

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
2011 Annual Report

Overview

The civil commitment process for individuals who are involuntarily admitted to a hospital due to risk of serious 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-ninth report overall and the sixth 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 2011 with the previous year, with aggregate data from all reporting periods (December 2000-December 2011) and with the ten-month period preceding implementation of the new statute (January 2000-October 2000). Any prominent differences between calendar years 2011 and 2010 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 2010 annual reporting period (Appendix B), the 2011 annual

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

Admissions

During the 133-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, is currently 89% of all admissions. Section 12(b) admissions as a proportion of total admissions decreased from 17% to 11% over the 133-month period in comparison to the pre-implementation period.

During the 2011 reporting period, average section 12(b) admissions per month (805) increased by 13% in comparison to the previous annual report (710). Admissions on a conditional voluntary status showed a decrease over the same period. The average number of patients arriving at the hospital per month under 12(a) status (3,854) increased by 9% in comparison to the previous year (3,541), while average total monthly admissions in 2011 (6,184) increased by 1% in comparison to the previous year (6,107).

Summary of the 133-month post-implementation period (statewide monthly averages):

- *Total monthly admissions have increased 10%, averaging 5,036 pre-implementation and 5,541 following passage of the new statute.*
- *Section 12(a) arrivals have increased 27% from the period prior to enactment of the new law, from 2,423 to 3,076 section 12(a) arrivals per month.*
- *The number of section 12(b) admissions per month in 2011 (805) increased 13% in comparison to the previous annual report (710).*
- *Following implementation of the new statute, conditional voluntary admissions under sections 10 and 11 increased from 83% to 89% of total admissions.*
- *Following implementation of the new statute, section 12(b) admissions as a portion of total admissions decreased from 17% to 11% of total admissions.*

Emergency Hearings

The monthly average number of requests for emergency hearings during 2011 is three, which is equal to the post-implementation monthly average. During 2011, 32 emergency hearings were requested, 7 were held, and of those, two requests for discharge were allowed. 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 133-month post-implementation period (statewide monthly averages):

- *Hospitals reported that 444 emergency hearings were requested, of which there were 93 hearings, 14 of which resulted in discharge.*

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. The majority of sections 7 and 8 hearings were conducted at hospitals during the 133-month post-implementation period (84%) and during the 2011 reporting period (93%). 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. During the 133-month post implementation period, the monthly average number of petitions filed is 171. The monthly average number of petitions filed in 2011 is 219, which is an 8% increase in comparison to the previous year (202).

The average number of sections 7 and 8 petitions *heard* increased from 54 petitions per month prior to implementation to a monthly average of 70 during the 133 months following implementation of the new law. The 2011 value (79) is 3% greater than the previous year (77) and 13% greater than the post-implementation average (70) of sections 7 and 8 petitions heard.

The number of petitions *allowed* increased from 48 petitions per month during pre-implementation to an average of 62 per month following passage of the new law. In 2011 the average number of sections 7 and 8 petitions allowed per month was 68, one less than the previous year (69).

Prior to passage of Chapter 249, petitions filed for commitment under sections 7 and 8 represented 3% of average monthly admissions. The 133-month post-implementation monthly average remains 3% of total monthly admissions, which reflects a very small portion of admissions that result in filed petitions. Of the average monthly admissions in 2011, approximately 4% resulted involved filed commitment petitions.

Summary of the comparison between the pre-implementation period and the 133-month post-implementation period:

- *The average number of sections 7 and 8 petitions filed each month increased 14%, from 150 to 171.*
- *The average number of sections 7 and 8 petitions heard each month increased from 54 to 70.*
- *88% of all petitions for commitment heard were allowed during the 133-month post-implementation period.*
- *Filings for commitment remained steady at approximately 3% of all admissions.*

Discharges

In comparison to pre-implementation values (4,319), the average number of monthly discharges (5,198) from a conditional voluntary status (sections 10 and 11) per month has increased following implementation of the new statute. Before implementation, 90% of average monthly discharges were from this category, while in the 133-month post-implementation period, a monthly average of 95% of the monthly discharges were discharged from a conditional voluntary status. In the present reporting period, approximately 94% of the average monthly discharges were from a conditional voluntary status.

The average number of people discharged from section 12(b) status each month decreased from 396 before implementation to a 133-month average of 193 each month under the new law. The 2011 monthly average (283) is increased in comparison to the previous year (244) and is approximately 5% of the average monthly total discharges. In the 133-month post-implementation reporting period, discharges from section 12(b) status represent 4% of all discharges.

Individuals discharged from sections 7 and 8 status decreased from an average of 78 per month before implementation to a monthly average of 71 in the post-implementation period. The number of persons discharged from sections 7 and 8 status (108) in 2011 increased in comparison to the 2010 annual report (95).

Summary of the 133-month post-implementation period (statewide monthly averages):

- *Compared with the pre-implementation period, sections 10 and 11 discharges in the 133-month post-implementation period increased from 90% to 95% of the average monthly discharges.*

- *Compared with the pre-implementation period, section 12(b) discharges in the 133-month post-implementation period decreased from 8% to 4% of average monthly discharges.*
- *During the 133-month post-implementation period, sections 7 and 8 discharges represent 1% of average monthly discharges.*

Summary

This is DMH's sixth annual report evaluating the impact of Chapter 249 of the Acts of 2000 on DMH-licensed and operated facilities and represents the 2011 calendar year. The report includes data from the period of time prior to implementing the changes in the law, as well as data from the current and past year and an aggregate of the data from the first 133 months since the law was implemented. The data will continue to be reviewed on an annual basis by DMH.

Overall, during this annual reporting period the average monthly number of 12(b) admissions (805 out of 6184) represents 1% more of the average monthly admissions compared to the previous year (710 out of 6107) and 2% more of the average monthly admissions compared to the average over the length of the post-implementation period (13% vs. 11% of all monthly admissions). The average monthly number of petitions for civil commitment under sections 7 and 8 (219) increased in comparison to the 2010 annual report (202). The monthly average number of sections 7 and 8 petitions allowed (68) is one less than in 2010 (69).

The monthly average number of persons discharged from 12(b) status in 2011 (283) is increased over the previous year (244). The average number of individuals discharged monthly on sections 7 and 8 status has increased from 95 to 108 in comparison to the last annual report. However, the post-implementation monthly average discharges on sections 7 and 8 status of 71 per month remains lower than the pre-implementation value of 78 per month.

For the 2011 annual reporting period, the location for sections 7 and 8 hearings remain predominately hospital-based. Based on the first 133 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 133 months since Chapter 249 became law, 444 requests for emergency hearings for misuse/abuse of the process have been filed and 14 requests for review in these circumstances have resulted in discharge 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: 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

** 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: 2011 ANNUAL REPORT DATA

Massachusetts Department of Mental Health Admissions by Legal Status for Licensed Hospitals and CMHCs** Data Report Period: 1/1/11 to 12/31/11

	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:	74210	46246	9656		1334	2066	69192	2624	878	64	811	1299	32	4	3	2
Avg:	6184.2	3853.8	804.7	13.01%	111.2	172.2	5766.0	218.7	73.2	5.3	67.6	108.3	2.7	0.3	0.3	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 12/31/11

	Total	12a	12b	12b %	12b<=3*	12b>=4^	Cond	7 and 8	7 and 8	7 and 8	7 and 8		Emerg	Emerg	Emerg	Emerg
	Admits	Arrival	Admits	of Total	Disch	Disch	Disch	Pet Filed	Heard Hospital	Heard Court	Pet Allowed	7 and 8 Disch	Hearings Requested	Held Hospital	Held Court	Hearing Disch
Total:	736935	409111	81110		12725	12907	691345	22710	7794	1517	8231	9372	444	53	40	14
Avg:	5540.9	3076.0	609.8	11.01%	95.7	97.0	5198.1	170.8	58.6	11.4	61.9	70.5	3.3	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

(2011 Annual Report Compared to the 2010 Annual Reporting Period)

Admissions:

The 2011 average number of GL Chapter 123 Section 12(b) admissions per month (805) increased compared to the prior year (710). For 2011, based on average monthly numbers, the percentage of admissions to the hospital each month on a Section 12(b) status (13%) increased 1% compared to the prior year (12%) and 2% compared to the post-implementation period (11%).

Emergency Hearings:

The monthly average number of requests for emergency hearings was three in 2011, which is equivalent to the 133-month post-implementation average. Two emergency discharges were granted after such hearings in 2011, which is equal to the 2010 reporting period. A total of fourteen emergency discharges have been granted in the post-implementation period.

Court Hearings:

Average monthly petitions for sections 7 & 8 status (219) increased over the previous annual report (202) while the monthly average number of petitions allowed (68) decreased by one from the previous year.

Discharges:

Average monthly discharges (6,158) from all legal statuses increased over the previous year (6,050). Average monthly discharges from section 12(b) status (283) were increased in comparison to the previous year (244), while monthly average discharges from conditional voluntary status increased from 5,711 to 5,766. Discharges from sections 7 & 8 status increased from a monthly average of 95 to 108 persons.