criminal justice, disability rights perspectives)
    - From a legal framework perspective, connecting with advocacy groups to join together on the legal framework discussion
- Cultural humility – as a collective, explicitly speak of the racial disparities forced treatment imposes
- More upstream focus – help people learn about their diagnoses, needs, wishes, options for management, etc.
    - Psychoeducation programs, support groups, etc.
    - Active treatment and recovery looks different for every person
- Look at international guidelines around institutionalization
    - Even in situations of great emergency, involuntary commitment should be a last resort
- Education for first responders in topics related to these policies (trauma, ACES, etc.)

Links Shared:

- The History of the Mental Health Reform and Recovery (R)Evolution: https://www.leaders4health.org/resources/roundtable-mental-health-reform-and-the-recovery-revolution/
- Bazelon Center Position Statement: http://www.bazelon.org/our-work/mental-health-systems/forced-treatment/
- MHA Position Statement: https://www.mhanational.org/issues/position-statement-22-involuntary-mental-health-treatment#:~:text=Involuntary%20mental%20health%20treatment%20is,an%20inpatient%20mental%20health%20facility.
- CRPD/C/5: Guidelines on deinstitutionalization, including in emergencies (2022)
- Massachusetts Bill HD 1809
- The Protest Psychosis: How Schizophrenia Became a Black Disease
- NAMI-NYC has several support groups for friends and family members, and all programming is free of charge: https://naminycmetro.org/support-groups/
- Peer Bridger Program: https://www.nyaprs.org/peer-bridger
- Medication Empowerment: https://www.commongroundprogram.com/medication-empowerment
- Directory of Peer Respites: https://power2u.org/directory-of-peer-respites/

Psychiatric Advance Directives

- National Resource Center on Psychiatric Advance Directives
- Mental Health Advance Directive Fact Sheet NY
- New York Mental Health Advance Directive Form
- Psychiatric Advance Directives: Multi-County Collaborative