

Section 35 Commission

Meeting Minutes
October 30, 2018
3:00-5:00 pm

Date of meeting: Tuesday, October 30, 2018

Start time: 3:05 pm

End time: 5:00 pm

Location: McCormack Building, Ashburton Café Conference Room, One Ashburton Place, Boston, MA 02108

Members present:

- Marylou Sudders – Executive Office of Health and Human Services (Chair)
- Michael J. Finn – State Representative
- Cindy Friedman – State Senator
- William Brownsberger – State Senator
- Kelsi Field – Designee of Representative Balser
- John E. Rosenthal – Police Assisted Addiction and Recovery Initiative
- David Podell, PhD – MassBay Community College
- Rosemary Minehan – Designee of Judge Paula Carey, Trial Court
- Neal S. Hovey – Topsfield Police Department
- Leo Beletsky, JD, MPH – Northeastern University
- Monica Bharel, MD, MPH – Department of Public Health
- Nancy Connolly, PsyD – Department of Mental Health
- Sabrina Selk – Office of Health Equity
- Maryanne Frangules – Massachusetts Organization for Addiction Recovery
- David Munson, MD – Boston Healthcare for the Homeless Program
- Carol Mallia, RN, MSN – Massachusetts Nurses Association
- Carrie Jochelson, PMHCNS-BC – Massachusetts Association of Advanced Practice Psychiatric Nurses
- Kristin Beville – National Association of Social Work
- Jessie Rossman – American Civil Liberties Union of Massachusetts
- Mark Larsen – Committee for Public Counsel Services
- Leigh Youmans – Massachusetts Health & Hospital Association
- David Stewart, MD – Massachusetts Psychological Association
- Alain Chaoui, MD – Massachusetts Medical Society
- Mark Green, MD – Massachusetts Psychiatric Society
- Scott Weiner, MD – Massachusetts College of Emergency Physicians
- Todd Kerensky, MD – Massachusetts Society of Addiction Medicine
- Vicker V. DiGravio III – Association for Behavioral Healthcare
- Marcia Fowler – Massachusetts Association of Behavioral Health Systems

Members absent:

- Richard G. Frank, PhD – Harvard Medical School

Proceedings

Secretary Sudders called the meeting to order at 3:05 pm. Ed Palleschi, Deputy Chief Secretary for Boards and Commissions from the Governor's office swore in members with the oath.

Members briefly introduced themselves, noting relevant affiliations and the name of the commission seat for those members who were attending as designees. Secretary Sudders read through the commission's charges and summarized the proposed agenda for the commission's meetings through the end of June 2019 (see PowerPoint presentation posted online to the commission's meeting materials webpage for additional details).

Senator Friedman provided background on the original opioid legislation and requested that commission members consider what revisions could be made to improve the Section 35 process and ensure it remains a tool in the toolbox for those working to address the opioid epidemic.

Professor Beletsky proposed a question related to the invitation of experts on methadone and buprenorphine. Dr. Green noted that an industry expert on Vivitrol was invited to speak at the November 5, 2018 meeting as the medication is relatively new and only available from one manufacturer.

Related to the proposed agenda for the commission's meetings, Senator Friedman proposed having the presentation from the courts on an earlier date; Secretary Sudders proposed that Judge Minehan deliver her presentation on the Section 35 process at the November 5th meeting, followed by presentations from medical experts on detoxification and induction on MAT; Ms. Fowler indicated her preference for a presentation from service providers; Ms. Rossman indicated her preference for presentations from individuals with first-hand experience with the Section 35 process, including family members; Mr. Rosenthal indicated it would be helpful to hear from first responders with experience in the Section 35 process; Dr. Munson indicated his preference for a presentation from practitioners with experience working with those who have gone through the Section 35 process.

Professor Beletsky requested the commission receive demographic information on individuals who have gone through the Section 35 process, including income level, age, and race. He also noted it would be useful for the commission to receive information on the proportion of petitions approved versus rejected and the average number of individuals who have voluntarily committed themselves ("self-sectioned").

Mr. Larsen noted that anecdotal evidence is available from the Committee for Public Counsel Services that he might be able to provide the commission.

Director Selk stated that it would be helpful to receive information on the Section 35 experiences of special populations, such as transgender clients, to provide a broader picture of the process.

Secretary Sudders noted that the Executive Office of Health and Human Services (EOHHS) would not be able to provide anecdotal evidence, but could compile existing data. Assistant Commissioner Connolly indicated that the Department of Mental Health collects data related to the Section 35 process that could be shared with the commission.

Mr. Larsen proposed that the commission consider visiting a treatment center, such as Massachusetts Alcohol and Substance Abuse Center (MASAC) to provide commission members' with a better understanding of existing programs.

Ms. Frangules proposed that the commission review patients' experiences (ie, good vs. poor) with the Section 35 process.

Dr. Weiner requested the commission receive information on the number of opioid overdoses presented to emergency departments.

Dr. Chaoui requested that the commission received data on patient outcomes, eg, relapse and overdose rates. Commissioner Bharel noted that the Department of Public Health (DPH) has previously conducted a linked

analysis of the 2011-2015 data, which might be too limited for the commission's purpose, but could be shared. She noted that there might not be sufficient time to conduct new analyses that address all of the commission's data requests.

Ms. Rossman requested additional analyses of the 2011-2015 data to the level of Men's and Women's Addiction Treatment Centers (M/WATC) and requested data on the average length of stay for Section 35 patients.

Secretary Sudders noted that EOHHS has data on the Women's Recovery from Addictions Program (WRAP) that could be provided to the commission.

Professor Beletsky requested that risk-adjusted models be utilized and noted that the Chapter 55 report included Section 35 outcome data, but the data was not adjusted for risk factors.

Judge Minehan noted that the DPH and Bureau of Substance Abuse Services (BSAS) data tends to be of good quality. She noted that MASAC data is currently not available, adding that the trial courts do not track recovery the same way as other agencies. She stated that the court system maintains raw numbers, but after a patient is discharged, the amount of data on clients is limited.

Commissioner Bharel noted that Department of Corrections (DOC) data is not linked, reiterating that only 2011-2015 data is available, which only provides crude numbers and may be too limited for the commission's purpose. She added as an example that dose effect and severity is not included.

Senator Friedman requested that the commission hear from experts on substance use disorder to provide an overview of addiction, the progression of the illness, and information on relapse rates.

Dr. Stewart noted that medical literature plays a critical part in the commission's review, so it would be useful to outline a methodology for reviewing expert medical reviews.

Summarizing the meeting's discussions, Secretary Sudders proposed that for the next commission meeting on November 5th, the commission hear presentations from clinicians on substance use disorder and detoxification and induction on MAT, as well as a presentation from Judge Minehan on the details of the Section 35 process. Secretary Sudders proposed that for the commission's meeting on December 6th, the commission invite first responders and individuals and families with lived experience with the Section 35 process. Secretary Sudders proposed for the February 28th meeting that the commission hear presentations from facilities that accept Section 35 patients.

Secretary Sudders requested that members contact potential speakers and presenters, and noted that her staff will reach out to DMH, DPH, and the Executive Office of Public Safety and Security for additional data.

Related to data, Ms. Youmans stated that it would be helpful to review available data on refusal of treatment; Senator Friedman requested Section 35 information from MassHealth and insurance providers; Professor Beletsky requested data on bed and treatment capacity, as well as a cost analysis of patient commitments in Section 35 facilities.

Representative Finn commented on the burden on the local courts systems due to Section 35 patients. In response, Judge Minehan highlighted EOHHS efforts to increase the number of clinicians in courts.

Ms. Jochelson recommended the book "How to Change Your Mind" by Michael Pollan.

Senator Brownsberger noted the importance of efficacy and quality in reviewing the Section 35 process, given that patients are committed to facilities involuntarily.

Dr. Chaoui noted that certain members of the Massachusetts Medical Society have expressed concerns with the Section 35 process due to an apparent lack of evidence for its benefit.

Dr. Chaoui noted the importance of evidence-based care and shared a personal story about the positive impact the use of buprenorphine had on one of his patients.

Professor Beletsky noted that the commission should consider the empirical data related to Section 35 and have a normative conversation about civil liberty concerns related to the use of Section 35.

Ms. Beville commented on the stigma created by having Section 35 patients committed to Department of Corrections facilities.

Ms. Youmans requested additional information on medical clearances related to Section 35 and the variation in processes across different courts.

Dr. Weiner highlighted the results of a research study conducted at Yale University that demonstrated positive treatment retention benefits for patients with access to a low-barrier clinic. He noted that the Brigham and Women's Hospital opened a similar model based on the research. He noted that a hybrid clinic would be ideal, offering a less disruptive model than isolating the individual in a Section 35 facility (eg, offering the opportunity for patients to visit a clinic on a daily basis for buprenorphine).

Mr. Rosenthal noted that through his affiliation with PAARI, he has received feedback from police chiefs that the Section 35 process is a necessary tool and he expressed hope that MAT is increasingly available for patients, similar to Narcan. He noted that police are using Section 12 proceedings in place of Section 35 in situations when courts are closed. He noted that for every overdose death, there are nine lives saved.

Sergeant Hovey noted that as a trainer, he is excited to educate his fellow officers on opioids and overdose response. He noted that while law enforcement may be the first to arrive on the scene, officers may not have the training on opioids and overdose to adequately respond.

Mr. Larsen requested additional information on the efficacy and cost of the Section 35 process. He noted that the Committee for Public Counsel Services works with 1,300 lawyers, many of whom do not have strong backgrounds in substance use and the statutes related to Section 35.

David Giannotti, Public Education and Communications Division Chief of the State Ethics Commission, provided the commission with a brief overview of the state's conflict of interest and ethics regulations. He explained that members of the commission are considered special state employees and should consult the state ethics commission with any questions or concerns related to potential conflicts of interest.

Lauren Cleary, Associate General Counsel for the Executive Office of Health and Human Services, provided an overview of the Open Meeting Law. She emphasized the importance of transparency and reminded commission members that documents and minutes from the commission's meetings are public records.

In closing, Secretary Sudders thanked members for their participation in the commission's work and noted that all materials for discussion or dissemination to the commission should be forwarded to Gabriel Cohen with the Executive Office of Health and Human Services.

Vote: Mr. Larsen introduced a motion to vote on allowing remote participation, which was seconded by Professor Beletsky. The Chair requested a vote on the proposal, which passed unanimously.

Vote: Secretary Sudders called for a vote to adjourn the meeting, which was seconded and unanimously approved.

The meeting was adjourned at 5:00 pm.