



THE CITY OF NEW YORK

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Michael R. Bloomberg
Mayor

Thomas R. Frieden, M.D., M.P.H.
Commissioner

nyc.gov/health

August 8, 2002

Donald F. Eslinger
Sheriff, Seminole County
100 Bush Boulevard
Sanford, FL 32773

Dear Sheriff Eslinger,

I understand that you and the Florida Sheriffs Association have been engaged in efforts to secure assisted outpatient treatment (AOT) legislation in Florida. New York's AOT statute, known as Kendra's Law, has proved to be a tremendous asset in New York for ensuring that individuals with severe mental illnesses who were previously non-compliant are able to get the sustained treatment they need.

As the general counsel of the City's Department of Mental Health over the past 10 years, and now the General Counsel for Mental Hygiene of the City's new Department of Health and Mental Hygiene, I have been involved in this program for some years, as I am the lead attorney of the City agency charged with its implementation.

I am pleased to provide information about the assisted outpatient treatment hearing process in New York City for the consideration of stakeholders in Florida as your own bill is being considered.

Under the State statute, both initial and ongoing AOT hearings deal with two issues: the eligibility of the individual for AOT, which must be supported by physician testimony based upon an examination of the individual within 10 days before the filing of the petition; and the "treatment plan," which are the elements that go into the court order, also to be supported by physician testimony at the hearing. The court may also consider testimony of the petitioner and the subject of the petition. Other forms of admissible evidence may be considered as well.

The treatment plan is developed before the hearing by a physician with the active participation of the subject of the petition and, if requested by that individual, a relative, close friend or other concerned individual to actively participate in the development of the treatment plan.

The subjects of the petitions are typically represented by the Mental Hygiene Legal Services

(MHLS), the State-funded program that provides representation for individuals involved in the State's various involuntary commitment processes. Since many of the petitioners are inpatient hospitals who are using AOT as part of a discharge plan, these petitioners are represented by hospital lawyers. All renewals, and initial petitions other than those brought by inpatient hospitals, are brought by our attorneys who are part of a clinical/legal team based in public hospitals in the boroughs of New York. Each borough has its own court structure, with some boroughs having hospital-based mental hygiene court parts where AOT, inpatient commitment, and medication override hearings are conducted. Others are heard in regular courts with revolving judges.

Despite initial concerns about workload both for the court system and the MHLS attorneys, all of the parties involved have contributed to a smooth running system. While it is difficult to generalize, many cases are not contested and generally do not take over 30 minutes. Some cases are contested and generally they take an hour, but occasionally depending on the judge and the subject's lawyer they can take considerably over an hour. However, these are definitely the exception and not the rule.

We are very pleased at how this program has worked out in New York City. It has enabled us to identify many of the most at-risk persons with mental illness in the City, and it has allowed us to bring to bear on their treatment the coordinated resources of the legal and clinical system

I would be pleased to speak with others in Florida who may have questions about New York City's implementation of Kendra's Law. I can be reached at (212) 219-5372.

Yours truly,

A handwritten signature in black ink, appearing to read 'William Martin', with a stylized, flowing script.

William Martin, Esq.
General Counsel for Mental Hygiene