

A New Vision of Public Mental Health

The public mental health system in most states is dysfunctional. Increasingly, it rations care in such a way that people with serious mental illnesses must “hit bottom” before receiving the services and supports they need to live successfully in the community.¹

Throughout the 1980s and 1990s, whether facing budget deficits or enjoying a surplus, states failed to fund their mental health systems adequately. Yet the pressing needs of people with mental illnesses did not disappear. Hundreds of thousands were forced underground or, more accurately, funneled into other public and private systems that were not designed to provide mental health care. Today, hospital emergency rooms provide crisis-oriented care for a few days before sending people with mental illnesses back into a community where they are destined to fail because of a lack of mental health services and supports. In many communities, jails and prisons have become the largest providers of mental health services, and homeless shelters and nursing homes have become housing of last resort for people with mental illnesses.

While not appearing on the mental health department’s budget line, the costs of care for people with mental illnesses are borne by these other systems—and by taxpayers. Typically, these expenses greatly exceed the relatively modest cost of providing preventive services and supports, such as counseling, peer support, supportive housing and job training. In addition, taxpayers also absorb the cost of individuals’ needless dependence on public systems because they cannot, for lack of these supports, participate productively in the workforce. Clearly, it is fiscally more prudent, as well as more humane, to address mental health needs before they reach the point of crisis.²

In developing and disseminating its model law, *An Act Providing a Right to Mental Health Services and Supports*, the Bazelon Center for Mental Health Law has set out to reshape the debate about mental health system reform. The model law seeks to transcend the age-old debate about inadequate funding by providing a legally enforceable entitlement to recovery-oriented mental health services and supports, in sufficient amount, duration, scope and quality to support recovery, community integration and economic self-sufficiency. Under a statute based on this template, states may define eligibility broadly or narrowly, but may not turn away any eligible person.

The United States Supreme Court has said that it is against the law to isolate and segregate people with disabilities in large institutions and has recognized that it would be wrong to place people with serious mental illnesses into community settings “devoid of

the services and attention necessary for their condition.”³ The model law seeks to prohibit such neglect by the mental health system and to empower people with mental illnesses to be full partners in their treatment and recovery.

With the economic downturn of the past year and the lingering effects of the September 11 terrorist attacks, we realize that this may not be the year to push state or county legislative bodies for a new entitlement and the associated funding of it. Fundamental reform is an evolutionary process, however, and recent events may expand public understanding of and sympathy for people who suffer from anxiety, post-traumatic stress and other mental illnesses, creating a climate for change. As a first step, then, we offer a series of foundation-building steps that advocates can take right now to support future passage of a statute based on the model law:

- Review *Mental Health: A Report of the Surgeon General* (1999), available online at www.surgeongeneral.gov/library/mentalhealth/home.html. This groundbreaking report documents both the extent to which Americans experience mental illnesses and the scientific evidence that recovery is possible.
- Review the condition of the public mental health system in your state. A Bazelon Center publication, *Disintegrating Systems: The State of States' Public Mental Health Systems* (November 2001), highlights the issues and can serve as a frame of reference. It's available through the online bookstore at www.bazelon.org.
- Collect state or county data to support the findings in Article I of the model law. This information may come from the state or county mental health agency, from other state agencies (such as those that operate the Medicaid program or corrections system), from the state legislature, or from external advocacy groups. If data are not collected or are unavailable, that's another indication of systemic disarray.
- Ask the state department of mental health to compile state-specific reports about public mental health issues and the extent to which the need for mental health services and supports is being met.
- Bring the data to the attention of the major players in the legislature and executive branch—not just those responsible for mental health, but also the committees and staffers concerned about related issues (e.g., health, housing, social services, criminal justice). Collect their official and unofficial views of how the mental health system is operating.
- Identify agencies that are or could be capable of providing and coordinating peer support.

A key activity will be building a broad coalition for enactment of a right to recovery-oriented mental health services and supports—not just with other mental health stakeholders in the state or county, but also with non-traditional allies in the law

enforcement, corrections, justice and business communities. These groups have a financial stake in seeing people with serious mental illnesses served by the mental health system rather than by their own systems.

When organizing the coalition, it will be especially important to develop clear definitions of specific goals —e.g., to ensure individuals' entitlement to voluntary mental health services and supports, to reduce reliance on civil commitment to address the needs of people with serious mental illnesses, and to prevent their unnecessary arrest and imprisonment. Plan strategies to keep fringe issues and temporary crises (such as publicity about an incident involving someone with a psychiatric diagnosis) from sidetracking efforts to enact a new law and from diluting its ultimate impact.

Throughout the process, opportunities will arise for action in support of mental health system reform. We suggest the following:

- Offer written or oral testimony at meetings of the state mental health planning council on the need for an entitlement to recovery-oriented mental health services and supports.
- Establish a subcommittee or “study circle” to examine the potential impact of an entitlement to mental health services and supports on the state or community.
- Talk with policymakers and opinion leaders. Even if they see substantial barriers to immediate implementation, convince them to acknowledge the concept of an entitlement as valid. Take them to visit successful community-based programs supporting people with serious mental illnesses.
- Develop public information campaigns about the costs—fiscal and human—of a failing mental health system and on how successful programs are supporting people with serious mental illnesses in the community.
- Collect and publish personal accounts by people with mental illnesses and their family members about the disastrous effects of a dysfunctional mental health system. Enlist consumers who are comfortable with public speaking or media interviews to articulate a desire for assistance and dramatize the current inaccessibility of services and the failure of the present system to assist them in achieving self-sufficiency.
- Contact local reporters, columnists and television and radio producers who cover relevant issues (e.g., health, mental health, criminal justice, human services, the legislature). Maintain a list with their names, phones, email addresses or fax numbers. Keep in touch with them individually, offering human interest stories and interviews for feature pieces as well as information about the model law and strategies for enacting it.
- Invite Bazelon Center staff to make a presentation on the model law at a state or regional conference.

The Bazelon Center is eager to work with policymakers and advocates at the state or local level to explain how the model law might be implemented. We hope to facilitate information-sharing about efforts in the various states and plan to issue occasional reports in addition to postings on our website. If you would like to receive these reports or if you want additional information about the model law, contact Michael Allen at the address below or sign up at www.bazelon.org/newvision.html.

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Notes

1. See, e.g., Bazelon Center for Mental Health Law, *Disintegrating Systems: The State of States' Public Mental Health Systems* (December 2001); Abigail Trafford, "Second Opinion: Writing Off Depression," *The Washington Post*, Tuesday, January 1, 2002; Page HE01.
2. See, e.g., Culhane, Dennis, *Comparing The Relative Effectiveness of Transitional vs. Supported Housing for Single Persons with Severe Mental Disabilities Exiting Homelessness*; Culhane, Dennis, *The Public Costs of Homelessness Versus Supported Housing in New York City: Assessing the Differential Impact on NYS Medicaid-Funded Services, Veterans Administration Programs, the Health and Hospitals Corporation, New York State Psychiatric Hospitals, and the New York State Dept. of Corrections*; Corporation for Supportive Housing, *The New York/New York Agreement Cost Study: The Impact of Supportive Housing on Services Use for Homeless Mentally Ill Individuals*.
3. *Olmstead v. L.C.*, 527 U.S. 581, 610 (1999)(Kennedy, J., concurring in judgment).

The Bazelon Center's project to actualize a new vision for public mental health includes drafting of the model law by staff attorneys Mary Giliberti and Michael Allen, with assistance by legal director Ira Burnim, policy director Chris Koyanagi and communications director Lee Carty. It also encompasses publication of the booklet *Disintegrating Systems: The State of States' Public Mental Health Systems*, this introduction, the future development of a set of web pages and periodic updates as state and local advocates work for enactment of an entitlement to recovery-oriented mental health services and supports. We gratefully acknowledge as making this work possible the support received from the John D. and Catherine T. MacArthur Foundation, the Public Welfare Foundation, the Evenor Armington Fund and a number of generous individuals.