



During the Pandemic, States and Localities Must Decrease the Number of Individuals In Psychiatric Hospitals, By Reducing Admissions and Accelerating Discharges

In recent weeks, as the nation has faced the historic challenge of COVID-19 significant attention has been paid to the public health risks of confining people in close quarters in jails and prisons. Health and correctional professionals have described the risks – to inmates, staff, and local communities – and urged de-carceration efforts, and the Bazelon Center has urged states and localities to dramatically reduce the number of people with mental illness in jail.¹ Much less attention has been paid to the public health risks of confining people in psychiatric hospitals. That must change. Serious efforts must be made to reduce the population of psychiatric hospitals.

The Public Health Risk

Like those incarcerated, patients in psychiatric facilities live in close quarters, and many have health conditions that place them at risk. Indeed, people with serious mental illness have more medical issues than the population at large. Staff often do not have access to personal protective equipment. Staff shortages may develop, compromising patient care and safety. Asymptomatic staff and newly admitted patients can bring the virus into the facility, where it can rapidly spread. As the virus spreads, staff can bring the virus to their families and communities.

Psychiatric hospitals, like correctional facilities, are potential incubators for the virus. While the danger has been recognized,² little information is available about the steps states, localities, and the hospitals themselves are taking to mitigate the danger. The American

¹ Bazelon Center for Mental Health Law, The Urgency of Reducing the Jail Population During the COVID-19 Crisis (April 6, 2020), <http://www.bazelon.org/wp-content/uploads/2020/04/04-06-20-BC-Statement-on-Jail-Diversion-During-COVID-19.pdf>.

² Dinah Miller, M.D., Coronavirus on the Inpatient Unit: A New Challenge for Psychiatry, MDedge (March 3, 2020), <https://www.mdedge.com/psychiatry/article/219014/schizophrenia-other-psychotic-disorders/coronavirus-inpatient-unit-new> (noting, among other things, that “psychiatry units are not set up to have aggressive infection control, staff and patients don’t typically wear protective gear...”); Jeffrey Geller & Margarita Abi Zeid Daou, Patients With SMI in the Age of COVID-19: What Psychiatrists Need to Know, Psych. Online (Apr 7, 2020) [hereinafter What Psychiatrists Need To Know] (stating that “the hospital is at high risk not only to have an infection sweep through it, but also to be a center that seeds a community”), <https://psychnews.psychiatryonline.org/doi/10.1176/appi.pn.2020.4b39>.

Psychiatric Association's compilation of state actions to address the pandemic identifies action to mitigate risk in correctional facilities but not in psychiatric facilities.³

Actions Needed

Psychiatric hospitals should of course follow public health guidance issued by the Centers for Disease Control (CDC) and other experts, including for quarantining those exposed to the virus.⁴ In addition, however, *states, localities, and hospitals should take aggressive action to reduce the number of people confined in psychiatric hospitals.* The federal government's Substance Abuse and Mental Health Services Administration (SAMHSA) has urged, with respect to admissions, that "[b]ecause of the substantial risk of coronavirus spread with congregation of individuals in a limited space such as in an inpatient or residential facility... outpatient treatment options [should] be used to the greatest extent possible. Inpatient facilities should be reserved for those for whom outpatient measures are not considered an adequate clinical option, i.e., for those with mental disorders that are life-threatening, (e.g.: the severely depressed suicidal person)."⁵

Additionally, discharges should be accelerated.⁶ To facilitate a decrease in the psychiatric inpatient population, the federal government, states, and localities should increase their support of community providers of outpatient mental health treatment. The federal government has increased the share it pays for most Medicaid funded services, including community services.⁷ Restrictions on telemedicine have largely been lifted. However, community providers, already strapped before the pandemic, need greater funding and greater access to technology and personal protective equipment.

³ American Psychiatric Association, Practice Guidance for COVID-19, State-By-State Guide (Apr. 10, 2020), <https://www.psychiatry.org/psychiatrists/covid-19-coronavirus/practice-guidance-for-covid-19>. There is an overlap between individuals involved in the criminal justice system and those in psychiatric hospitals. State hospitals especially have high numbers of forensic patients. Additionally, a substantial number of individuals with serious mental illness cycle in and out of both jails and hospitals.

⁴ CDC COVID-19 guidance documents are collected at <https://www.cdc.gov/coronavirus/2019-ncov/communication/guidance-list.html?Sort=Date%3A%3Adesc>.

⁵ SAMHSA, Considerations for the Care and Treatment of Mental and Substance Use Disorders in the COVID-19 Epidemic (March 20, 2020), <https://www.samhsa.gov/sites/default/files/considerations-care-treatment-mental-substance-use-disorders-covid19.pdf>. As SAMHSA stated: "There are many [outpatient] options for treating mental and substance use disorders which have an evidence base and/or are best practices." *Id.*

⁶ Dr. Geller and Dr. Daou advise state hospital leaders to use as a resource the CDC's guidance for correctional facilities. "We make no statement here that state hospitals are like jails and prisons, but these are the best guidelines available that address how to manage a population locked in a facility in close quarters where all the previous day-to-day rules need to be changed." What Psychiatrists Need To Know, *supra* note 2.

⁷ The CARES Act included a provision increasing the federal matching rate by 6.2 points.

Access to housing must be increased, including to meet the needs of people with serious mental illness who in other circumstances would be hospitalized. Newly available housing subsidies made available through the CARES Act should be used. Vacant hotel rooms and college dorms should be used. Trailers including those provided by the Federal Emergency Management Agency (FEMA) and even recreational vehicles should be deployed as needed.

In many cases, families will offer to temporarily house and care for relatives being discharged from or not admitted to hospitals. More will do so if support is available from community providers. Many nursing home residents are being discharged to live with families. The same can happen with psychiatric patients.

Reductions in inpatient care should be informed by local circumstances, including whether there have been confirmed COVID-19 cases at the hospital. Hospitals should act quickly to reduce the number of inpatients before the virus has entered the facility. Whether or not there are confirmed cases at the facility, health precautions should be implemented as part of the discharge process, including, as appropriate, supporting individuals to self-quarantine upon discharge. In addition, individuals being discharged should be fully briefed on community resources, ongoing and newly created, that are available to them, and they should receive a cell phone with prepaid minutes if they would not otherwise have a way to communicate remotely with community providers. Community providers, as feasible, should virtually participate in discharge planning.

Individualized Decisions

In identifying individuals to discharge and in triaging admissions, consideration should be given to:

- The individual's access to housing, the type of housing to which the individual has access (and if congregate, the risks there), and, if housing is not available, the individual's experiences while homeless,
- The individual's ability for self-care, including with available support from family, friends, neighbors, and community providers,
- The individual's ability, with available support, to take precautions during the pandemic, including physical distancing and wearing a mask,⁸ and
- The individual's access to medications and the impact if access is lacking.

⁸ "Some state departments of mental health have set up designated residences where individuals who test positive for the virus but are not in need of hospital care can live." What Psychiatrists Need To Know, *supra* note 2.

Communities face many challenges as a result of the COVID-19 pandemic, including the challenge of mitigating the pandemic's effects on mental health. One challenge that needs to receive more attention is reducing the number of people confined in psychiatric facilities.