

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF MENTAL HEALTH
Report on the Impact of Chapter 249 of the Acts of 2000:
An Act to Reform the Civil Commitment Process for Persons with Mental Illness
2010 Annual Report

Overview

The civil commitment process for individuals who are involuntarily admitted to a hospital due to imminent risk of harm to self or others by reason of mental illness was significantly modified by Chapter 249 of the Acts of 2000. The new law, which took effect in November 2000, includes significant changes to the procedures for emergency psychiatric hospitalization under M.G.L. Chapter 123. The law requires the Department of Mental Health (DMH) to report on the impact of these changes to the Legislature's Joint Committee on Mental Health and Substance Abuse and the House and Senate Committees on Ways and Means.

Chapter 249 reduced an emergency psychiatric hospitalization under M.G.L. c.123, section 12(b) from ten (10) calendar days to four (4) business days. The time required for a judicial hearing on a petition for civil commitment was reduced by Chapter 249 from 14 calendar days to four (4) business days. The Act provides for an immediate hearing for any person who has reason to believe his or her admission is the result of abuse or misuse of the admissions process. The hearing must take place no later than the next business day. The law also requires facilities to notify individuals at admission that, upon request, the facility will contact the Committee for Public Counsel Services, which will appoint a lawyer to meet with them. Chapter 410 of the Acts of 2004, adjusted the time of an emergency hospitalization to three (3) business days. Chapter 410 increased the time for holding a commitment hearing to five (5) business days from the filing of a petition.

This is the twenty-eighth report overall and the fifth annual report since the implementation of Chapter 249. Similar to the previous reports, it is organized around monthly data collected by DMH from more than 60 acute general and psychiatric hospitals, and state-operated community mental health centers with inpatient units. The data are focused on the legal status of individuals at four points during hospitalization: upon arrival at the hospital; at admission; during the course of hospitalization; and at discharge. This report compares annual data from calendar year 2010 with the previous year, with aggregate data from all reporting periods (December 2000-December 2010) and with the ten-month period preceding implementation of the new statute (January 2000-October 2000). Prominent differences between calendar years 2010 and 2009 are also noted. Unless otherwise indicated, the data are reported as monthly averages.

The report appendices include monthly data generated from facilities before and after implementation of the new law, including: the pre-implementation data collection period (Appendix A); the 2009 annual reporting period (Appendix B), the 2010 annual

reporting period (Appendix C) and average monthly values for the post-implementation period (Appendix D).

Admissions

During the 121-month period of data collection following passage of the new law, the number of individuals admitted to psychiatric facilities on a conditional voluntary status under M.G.L. chapter 123, sections 10 and 11, has remained relatively constant and is currently 89% of all admissions. Section 12(b) admissions as a proportion of total admissions decreased from 17% to 11% over the 121-month period in comparison to the pre-implementation period.

During the 2010 reporting period, section 12(b) admissions (710) increased by 13% in comparison to the previous annual report (631). Admissions on a conditional voluntary status showed a decrease over the same period. The number of patients arriving at the hospital under 12(a) status (3,541) increased by 3% in comparison to the previous year (3,444), while average total monthly admissions in 2010 (6,107) was equivalent to the previous year (6,096).

Summary of the 121-month post-implementation period (statewide monthly averages):

- *Total monthly admissions have increased 9%, averaging 5,036 pre-implementation and 5,477 following passage of the new statute.*
- *Section 12(a) arrivals have increased 24% from the period prior to enactment of the new law, from 2,423 to 2,999.*
- *Conditional voluntary admissions under sections 10 and 11 increased from 83% to 89% following passage of the new law.*
- *The number of section 12(b) admissions in 2010 (710) increased 13% in comparison to the previous annual report (631).*
- *Section 12(b) admissions as a portion of total admissions decreased from 17% to 11% following implementation of the new statute.*

Emergency Hearings

The monthly average number of requests for emergency petitions during 2010 is two, which is equal to the monthly average in 2009 and less than the post-implementation monthly average (3). During 2010, two requests were allowed, which is equal to the 2009 annual report. There was no provision for an emergency hearing prior to the change in law; therefore, no comparison to pre-implementation data can be made.

Summary of the 121-month post-implementation period (statewide monthly averages):

- *Hospitals reported that 412 emergency petitions were filed and twelve were allowed.*

Court Hearings

Despite pre-implementation concerns that increased demand for hearings under the new law would require re-location of hearing sites from the hospitals to the courts, the data do not substantiate this concern. Data from the 121-month post-implementation period (83%) and from the present annual report (88%) continue to show that the majority of sections 7 and 8 hearings are conducted at hospitals. Prior to enactment of Chapter 249, facilities were not required to report on the number of sections 7 and 8 petitions heard or the locations of the hearings, so exact comparisons cannot be made. However, DMH collected retrospective information about hearing location before the change in the law through telephone surveys conducted in the fall of 2000. The eight months of data obtained by this method demonstrated that 78% of sections 7 and 8 hearings were conducted at hospitals prior to implementation of the new law.

In the pre-implementation period, the monthly average number of sections 7 and 8 petitions *filed* for continued hospitalization was 150. After initially rising in the first quarterly report, the number of petitions filed has declined to a monthly average of 166 during the 121-month post-implementation period. The average monthly number of petitions filed in 2010 is 202, which is increased in comparison to the previous year (169).

The average number of sections 7 and 8 petitions *heard* increased from 54 petitions per month prior to implementation to a monthly average of 69 during the 121 months following implementation of the new law. The 2010 value (77) is 11% greater than the previous year (70) and the post-implementation average (69).

The number of petitions *allowed* increased from 48 petitions per month during pre-implementation to an average of 61 per month following passage of the new law. In 2010 the number of sections 7 and 8 petitions allowed was 69, 6% greater than the previous year (65).

Prior to passage of Chapter 249, petitions for commitment under sections 7 and 8 represented 3% of total admissions. The 121-month post-implementation average and the 2010 monthly average remains 3% of total admissions, a very small portion of new admissions.

Summary of the 121-month post-implementation period (monthly statewide averages):

- *The total number of sections 7 and 8 petitions filed increased 11%, from 150 to 166.*
- *The total number of sections 7 and 8 petitions heard increased from 54 to 69.*
- *89% of all petitions for commitment heard were allowed.*
- *Filings for commitment remained steady at 3% of all admissions.*

Discharges

In comparison to pre-implementation values (4,319), the average number of discharges (5,141) from a conditional voluntary status (sections 10 and 11) per month has increased following implementation of the new statute. Before implementation, 90% of all discharges were from this category, while in the 121-month post-implementation period, a monthly average of 95% was discharged from a conditional voluntary status. In the present reporting period, 94% of all discharges were from a conditional voluntary status.

The number of people discharged from section 12(b) status decreased from 396 before implementation to a 121-month average of 184 under the new law. The 2010 monthly average (244) is increased in comparison to the previous year (205) and is 4% of the average monthly total discharges. In the 121-month post-implementation reporting period, discharges from section 12(b) status represent 3% of all discharges.

Individuals discharged from sections 7 and 8 status decreased from 78 before implementation to a monthly average of 68 in the post-implementation period. Comparison of all reports suggests a downward trend of individuals discharged from sections 7 and 8 status, from 3% of all discharges in the first, to 2% in the second, to 1% in the third through twenty-third reporting periods and in the 2006 through 2008 annual reports. The number of persons discharged from sections 7 and 8 status (95) in 2010 was equivalent to the 2009 annual report (92).

Summary of the 121-month post-implementation period (statewide monthly averages):

- *Sections 10 and 11 discharges increased from 90% to 95% of average monthly discharges.*
- *Section 12(b) discharges decreased from 8% to 3% of total monthly discharges.*
- *Sections 7 and 8 discharges represent 1% of total monthly discharges.*

Summary

This is DMH's annual report evaluating the impact of Chapter 249 of the Acts of 2000 on DMH-licensed and operated facilities and represents the 2010 calendar year. The report includes data from the first 121 months since the law was implemented and, as with the previous four annual reports and twenty-three quarterly reports, is subject to further review by DMH.

Overall, the number of 12(b) admissions (710) is 13% higher than the previous year (631). The conversion to conditional voluntary status at admission shows a decrease for 2010. Total monthly admissions to facilities (6,107) in 2010 were equivalent to the previous year (6,096).

After an initial increase following passage of the new statute, then a period of decline, petitions for civil commitment under sections 7 and 8 show an increase over the 2009 annual report. The 2010 value (202) is increased in comparison to the previous year (169). The monthly average number of sections 7 and 8 petitions allowed (69) is 6% higher than in 2009 (65).

The number of individuals discharged on sections 7 and 8 status has increased from 92 to 95 in comparison to the last annual report. The post-implementation average of 68 per month remains lower than the pre-implementation value of 78 per month. The number of persons discharged from 12(b) status in 2010 (244) is increased over the previous year (205).

For the 2009 annual reporting period, the location for sections 7 and 8 hearings remain predominately hospital-based. Based on the first 121 months of data collected since the passage of the new law, there has been no change in the location of hearings towards the courts, and a substantial majority of hearings continue to occur in hospital settings.

Another element of the law sought to protect individuals from misuse or abuse of the involuntary commitment process. In the 121 months since Chapter 249 became law, 412 requests for emergency hearings for misuse/abuse of the process have been filed and 12 have been approved after independent judicial review.

APPENDIX A: PRE-IMPLEMENTATION DATA

Massachusetts Department of Mental Health
Admissions by Legal Status for 60 Licensed Hospitals and 3 State-Operated CMHCs***
Data Report Period: 1/1/00 to 10/31/00

	Total Admits	Arrival 12a	Adm 12b	12b % of Total	Disch 12b<10	Disch 12b>=10	Disch Cond Vol	Disch 7 and 8	Pet Filed 7 and 8	7 and 8 Heard Hospital	7 and 8 Heard Court	Pet Allowed 7 and 8
January	5064	2505	818	16.2%	312	96	4376	60	159	45	23	56
February	4806	2222	1109	23.1%	328	95	4284	52	131	40	6	42
March	5251	2505	1124	21.4%	316	117	4244	62	164	44	10	49
April	4917	2445	784	15.9%	291	77	4219	44	136	44	6	43
May	5353	2398	818	15.3%	294	141	4296	168	156	50	14	57
June	5066	2498	789	15.6%	310	87	4479	73	169	39	17	52
July	4841	2371	830	17.1%	294	100	4075	118	160*	**	**	42*
August	5158	2551	826	16.0%	276	85	4483	60	155*	**	**	55*
September	4853	2391	791	16.3%	303	86	4251	46	142*	**	**	55*
October	5054	2340	742	14.7%	265	87	4484	96	132	33	11	39
Total:	50363	24226	8631	NA	2989	971	43191	779	1047	295	87	338
Average:	5036.3	2422.6	863.1	17.1%	298.9	97.1	4319.1	77.9	149.6	42.1	12.4	48.3

* Data not included for totals

** Data not collected for the specific reporting period

*** This report contains preliminary data and is subject to further review by the Massachusetts Department of Mental Health.

APPENDIX B: 2009 ANNUAL REPORT DATA

Massachusetts Department of Mental Health
Admissions by Legal Status for Licensed Hospitals and CMHCs**
Data Report Period: 1/1/09 to 12/31/09^^

	Total Admits	12a Arrival	12b Admits	12b % of Total	12b<=3* Disch	12b>=4^ Disch	Cond Disch	7 and 8 Pet Filed	7 and 8 Heard Hospital	7 and 8 Heard Court	7 and 8 Pet Allowed	7 and 8 Disch	Emerg Hearings Requested	Emerg Held Hospital	Emerg Held Court	Emerg Hearing Disch
Total:	73153	41327	7575		1014	1447	68952	2029	754	81	776	1108	24	3	2	2
Avg:	6096.1	3443.9	631.3	10.36%	84.5	120.6	5746.0	169.1	62.8	6.8	64.7	92.3	2.0	0.3	0.2	0.2

* Prior to 3/1/05 this field reflects discharges in four days or less

^ Prior to 3/1/05 this field reflects discharges in five days or more

** This report contains preliminary data for the report period and is subject to further verification by the Massachusetts Department of Mental Health.

^^ These data may reflect updates made following the previous annual report, none of which influence report findings.

APPENDIX C: 2010 ANNUAL REPORT DATA

Massachusetts Department of Mental Health
Admissions by Legal Status for Licensed Hospitals and CMHCs**
Data Report Period: 1/1/10 to 12/31/10

	Total Admits	12a Arrival	12b Admits	12b % of Total	12b<=3* Disch	12b>=4^ Disch	Cond Disch	7 and 8 Pet Filed	7 and 8 Heard Hospital	7 and 8 Heard Court	7 and 8 Pet Allowed	7 and 8 Disch	Emerg Hearings Requested	Emerg Held Hospital	Emerg Held Court	Emerg Hearing Disch
Total:	73284	42492	8520		1534	1394	68529	2425	812	112	824	1140	28	7	0	2
Avg:	6107.0	3541.0	710.0	11.63%	127.8	116.2	5710.8	202.1	67.7	9.3	68.7	95.0	2.3	0.6	0.0	0.2

* Prior to 3/1/05 this field reflects discharges in four days or less

^ Prior to 3/1/05 this field reflects discharges in five days or more

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APPENDIX D: AVERAGE MONTHLY VALUES FOR THE POST-IMPLEMENTATION PERIOD

Massachusetts Department of Mental Health
Admissions by Legal Status for Licensed Hospitals and CMHCs**
Data Report Period: 12/1/00 to 12/31/10

	Total Admits	12a Arrival	12b Admits	12b % of Total	12b<=3* Disch	12b>=4^ Disch	Cond Disch	7 and 8 Pet Filed	7 and 8 Heard Hospital	7 and 8 Heard Court	7 and 8 Pet Allowed	7 and 8 Disch	Emerg Hearings Requested	Emerg Held Hospital	Emerg Held Court	Emerg Hearing Disch
Total:	662725	362865	71454		11391	10841	622003	20086	6916	1453	7420	8222	412	49	37	12
Avg:	5477.1	2998.9	590.5	10.78%	94.1	89.6	5140.5	166.0	57.2	12.0	61.3	68.0	3.4	0.4	0.3	0.1

* Prior to 3/1/05 this field reflects discharges in four days or less

^ Prior to 3/1/05 this field reflects discharges in five days or more

**** This report contains preliminary data for the report period and is subject to further verification by the
Massachusetts Department of Mental Health. Summary
(2010 Annual Report Compared to the 2009 Annual Reporting Period)**

Admissions:

Section 12(b) admissions (710) increased 13% in comparison to the previous year (631) while conditional voluntary admissions showed a decrease.

Emergency Hearings:

The monthly average number of requests for emergency hearings was two in 2010, which is equal to the 2009 reporting period and one less than the 121-month post-implementation average. Two emergency discharges were granted in 2010, which is equal to the 2009 reporting period. A total of twelve emergency discharges have been granted in the post-implementation period.

Court Hearings:

Petitions for sections 7 & 8 status (202) increased over the previous annual report (169) while the number of petitions allowed (69) increased by 6%.

Discharges:

Total discharges (6,050) were equivalent to the previous year (6,043). Discharges from section 12(b) status (244) were increased in comparison to the previous year (205), while discharges from conditional voluntary status decreased from 5,746 to 5,711. Discharges from sections 7 & 8 status increased from 92 to 95 persons.