The Progressive Treatment Program:

A Description of Maine's Approach to Community Based ACT Services as an Alternative to Involuntary Hospitalization

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Introduction

This description of the community based Progressive Treatment Program (PTP) will provide a context for why the program was established, and its implementation. The purpose of this document is to create a clear and consistent picture of the Progressive Treatment Program for all interested stakeholders, i.e. recipients and potential recipients of service, their family and friends, providers of service and others involved in the continuity of care, as well as advocates, legislators, and any other key stakeholders.

Background

With the advent of improved treatments and community-based services for persons with serious mental illness in the 1960's, the trend in institutional care has been toward shorter and shorter admissions. The focus of public mental health systems has been on developing a wide array of community-based treatment and support services. Within the context of the shift from institutional to community-based treatment settings, there has been a debate about the use of involuntary commitment both within hospital settings and more recently in community treatment settings.

Nationally and here in Maine, this debate has centered on the issues of infringement of individual and human rights through involuntary commitment and coerced treatment versus the right to treatment of individuals with severe and persistent mental illness and the protection of individuals and society from behaviors attributed to

mental illness. Generally, persons with mental illness and their legal advocates have taken positions to strictly limit involuntary commitment to institutional care and flatly opposed involuntary outpatient commitment. On the other hand, many family members of persons with mental illness and mental health professionals as well as law enforcement professionals are distressed by personal experiences with persons with serious mental illness who continue to go untreated despite obvious deterioration and jeopardy. They support approaches that would allow timely intervention when circumstances warrant it.

Legislative Authorization

Over the last several years in Maine, the issue of involuntary outpatient commitment has been studied closely in a number of venues. In 2005, during the First Regular Session of the 122nd Maine Legislature, Senator John Nutting introduced LD 151, "An Act to Improve the Delivery of Maine's Mental Health Services". Its primary purpose was to establish involuntary outpatient commitment laws. This piece of legislation was hotly debated; ultimately it did not pass the full legislature. A broad based committee was convened to examine the issue and make recommendations. This committee was made up of advocates, providers, recipients of service, and families of persons with mental illness, DHHS representatives, law enforcement, and legislators. The committee was unable to find consensus on all aspects of LD 151. The majority of the committee recommended the passage of the new legislation to create involuntary outpatient commitment. A minority opposed it, recommending instead strengthening already existing laws, rules, policies and procedures. In 2006, the Second Regular Session of the 122nd Maine Legislature approved through the supplemental budget bill (Chapter 519, BBBB 1-19) language and funding that addresses the major elements of LD 151 and establishing the "progressive treatment program".

Useful Definitions from the legislation of some of the key terms used in the Progressive Treatment Program

The definitions below are derived from the resulting legislative language. Most of the changes relate to mental health civil commitment under 34-B MRSA, and create in statute the Progressive Treatment Program.

Assertive Community Treatment "Assertive Community Treatment" or "ACT" means a self-contained service with a fixed point of responsibility for providing treatment, rehabilitation and support services to persons with mental illness for whom other community-based treatment approaches have been unsuccessful. Assertive community treatment uses clinical and rehabilitative staff to address symptom stability; relapse prevention; maintenance of safe, affordable housing in normative settings that promote well-being; establishment of natural support networks to combat isolation and withdrawal; the minimizing of involvement with the criminal justice system; individual recovery education; and services to enable the person to function at a work site. Assertive community treatment is provided by multidisciplinary teams who are on duty 24 hours per day, 7 days per week; teams must include a psychiatrist, registered nurse, certified rehabilitation counselor or certified employment specialist, a peer recovery specialist and a substance abuse counselor and may include an occupational therapist, a Mental Health Rehabilitation Technician/Community (MHRT/C), psychologist, licensed clinical social worker or licensed clinical professional counselor. An ACT team member who is a state employee is, while in good faith performing a function as a member of an ACT team, performing a discretionary function within the meaning of Title 14, section 8104-B, subsection 3.

Disability or Functional Impairment means a disability or functional impairment that results from a diagnosed Qualifying Mental Illness, and includes the inability to manage one's own finances, inability to perform activities of daily living, inability to behave in ways that do not bring the attention of law enforcement for dangerous acts or for

acts that manifest the person’s inability to protect from harm. (See 34-B M.R.S.A. § 3801(8-A).)

Inability to Make an Informed Decision means inability to make a responsible decision about accepting or refusing a recommended treatment as a result of a lack of mental capacity to understand sufficiently the benefits and risks of the treatment after a thorough and informative explanation has been given by a qualified mental health professional. (See 34-B M.R.S.A. § 3801(10).)

Likelihood of Serious Harm means, in view of the person's treatment history, current behavior and Inability to Make an Informed Decision, a reasonable likelihood that deterioration of the person's mental health will occur

AND

the person will in the foreseeable future pose:

(1) A substantial risk of physical harm to the person as manifested by evidence of recent threats of, or attempts at, suicide or serious bodily harm;

(2) A substantial risk of physical harm to other persons as manifested by recent evidence of homicidal or other violent behavior or recent evidence that others are placed in reasonable fear of violent behavior and serious physical harm to themselves; or

(3) A substantial risk of severe physical or mental impairment or injury to the person as manifested by recent evidence of actions or behavior that demonstrates the person's inability to avoid or protect the person from such impairment or injury. (See 34-B M.R.S.A. § 3801(4)(D).)

Progressive Treatment Program (PTP) means a program of court-ordered services provided in an outpatient setting by a specialized Assertive Community Treatment team for a term of six months. (See 34-B M.R.S.A. § 3873.)

Qualifying Mental Illness means schizophrenia, schizoaffective disorder, other psychotic disorder, major depressive disorder, bipolar disorder, or other combination of mental disorders sufficiently

disabling to meet the criteria of functional disability. (See 34-B M.R.S.A. § 3801(8-A).)

Severe and Persistent Mental Illness means a Qualifying Mental Illness ***plus*** a Disability or Functional Impairment that has persisted (continuously or intermittently) or that is expected to persist for at least one year as a result of the Qualifying Mental Illness. (See 34-B M.R.S.A. § 3801(8-A).)

What is this new program?

The Progressive Treatment Program is a strictly limited program for certain persons with severe and persistent mental illness. These persons are involuntarily hospitalized through the civil commitment process and meet specific criteria. They are assigned by the court to specialized outpatient Assertive Community Treatment Teams where they can receive treatment in the least restrictive setting possible. The PTP does not serve persons who are classified as "forensic" and ordered by the criminal court to treatment at Riverview or Dorothea Dix Psychiatric Centers.

There are numerous reasons why individuals may refuse medication and other types of treatment. Some individuals do not think they are mentally ill. Some have had bad experiences with the medications they have been prescribed; some have had bad experiences with the mental health system itself. The Progressive Treatment Program stems from the desire of concerned families, friends and other involved community members to be able to help a person they care about before she or he does too much damage to him or her self, or to someone else. It is a systemic response to address the particular set of circumstances that result in some people having repeated involuntary hospitalizations, tremendous difficulty achieving stability in community settings, and a deteriorating prognosis for the future.

Who are the intended recipients?

A very small number of people diagnosed with severe and persistent mental illness tend consistently to reject the treatment services, including the medication, that are prescribed for their symptoms of mental illness. This can result in their lives beginning to fall apart. They may cycle in and out of psychiatric hospitals, lose their housing and become homeless; their physical health can be jeopardized by disease or injury, and they may have encounters with the law that land them in jail. These risks come about in part because their symptoms affect their judgment and they make poor decisions and fail to look after themselves.

It is painful for family and friends of these individuals to watch them suffer, feeling helpless because of the perceived limitations of the system and its inability to intervene against a person's will. Mental health workers and other involved community members feel frustrated as well.

Specifically, who is eligible to receive services?

The specific characteristics of the individuals who may be assigned by the court to the Progressive Treatment Program are that they must:

(1) Be 21 years of age or older;

(2) Have been clinically determined to be suffering from a Severe and Persistent Mental Illness;

(3) Have been under an order of involuntary commitment to Dorothea Dix Psychiatric Center or Riverview Psychiatric Center at the time of filing of the application for PTP;

(4) Have been clinically determined to be in need of the PTP in order to prevent interruptions in treatment, relapse and

deterioration of mental health and to enable the person to survive safely in a community setting in the reasonably foreseeable future without posing a likelihood of serious harm. This determination must be based on current behavior, treatment history, documented history of positive responses to treatment while hospitalized, relapse and deterioration of mental health after discharge and Inability to Make Informed Decisions regarding treatment; and

5) Be able to live within a 25 mile radius of the referring state public psychiatric hospital without undue disruption of the person's natural support system for the duration of the PTP. (Please Note: *this criterion was added by DHHS in order to allow the ACT teams based in Augusta and Bangor to be effective and efficient in providing Assertive Community Treatment services which require frequent contact with all persons served.)*

What does a typical recipient look like?

A composite example of a person who is referred to the Progressive Treatment Program is an adult who has experienced frequent and recurring periods of erratic behavior and disturbed thought processes related to severe and persistent mental illness. This may have resulted in repeated contacts with law enforcement, psychiatric crisis services, and inpatient stays, usually under the involuntary commitment process. She or he may have spent time living on the streets, in shelters, or in jail. The person's history with landlords may make it difficult to find one that will accept this person as a tenant. Experiences in the work world are often marked by failure to get or keep jobs.

Another common characteristic is a refusal to voluntarily take psychiatric medication, or to accept other forms of treatment. This person has usually experienced extremely disruptive symptoms of mental illness over many years, living for long periods without treatment. All these things contribute to the person's inability to

identify a path to recovery and to achieve an acceptable quality of life. Concerned persons, family, friends, and clinicians have observed these events with growing distress because of what they believe to be increasing harm and risk of harm both to the person and potentially to those around her or him.

An essential characteristic that makes this person a candidate for the PTP is that she or he has in the past shown real improvement when counseling and/or medication have been accepted.

All of these elements taken together form the profile of someone for whom the Progressive Treatment Program and the services of an ACT Team in a community setting may be beneficial.

What is the intended outcome?

The goal is that a person becomes able, through effective treatment approaches, to identify for himself or herself a path to recovery and a quality of life that is meaningful. This intended and hoped for outcome for individuals receiving PTP services can be measured to some degree by shorter and less frequent hospital stays. Other indicators will vary with the person receiving services, but they may include less severe psychiatric symptoms, participation in more satisfying activities such as work or school, improved ability to maintain an apartment or other living situation, and improved relationships with family and friends.

The PTP is based on the belief that requiring a person to comply with his or her treatment in a least restrictive community setting through court order will create extended periods of stability. This stability may in turn achieve the person's desired quality of life. Assertive Community Treatment is treatment services that are tailored to a person's individual needs, consistently delivered by a well coordinated team that has the expertise and experience to engage the person in her or his own treatment and to enhance that therapeutic relationship over time. It is crucial that all needed services are

available at the times and with the frequency that works best for the person.

What is the community treatment called for in the law, and who can provide services in the PTP?

Community treatment consists of participation in Assertive Community Treatment **("ACT").** ACT is a multi-disciplinary team approach to providing treatment and rehabilitation services to persons with mental illness. It has been researched as to its effectiveness with persons with severe and persistent mental illness and is accepted as an evidenced-based practice (EBP) in the field of community mental health. It is promoted by the National Alliance on Mental Illness for adoption by state mental health authorities, and one of the core services funded by DHHS. Within the context of the Progressive Treatment Program these services form the basis of the involuntary community component of PTP. As such, these specialized ACT teams must include effective approaches to engage persons who are by definition resistant to treatment and strategies for monitoring compliance with the court ordered treatment plan, including compliance with a medication regime when ordered.

Specifically, as described above under the "Definitions" section, the new law defines Assertive Community Treatment as
"a self-contained service with fixed point of responsibility for providing treatment, rehabilitation and support services to persons with mental illness for whom other community-based treatment approaches have been unsuccessful. Assertive community treatment uses clinical and rehabilitative staff to address symptom stability; relapse prevention; maintenance of safe, affordable housing in normative settings that promote well-being; establishment of natural support networks to combat isolation and withdrawal; the minimizing of involvement with the criminal justice system; individual recovery education; and services to enable the person to function at a work site. Assertive community treatment is provided by multidisciplinary teams who are on duty 24 hours per day, 7 days per week; teams must include a psychiatrist, registered nurse, certified rehabilitation counselor or certified employment specialist, a peer recovery specialist and a

substance abuse counselor and may include an occupational therapist, community-based mental health rehabilitation technician, psychologist, licensed clinical social worker or licensed clinical professional counselor."

Who will be providing these services in Augusta and in Bangor?

In the Augusta area (a 25 mile radius around Augusta), in response to the new law, DHHS, Office of Adult Mental Health Services has assembled an ACT Team based at Riverview Psychiatric Center (RPC) and comprised of state employees in positions moved from other parts of the organization. The Riverview Act Team is an outpatient program of RPC and under the auspices of the Superintendent.

In the Bangor area (a 25 mile radius around Bangor) Community Health and Counseling Services, a licensed community mental health provider, has been chosen to deliver PTP ACT services through a contract with DHHS. The contract incorporates the requirements of the new law and the description of an ACT team used in it.

How does a person get referred for service? How does the referral work?

A person can be referred to the Progressive Treatment Program only if she or he is currently on a civil commitment to RPC or DDPC. According to the guidelines which have been developed for use at the two state mental health institutes, referral is begun when the treatment team believes that a person would benefit from a period of community commitment in lieu of an extended involuntary inpatient stay, and meets the eligibility criteria described above. This process is begun at least 30 days prior to expiration of the current involuntary commitment order.

The treating psychiatrist at RPC or DDPC in consultation with the hospital treatment team determines that person is eligible for PTP. The team must:

1) make an assessment based on current behavior, treatment history, documented history of positive responses to treatment while hospitalized, relapse and deterioration of mental health after discharge and Inability to Make Informed Decision; and
2) determine whether the person is in need of the PTP in order to prevent interruptions in treatment, relapse and deterioration of mental health and to enable the person to survive safely in a community setting in the reasonably foreseeable future without posing a Likelihood of Serious Harm.

These elements of the assessment are crucial because they contribute to the potential for success. If a person lacks a history of positive response to treatment while hospitalized, for instance, there is no good reason to expect that a period of community commitment will be more likely to be successful than a continued inpatient commitment. However, if these elements are in place, the community commitment provides an opportunity to limit the inpatient stay and provide services in the least restrictive setting.

After the person is identified as someone who may benefit from PTP services, the hospital treatment team will, in consultation with the person and the community based ACT Team designated to provide PTP service, develop the outpatient treatment plan.

A copy of the PTP Guidelines from which the above is derived can be found in the appendices at the end of this document.

How does the person get committed to outpatient community services?

When the treatment planning is complete, the hospital personnel initiate the application to District Court. This is the same court that hears civil commitment hearings for inpatient commitments. In addition to the outpatient treatment plan, there are several documents that have been designed for this purpose that must be completed. These are described and included in the PTP Guidelines, which are attached. The procedures and timing of the hearing for

community commitment are the same as for inpatient commitment hearings.

The District Court hearing is a formal process that provides an opportunity for representatives of the person for whom community commitment is being sought to be involved to oppose the commitment if the person so instructs. Outside examiners will also present their findings to the judge. Family members may also be heard.

The judge, after hearing all the testimony and reviewing the submissions, may order admission to the PTP. The order will include the following:

(a) A finding that the person meets the first four criteria outlined above under *Eligible Recipients*;

(b) A finding that an ACT team is available to provide treatment and care for the person;

(c) A finding that the person has been clinically determined to be in need of the PTP in order to prevent interruptions in treatment, relapse and deterioration of mental health and to enable the person to survive safely in the community setting in the reasonably foreseeable future without posing a Likelihood of Serious Harm.

(d) A requirement that the person must return to the state mental health institute in the event of failure to participate fully in the PTP and deterioration of the person's mental health so that hospitalization is in the person's best interest and the person poses a Likelihood of Serious Harm. (See 34-B M.R.S.A. § 3864(5).)

(e) An order that participation in the PTP be for a term of six months.

How long do the services last?

As mentioned above, the law and therefore the judge's order requires a six-month period for participation in the Progressive Treatment Program. As it stands now, the law does not permit an extension of the six-month period. Participation in the program ends under one of the following scenarios:

1. When the six-month court-ordered term ends; or

2. When the ACT team psychiatrist or psychologist certifies that the person is no longer in need of the services of the program because, during the six month term, the person has fully participated in the program and followed the individualized treatment plan; or

3. When the person is re-hospitalized involuntarily by court order, the process for which is described in the attached PTP Guidelines.

If the person is re-hospitalized on a voluntary basis during the PTP term, program participation is not terminated but instead is temporarily suspended and recommences upon discharge from the hospital.

If the person is re-hospitalized on an emergency involuntary basis during the PTP term, the PTP continues to run while the patient is in the hospital until the patient converts to voluntary status (in which case the PTP is suspended, as described above) or is ordered involuntarily committed following a hearing (in which case the PTP ends).

How and what kinds of services are provided? Where are services provided?

The ACT team that has been designated to provide the court ordered treatment is aware that each of the individuals referred to the PTP has a history of not accepting treatment voluntarily. The team will

make repeated efforts to engage the person and build trust by understanding as much as possible what the person would like to accomplish and how he or she would like to proceed. Because the person has been receiving treatment during inpatient treatment, he or she may be more willing and able to participate in their treatment when the outpatient phase begins.

Finding housing in the community served by that ACT Team is the first step in assisting a person with the move outside the hospital walls. The ACT Team ensures that a person has the housing and supports needed for successful community placement.

Other important features of ACT services are that the team provides almost all services directly, which allows for a consistent approach and good coordination, and that the services are provided where a person lives and works, so that the members of the team really get to know about a person's life, and can help build skills in the natural setting.

Other services that the team provides include:

Individual Support Plan (ISP) development

Case management to carry out ISP

Assistance with efforts to find and keep suitable and meaningful work

Assistance to find and keep safe and affordable housing

Substance abuse services if needed

Peer Support Services that can be most helpful in mastering recovery skills

Supportive Therapy and Psychotherapy

Psychiatric services to oversee the treatment plan and provide necessary medication management

Crisis Intervention services, to avoid hospitalization if possible

If the person receiving services or the team identifies other types of services that the team cannot provide directly, needed referrals will be made. A good example is that of ***primary medical care***. If a person does not already have a primary care provider, the team will make that connection and coordinate closely with the primary care provider to assure that health care and mental health care services are compatible and integrated.

During the PTP term, the ACT team will provide services that are consistent with the court order and that address the needs of the client.

What happens at the end of the six-month term for the Progressive Treatment Program?

If at the end of the six month term, the person is doing well, has participated in the treatment plan, and is in a stable environment and making progress toward meeting treatment and rehabilitation goals, the admission to the PTP ends. The person may then continue with ACT services as long as they are needed.

What are the consequences for failure to participate in the treatment ordered as part of the PTP?

The ACT team will make every effort to encourage the person to participate in treatment. If all efforts to encourage participation fail, and/or the clinical status of the person deteriorates, the team may offer voluntary hospitalization. This would suspend the term of the PTP, and the person could return to the program once their condition improved.

If however the person refuses to participate in treatment, the person's mental health worsens so that hospitalization is in his or her best interest and he or she refuses voluntary hospitalization, the ACT team could seek emergency involuntary commitment to the hospital. In this instance the new language from MRSA 34-B section 3801 sub-

section 4,D about ***Likelihood of Serious Harm*** (as outlined on page six in ***Useful Definitions)*** is in effect. If the person is returned involuntarily to the hospital, the term of the PTP ends.

What are the strategies for education and training about the Progressive Treatment Program?

It is crucial that DHHS undertake an organized effort to inform and educate all parties that have an interest or need to know about the Progressive Treatment Program and how it works. To that end, there are a number of activities that are going on or being planned. These include the following.

-The Office of Adult Mental Health Services, through the Office of Consumer Affairs, brought together a Peer Advisory Group to assist in the preparation of this program description for the Progressive Treatment Program that can be used for educational purposes. It is geared to anyone who is interested in learning more about the PTP, how it works and what it is intended to accomplish. This document can be used as reference material and the basis for workshops about the Progressive Treatment Program.

- NAMI Maine sponsored a panel open to the public that was intended to provide information about community commitment and the progress in Maine toward implementing the Progressive Treatment Program.

-As part of the implementation of the PTP, as noted above, guidelines have been developed for use by Riverview Psychiatric Center and Dorothea Dix Psychiatric Center. Concurrent with this, new forms were created; the Attorney General's office worked with court personnel to introduce them to the role of the court in the PTP, and to acquaint them with the new forms.

- Assistant Attorney General assigned to OAMHS has arranged the training sessions for RPC and DDPC medical staff about the PTP and the new standards for commitment and re-hospitalization that are

associated with it, and will provide any follow up that may be needed.

- This Program Description and related documents are available from the OAMHS (207-287-4250) in hard copy or on the DHHS website at: http://www.maine.gov/dhhs/mh under Rights and Legal Issues.

- OAMHS staff disseminated information and materials at workshops in Bangor and Augusta and at Community Service Network meetings around the state in the Spring of 2007.

- RPC has mailed information about the PTP to the psychologists who regularly appear at commitment hearings at RPC. A similar communication will be provided to psychologists who participate in DDPC commitment hearings in Bangor.

How will the implementation of the Progressive Treatment Program be evaluated?

DHHS will monitor closely the implementation of the PTP and to put methods in place to evaluate whether the new program is helping those persons it is intended to assist.

One method is to establish consumer-focused outcome measures to be used at the Riverview ACT Team and to be included in the contract for ACT services for the Progressive Treatment Program at DDPC. The Office of Adult Mental Health Services (OAMHS) has identified as an outcome measure the percentage of Progressive Treatment Program (PTP) recipients who complete the term of commitment and/or are discharged to continue as ACT recipients who live in community. A comparative measure will be the percentage of non-PTP recipients with documented improvement in levels of function over the evaluation period.

Another monitoring strategy is the establishment of an oversight committee to work with DHHS to examine the success of the implementation, make recommendations for improvement, and assist

with education and training activities. This group will be convened and staffed by OAMHS, and be comprised of peers, family members, and providers, legislators, and other key stakeholders.

When it passed Chapter 519, BBBB 1-19, the 122nd Legislature required that DHHS report annually to the Joint Standing Committee on Health and Human Services "describing the progress in the implementation and the measurable outcomes of the progressive treatment program". The first of these reports was submitted in January, 2007.