

Should officials force care on mentally ill?

Debate swirls over rules allowing mentally ill to be forced into treatment

By Chris L. Jenkins

The Washington Post

updated 11:58 p.m. PT, Sat., Dec. 29, 2007

NEW YORK - Susan Wezel had been committed to the city's hospital wards more than a dozen times in 10 years. Her psychosis was so deep and debilitating that she lost her career and her relationship with her son, as she refused to take her medication or follow treatment.

But because of a New York state law, Wezel hasn't been hospitalized in more than a year. She doesn't wander the streets alone at night anymore. She takes her medication willingly. She even has plans to follow her dream of singing at a neighborhood nightspot, something that was unthinkable 18 months ago.

Wezel and her caseworker agree that the transformation occurred because of the law, which allowed officials to force Wezel into an outpatient treatment program after she was discharged from a hospital.

Known as Kendra's Law, it is considered one of the most far-reaching mental health statutes in the country. It gives great latitude to doctors, social workers and relatives to take mentally ill people before a judge to force them into treatment, and it provides money for clinical services.

Just how far states can go to get mentally ill people into treatment is a key issue in Virginia. The state is struggling with changing its mental health system after a mentally ill gunman shot and killed 32 students and teachers at Virginia Tech in April before killing himself.

"All of this has saved my life," Wezel, 50, said in an interview at her caseworker's office in Queens. As part of the treatment order, she was given immediate access to a caseworker who closely monitors her through visits and phone calls. If Wezel fails to comply with her treatment, she can be picked up by police and taken to a hospital.

Wezel's experience with forced treatment underscores one of the most controversial issues in the care of the mentally ill. Seung Hui Cho, the Virginia Tech gunman, had been ordered into outpatient treatment, but officials didn't monitor whether he received it, and he never did.

Had something as detailed as Kendra's Law been in place, with its high expectation of accountability, officials might have been forced to monitor whether Cho got treatment, supporters of such measures say.

Rarely used outpatient law

Virginia has an outpatient treatment law, but it is rarely used. Judges interviewed since the Virginia Tech rampage have said that they prefer institutionalization for the most severely endangered patients. Some judges said they think that ordering outpatient treatment is a waste of time because the lack of resources would make follow-up nearly impossible.

A survey conducted this year by the Virginia Supreme Court's Commission on Mental Health Reform found that judges used the outpatient treatment option in 5.4 percent of cases during the month studied.

Kendra's Law, named after Kendra Webdale, a 32-year-old woman who was killed in 1999 when she was pushed in front of a New York City subway train by a severely mentally ill man, allows courts to use a much lower standard than Virginia's to force outpatient mental health treatment.

To qualify for forced treatment under Kendra's Law, among other criteria, a person must have been hospitalized twice within the previous three years; must have shown violent behavior toward himself or others in the previous four years; and must need treatment to "prevent a relapse or deterioration which would be likely to result in serious harm to the person or others."

Across the country, supporters of such programs, known as preventive outpatient commitment laws, have called them pragmatic approaches in addressing the needs of the millions of mentally ill people who are not in institutions.

But there is intense debate among experts and policymakers about whether coercive statutes would be necessary in cases in which states increase the availability of services to the mentally ill.

Maryland does not have an outpatient commitment law. The District has a standard like Kendra's Law, but it is used sparingly.

The Supreme Court commission in Virginia recommended this month that the state expand the use of outpatient

treatment for those who don't meet the criteria for forced hospitalization. The panel also called for specific procedures to monitor those receiving outpatient treatment and suggested ways to enforce it. But lawmakers also expect debate over a more expansive law that mirrors the New York statute when the General Assembly convenes next month.

"These arguments over outpatient commitment are some of the most emotional and contentious debates you'll find in mental health law," said Jeffrey Swanson, a professor of psychiatry and behavioral sciences at Duke University who is involved in a three-year study of Kendra's Law for the state of New York. "It really goes to the heart of whether we believe community mental health care can be effective without coercion and at what point we're willing to say that coercion might be necessary, legitimate and humane."

The New York statute outlines the responsibilities of local mental health agencies, spells out monitoring requirements and incorporates provisions for ordering noncompliant mentally ill people into hospitals. Those who are taken into outpatient treatment under Kendra's Law get immediate access to services. The petition process can be started by a roommate, parent, spouse, adult child or sibling, a hospital director or a caseworker, among others.

"There was nothing I could do to get her into any help before this," said Chris Wezel, 50, Susan Wezel's husband.

New York officials say the law has been effective. They conducted a survey in 2005, when the measure was up for reauthorization. The study found that a sample of patients treated under Kendra's law were more likely to participate in care, take their medication and follow up with caseworkers than when they were not treated under the law.

In addition, for those treated under the law, homelessness, arrests, hospitalizations and incarcerations dropped at least 74 percent and as much as 87 percent, the statewide survey found. Other studies conducted by mental health researchers over the years have found similar outcomes the longer that mentally ill people stay in such coerced treatment programs.

'Coercion does work'

"Coercion does work, if it's done the right way," said Mary T. Zdanowicz, former executive director of the Treatment Advocacy Center in Arlington County. She said that Virginia needs a law "that incorporates involuntary treatment, both inpatient and outpatient." Such laws get patients complete help the first time, rather than partial help over and over, she said.

But opponents of Kendra's Law say that the New York study did not use a control group for comparisons. The state's legislators were so skeptical of the available research that they called for a separate study and declined to make the law permanent. That study is due in 2009, and the law will come up for reauthorization a year later.

Advocacy groups and other mental health experts who oppose Kendra's Law say that it came with money for services, proving that coercion alone is not a solution.

The statute was accompanied by \$32 million a year in state funding, much of it for medication and more caseworkers.

The law also affects a small population. Last year, about 1,800 New York residents fell under its guidelines at any given time, out of more than 400,000 mentally ill adults in the state, New York state health officials said.

"You have to consider the increase in services. It's not a slam-dunk to say that just because of the law itself, we have these better results," said Peter Beitchman, a longtime advocate for the mentally ill in New York City.

As opponents of the law have said, Andrew Goldstein, the schizophrenic man who pushed Webdale, had been denied outpatient services before the incident. He was told that there was no room for him at local treatment centers.

The issue of forced outpatient treatment resonates in Virginia because of the Virginia Tech shootings. Cho had been given an outpatient treatment order 16 months before the rampage. But it was never enforced by the local community services board or Virginia Tech's counseling center, and it was never specified which one was required to do so.

"Sometimes, those that need mental health treatment don't know they need help," said state Sen. Henry L. Marsh III (D-Richmond), who has unsuccessfully submitted bills like Kendra's Law in previous years and will do so again next month. Marsh will be chairman of the Senate Courts of Justice Committee next year, which will consider the legislation.

Staff writer Tom Jackman contributed to this report.

© 2007 The Washington Post Company

URL: <http://www.msnbc.msn.com/id/22435155/from/ET/>

[MSN Privacy](#) . [Legal](#)

© 2007 MSNBC.com