

Behavioral Health: Developing A Better Understanding

INVOLUNTARY COMMITMENT FOR SUBSTANCE ABUSE COMES TO OHIO

Chances are you know someone with a drug and/or alcohol problem. It is obvious that they are engaging in dangerous and self-destructive behavior. So why don't they seek help? Unfortunately, less than 10% of those with an addiction recognize they have the problem and seek treatment voluntarily. Others are nudged into treatment by outside factors, such as legal trouble, job loss or divorce. The good news is that treatment is effective and specifically designed to help people recognize the problem within. The answer to why people don't seek help is a complex one and often includes a combination of reasons.

In 2008, an estimated 20.8 million Americans aged 12 and older were in need of addiction treatment but did not receive it. Of the 20.8 million individuals, 95% felt they did not need treatment. Addiction professionals say there are several underlying reasons why this is so. Part of it has to do with how addiction impacts the limbic system of the brain and essentially overrides other drives while remaining unrecognized by the individual. Other reasons include denial, fear of the detoxification and withdrawal process, the inability to envision a life without the high that drugs or alcohol provide, lack of a support system due to burning bridges with friends and family during years of addiction, and stigma that is still associated with the disease.

Consequences: Fatality Statistics

- Alcohol kills approximately 80,000 Americans a year and shortens a person's lifespan by an average of 30 years (2000)
- Excessive alcohol consumption is the third leading cause of preventable death in the U.S.
- Illegal drugs kill over 17,000 Americans per year (2000)
- Prescription drug overdose deaths killed 1,544 Ohioans (1 person every six hours) in 2010

Given that so few people who need addiction treatment actually seek it and the consequences are so devastating, should society interfere and require addiction treatment for an individual in the absence of any criminal conduct? If so, under what circumstances? Our country has a history of placing a high value on the freedom and privacy of individuals. Thus, this is a very tricky question with no easy answer.

Nationally, the legal statutes and informal practices around involuntary commitment for substance abuse treatment vary widely. Some states have no statutes at all, while others allow various forms of involuntary treatment. About 38 states permit some form of involuntary substance abuse treatment in the absence of criminal conduct. They tend to take one of three forms: police pickup, emergency hospitalization, and inpatient or outpatient civil commitment. For those that permit civil commitment, criteria include some form of the following (alone or in combination): dangerousness to self or others, grave disability, lack of decisional capacity, incapacitation, failure to manage personal affairs, or addiction/loss of control. The maximum periods for involuntary treatment varies as well, the median time for police pickup is 24 hours, 3 days for emergency hospitalization, and 3 months for civil commitment.

As of March 22, Ohio will have its first statutory procedure in effect for the involuntary hospitalization and treatment for certain individuals addicted to alcohol or other drugs in the absence of behaviors that constitute a crime. The provision was part of SB 117 and is limited in application, in that it is restricted to spouses/relatives/guardians that petition the probate court and have the means to pay the filing fees, the cost of examination, hearing costs, transportation costs, all costs of any treatment, and any other costs the court determines appropriate. The legislation was modeled after a similar law in Kentucky.

Alcohol and Other Drug Civil Commitment Fast Facts

Court of Jurisdiction: Probate Court

Criteria: A person cannot be ordered to undergo treatment unless all of the following apply:

- The person suffers from alcohol or other drug addiction
- The person presents an imminent danger or imminent threat of danger to self, family or others as a result of alcohol and other drug abuse, or there exists a substantial likelihood of such a threat in the near future
- The person can reasonably benefit from treatment

Burden of Proof: Clear and convincing evidence

Procedure: Spouse/relative/guardian (petitioner) files petition with certain information, highlights include:

- Why they feel the person meets the criteria above
- A certificate of a physician is attached who has examined the individual within two days prior to when the petitioner filed and agrees the criteria are met and indicates the type and length of treatment recommended (unless the individual has refused to undergo an exam)
- A security deposit that will cover half of the estimated cost of treatment
- A guarantee by the petitioner that obligates them to pay for all treatment, hearing, and other costs

Probate court must then examine the petitioner under oath.

Hospitalization for 72 hours is an option if the person presents an imminent threat of danger to self or others. If a hearing cannot be held within 72 hours, the court may order a person hospitalized until the hearing.

A hearing must be held within 7 days:

- The individual allegedly in need of treatment (respondent) has the right to an attorney
- There will be an examination not later than 24 hours before the hearing by a physician for the purpose of a physical exam and by a treatment provider for an alcohol or other drug assessment and diagnosis
- Upon completion of the hearing, if all criteria are met, the court may order treatment to a certified or licensed provider

Penalty for Failure to Comply: Contempt of court (fine and/or jail time). Note: There are no locked facilities in the addiction treatment system, so contempt of court is the only tool available to enforce compliance.

Maximum Length of Court Ordered Treatment: Unspecified

Stated Impact on the Community Behavioral Health System: None, except a requirement for alcohol, drug addiction and mental health boards to prepare a list of hospitals and providers able and willing to provide services.

Sources: Centers for Disease Control and Prevention – Preventable Disease Data
Medscape Medical News *Involuntary Commitment for Substance Abuse* by Dr. Debra Pinals, May 2011
SB 117 of the 129th Ohio General Assembly
SAMHSA 2008 National Survey on Drug Use and Health