Addressing the Revolving Door – Assisted Outpatient Treatment (AOT) Legislation in the KY General Assembly

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The KY Mental Health Coalition was founded in 1982, the year in which a version of Assisted Outpatient Treatment (AOT) was first enacted in Kentucky law. KRS 202A.081 sets out a mechanism which permits persons involuntarily committed to the hospital to be discharged on the condition that they agree to – and comply with – court-ordered community-based outpatient treatment. The law, which was revised in 1994, has been little-used for a variety of reasons which other presenters will address. But the discussion, study, debate and angst around the revolving door problems for individuals with Severe Mental Illness (SMI) have been active over the years, with various proposals put forth, but none put into effect. In the meantime, thousands of individuals rotate in and out of hospitalization, homelessness, incarceration, and sometimes, treatment.

At an Interim meeting of the Health & Welfare Committees in the summer of 2013, two bills filed in the past session to address the revolving door, HB 78 and SB 33, were discussed. These bills had been filed by Chairman Burch and then-Chairwoman Denton respectively, but were not heard during the session, in part because of a lack of consensus about the best solution. In the fall of 2013, Chairman Burch convened a room-full of interested parties, many of whom are represented here today, who came together on numerous occasions to discuss AOT, including KRS 202A.081, and other proposed mechanisms for stopping the revolving door.

The result of these discussions, **HB 221** in the 2014 session, sought to strengthen this portion of KRS 202A by affirming the patient's right to legal counsel and to having a peer support specialist or other supportive person present. There was involvement of a case management team or service from a CMHC or other provider to assist the patient and to provide feedback to the court of jurisdiction. With due process, the length of time could be extended. Medicaid would be available to pay for the services if the person was eligible, and there would be monitoring, collection of data and a reporting mechanism to see if we were making progress. The bill passed the House in an amended form in the 2014 session, but failed to pass in the Senate.

What became clear to the advocates was that real change would involve more than "tweaking" this section of KRS 202A. What family members, some consumers and others (providers and advocates) wanted was monitored treatment which could be accessed by the individual without the involuntary commitment process and without coming at it from the criminal justice system. The resulting legislation was called "Tim's Law" to honor **Tim Morton** (see handout).

The main thrust and goal of Tim's Law: Is to create a new AOT procedure for a narrowly-defined number of individuals to access supported outpatient treatment under a court order without having to again be involuntarily committed or to enter treatment through the criminal justice system.

The original bill – **SB 50** – filed by Sen. Julie Denton in the 2014 GA on mandated outpatient treatment, was very broad in scope; it did not have a hearing in the legislative session. The next year, the AOT bill from the Chairman Burch group was melded into a much more tightly-defined version of SB 50 agreed to by a group of consumers and family members and was filed as **HB 65.** The criteria for individuals to be served through the new AOT court procedure were: existence of a severe mental illness, having previously been involuntarily committed through a KRS 202A procedure, having anosognosia (failure to recognize their severe and persistent mental illness), and to be at risk for harming themselves or others. The bill failed to pass.

Once again, there was testimony on the AOT issue during the 2015 Interim Session. The most recent version of Tim's Law – **HB 94** – was then prefiled by Chairman Burch for the 2016 GA session. After its unanimous passage by the House Health & Welfare Committee, it was referred to House A&R because of cost concerns, raised primarily by the Department for Public Advocacy (DPA). As had been done in previous sessions, we again proposed changes to the bill to address concerns and objections raised during the session.

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These are the changes and revisions to legislation which we have made or proposed:
Section 1-3: dropped the alternative sentencing social workers from the KRS 202A.081 section in order to reduce costs to the Department for Public Advocacy (DPA).

Sections 4 – 14: Developing a pilot program in the 2015 bill which would put the new AOT mechanism into place in eight (8) counties suggested by the Department for Public Advocacy. Even with this change, the bill was not heard in House A&R because of DPA objections.

In **HB 94** (2016 GA): Inserting funding language which was approved by the House A&R Committee and then by the full House, stating that implementation of the program would be dependent on federal, state or local grants, bequests, gifts, etc. [It should be noted that some of the available grants included payment for the cost of legal representation of the individual.]

Still, DPA had objections to the bill language, particularly as they felt that the individuals identified to be eligible for AOT were done so on the basis of predicting potentially harmful behavior. While as a psychologist, I will tell you that the best predictor of a person's behavior is their past behavior, we agreed to remove that "prediction" language from the bill. Further, we offered a **pilot program** in which a maximum of thirty (30) individuals would be involved in the new AOT process the first year, and a maximum of sixty (60) additional individuals would be involved in the AOT process in the second year of the program. DPA made no response to our proposed revision…and the 2016 session ended without a hearing in the Senate on **HB 94**.

I have outlined for you in previous testimony the safeguards, reporting mechanisms, and focused community services that we have included in the current and in previous versions of this bill. I believe that we have demonstrated our willingness over several sessions to respond to – and attempt to address – the objections and concerns that have been raised. Unfortunately, those who object have not proposed alternative solutions to the revolving door problem which do not involve involuntary commitment or involvement with the criminal justice system. Simply opposing the legislation as an objection to taking away the individual's rights is not a solution. Involuntary commitment and criminal justice system involvement certainly take away an individual's rights!

We are not inventing something new here. AOT has been designated on the basis of research and results by the experts at SAMHSA as an evidence-based practice. More than 40 states have some version of AOT, and I believe that ours is the most narrowly, carefully defined of all of them. We do not want to cast a wide net…but we do want to make sure that those individuals – like **Tim Morton** – who are very ill and who are unable to recognize it, who spend much of their lives in the revolving door of hospitalization, homelessness or incarceration…are afforded a new opportunity to stay in treatment long enough to see the positive effects and the road to recovery.

Please remember that Tim's Law provides that assisted, mandated, supervised course of treatment without having to again involuntarily commit the individual to the state psychiatric hospital and without their having to access treatment because they have committed a crime. Neither of those pathways should be the only access to treatment for those who do not recognize that they need it!

Please remember **Tim Morton**, hospitalized involuntarily 37 times by his mother, Faye Morton, because she had no other way to get him involved in the treatment he so desperately needed.

There has got to be a better way! Tim's Law is not perfect, but it deserves a chance to show that it works, that it is humane, that it is cost-effective, and that it can keep people with severe mental illness out of the revolving door and lead them to treatment and recovery.

I am happy to answer any questions you may have. Thank you.