

MANDATED COMMUNITY TREATMENT: APPLYING “LEVERAGE” FROM THE SOCIAL WELFARE AND JUDICIAL SYSTEMS

Is it fair to mandate treatment for people with a mental health disorder? Just as this debate once raged when mental institutions were the primary form of care for those with mental disorders, today the debate continues in outpatient settings. To what extent can community-based providers and related services, such as the social welfare system and the judicial system, order people to participate in treatment?

Few issues in contemporary mental health policy are as contested as mandated community treatment. John Monahan, in his paper “Mandated Community Treatment: Applying ‘Leverage’ from the Social Welfare and Judicial Systems” for the *Fundamental Policy – Spotlight on Mental Health Conference*, details the various forms of “leverage” that a public system can use to engage individuals in treatment, examines the moral implications of doing so, and outlines areas of needed research to advance the debate in constructive ways.

Applying leverage from the social welfare or justice system is a reasonably common occurrence. A study by Monahan and colleagues finds that at least one-half of all mental health patients have experienced at least one form of leverage to get them to treatment. This frequency increases for patients with more serious and chronic mental health disorders.

How Leverage is Used to Engage People in Services in Treatment

There are several forms of leverage in a community-based treatment system, including the legal system, housing services, disability payments, advanced directives, and threatened hospitalization. Within

the social welfare system, for example, disability benefits can require people to participate in needed mental health treatment to qualify for services. Landlords offering subsidized housing can require a tenant with a mental disorder to be actively engaged in treatment or face eviction.

Within the judicial system, specialized mental health courts can require those found guilty of a crime to, in lieu of jail, participate in mental health treatment within the community and report to a probation officer who monitors their compliance with therapy and medications. Individuals with serious mental disorders may be court-ordered to comply with a prescribed plan of treatment in the community on the condition that they will be hospitalized if they fail to follow such requirements.

Finally, the 1991 federal law of “psychiatric advance directives” gives individuals the right to declare their preferences for mental health treatment, or to appoint a surrogate decision maker should they be involved in a crisis that might prevent them from making their own reliable health care decisions.

Arguments for and against Mandated Treatment
These and other strategies have been contested on both legal and moral grounds. Although there are numerous points of view about mandated treatment, there is currently little definitive research on its efficacy.

Some argue that a person’s freedom to “choose” to enter a leveraged agreement is specious, given stark power imbalances between the individual and the

social agency. A counter argues for a distinction among different types of leverage. While using hospitalization as leverage is clearly coercive, jail is not, they argue, because the individual has been found guilty of a crime. There is no coercion because a choice is only a threat if the person is worse off when not choosing treatment. In this case the person has already been convicted and is simply choosing treatment in lieu of jail.

A second argument in opposition to mandated community treatment is that it is doomed to be ineffective because many forms of leverage explicitly preclude the involuntary administration of psychotropic medication on competent patients. In fact, however, taking psychotropic medication can be a requirement of some forms of mandated treatment; for example, treatment as a condition of probation. Even under Kendra's law, which prohibits forced medication, service providers have some teeth. Although a probationer cannot be forcibly medicated in the community, the individual can be returned to jail or prison to serve the original sentence if he or she does not adhere to prescribed medication.

Future Research on Mandated Treatment

The proposed outcomes of applying such treatment levers range from improved mental health as a result of improved treatment adherence, to fewer patients voluntarily seeking care for fear that that treatment will be forced on them. Others foresee a decline in community violence owing to more closely monitored patient care. Still others speculate that already inadequate treatment resources will be shifted away from people who want treatment and toward people who do not.

These projections can be a starting point for future research. More should be done, the author argues, to identify the measurable outcomes of mandated community treatment and its costs to taxpayers and other mental health treatment consumers. Some questions might include:

- Is mandated treatment a long-term or sustainable solution to treating some people with mental disorders?
- Does mandated treatment promote competition between leveraged and voluntary patients in terms of access to limited treatment resources?
- Is mandated treatment in exchange for social welfare benefits legal and ethical?
- Does the possibility that treatment might be mandated drive some people away from voluntarily seeking treatment?

Whatever the measurable outcomes of mandated community treatment, the cost at which these outcomes are obtained is a crucial consideration for policymakers.

Much of the strident policy debate on outpatient commitment treats it as if it were simply an extension of inpatient commitment, viewing it within the same conceptual and legal framework historically used to analyze commitment to a mental hospital. Increasingly, however, it is becoming apparent that concepts developed within a closed institutional context do not translate well to the much more open-textured context of the community. Hard evidence is needed if this topic is to move beyond the stage of ideological posturing.

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