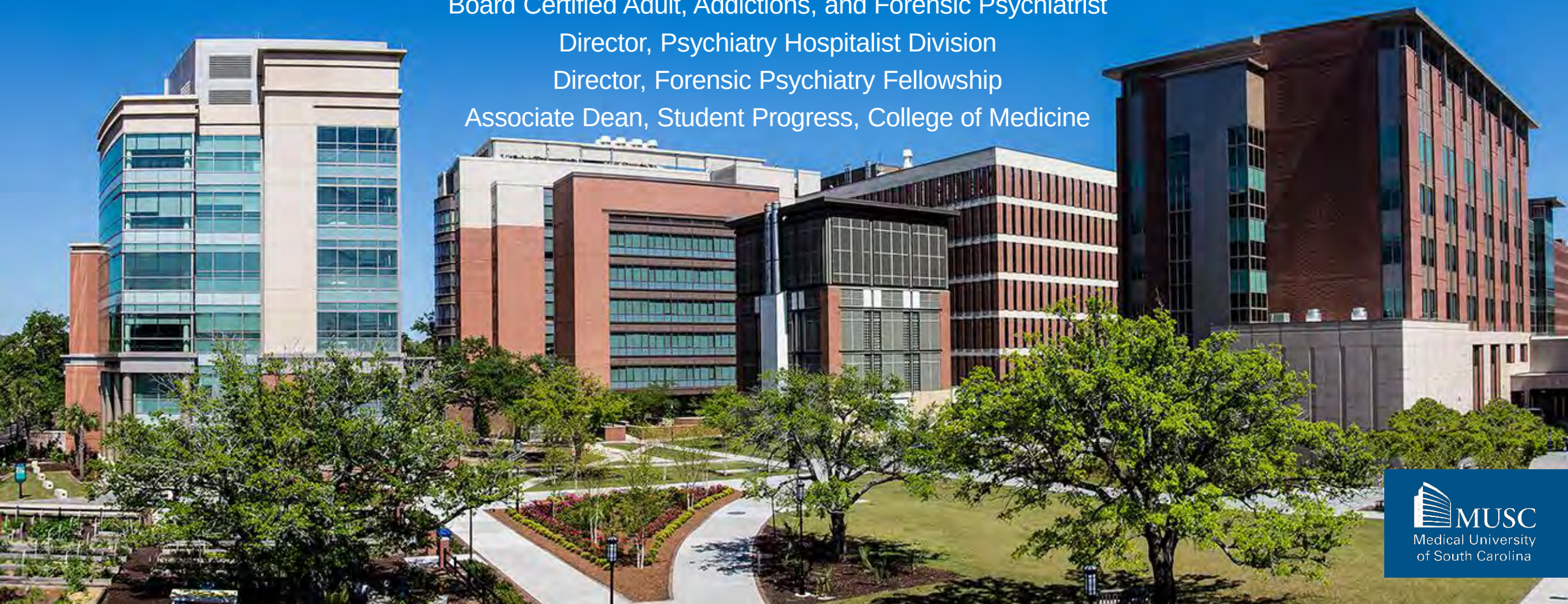
Help Needed but Not Wanted, Involuntary Treatment from a Forensic Psychiatrist's Point of View

E. Thomas Lewis III, M.D.

Assistant Professor, Department of Psychiatry and Behavioral Sciences
Board Certified Adult, Addictions, and Forensic Psychiatrist
Director, Psychiatry Hospitalist Division
Director, Forensic Psychiatry Fellowship
Associate Dean, Student Progress, College of Medicine



MUSC
Medical University of South Carolina

Objectives & Disclosures

1. Review status of involuntary civil commitment in the United States

2. Discuss data surrounding civil commitment

3. Identify strategies for working with individuals experiencing anosognosia surrounding a mental health diagnosis



- No relevant financial disclosures
- Acknowledgements:
  - Janet Bryan, Conference Planning Committee for the Southern
  - My mentors: Drs. Gregg Dwyer, Diana Mullis, Chris Fields
  - My patients, fellows, residents, and students

MUSC
Medical University of South Carolina

Let's Not Forget…

- Involuntary treatment of individuals with mental health concerns is not a new concept
- We need to be clear about related (but distinct terms) including civil commitment, involuntary hospitalization, involuntary outpatient treatment and how states vary in statute language
- Evidence based research in this area is limited
- Professional organizations have detailed opinions on this topic
- Anosognosia should be considered



MUSC
Medical University of South Carolina

Background on Civil Commitment

- Individuals with significant mental health symptoms who have been unable to care for themselves have been managed differently in the US over time.
  - Early years
    - Families and communities managed directly
    - Institutionalization
  - Early 19th Century
    - Dorothea Dix
    - Social Reform Movement
  - 1940's-1960's
    - Psychiatric hospitals are over capacity
    - Reform movements
    - Psychopharmacology



www.shutterstock.com · 2618708209

MUSC
Medical University of South Carolina

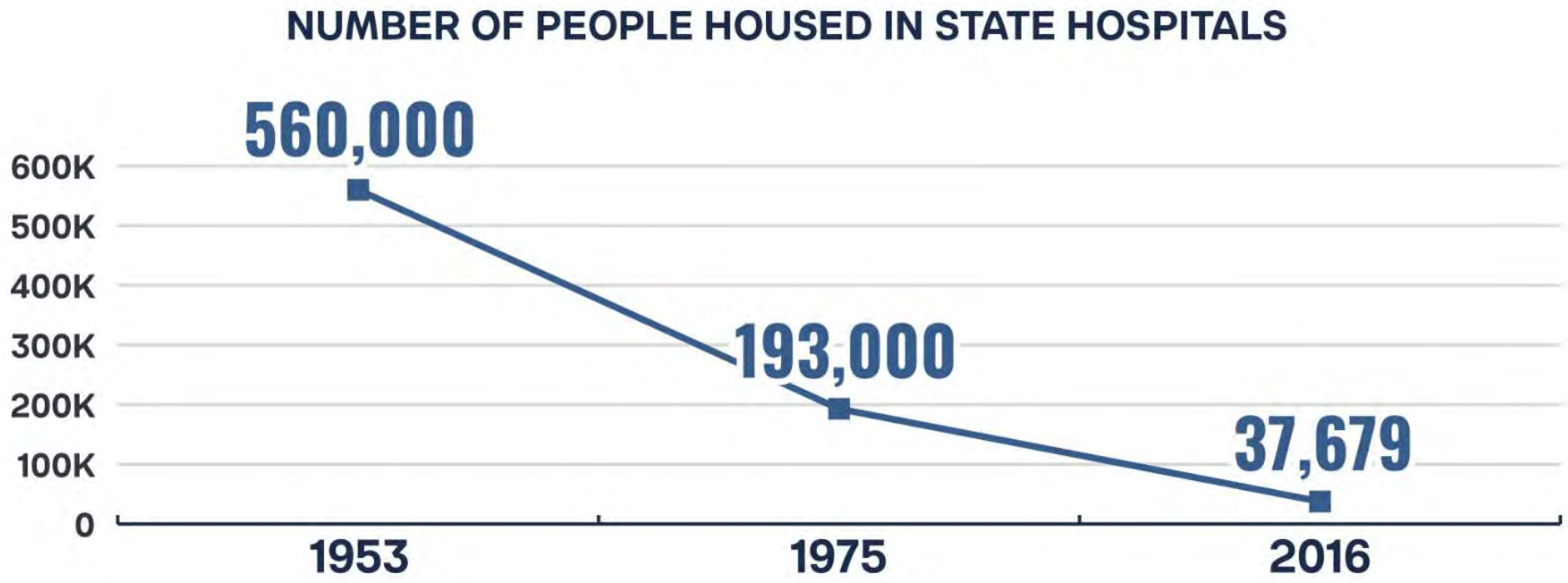
Community Mental Health Act of 1963

- Shift from psychiatric care in asylum/institutional settings to less restrictive environments
- Key legislation of President Kennedy
- Authorized $150 million to assist with states creating Community Mental Health Centers
- Fewer than half of the planned centers were built
- Shift in the 1980s from federal to state block grant funding



MUSC
Medical University of South Carolina

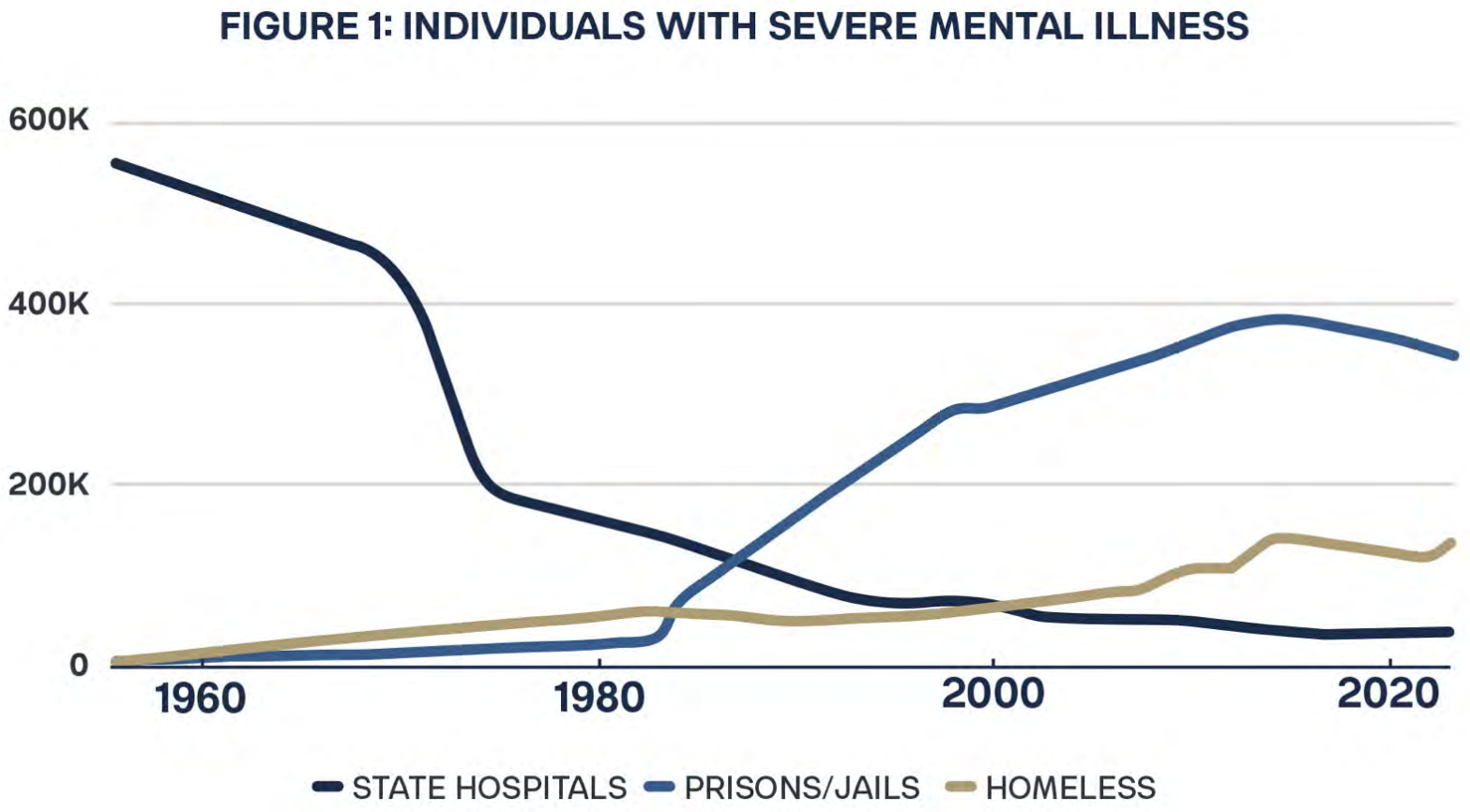
Deinstitutionalization→Transinstitutionalization



Source: Cicero Institute. (2026). *The History and Consequences of Deinstitutionalization*. Cicero Institute Research. https://ciceroinstitute.org

MUSC
Medical University of South Carolina

Deinstitutionalization→Transinstitutionalization

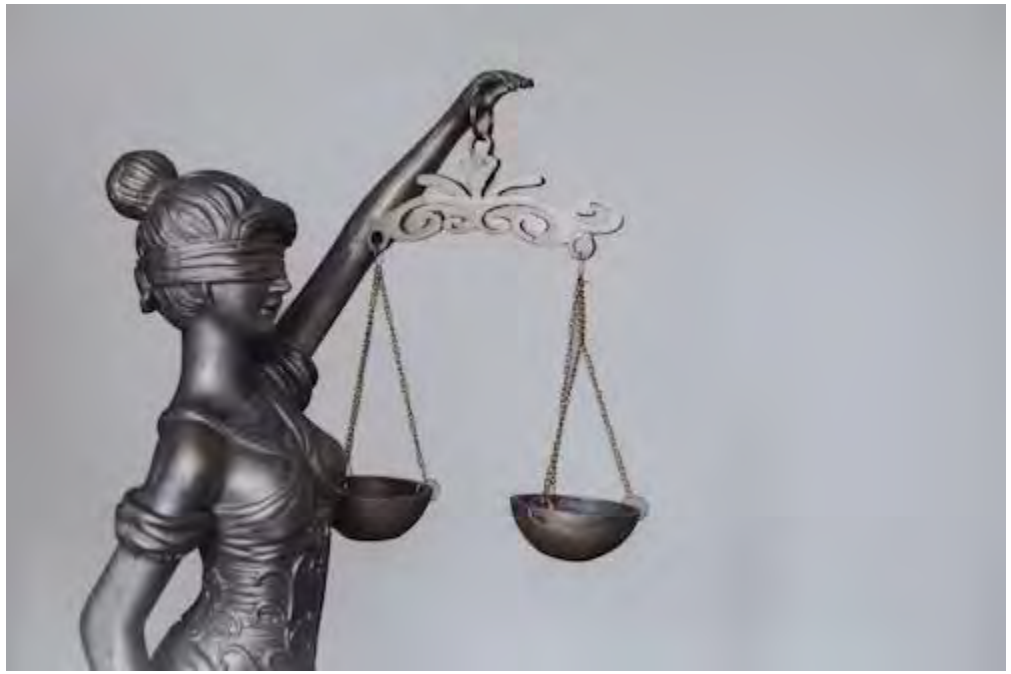


Source: Cicero Institute. (2026). *The History and Consequences of Deinstitutionalization*. Cicero Institute Research. https://ciceroinstitute.org

MUSC
Medical University of South Carolina

Civil Commitment: On What Grounds?

- Legal
  - Police powers
  - Parens patriae
- Medical Ethics
  - Autonomy
  - Beneficence



MUSC
Medical University
of South Carolina

Involuntary Hospitalization

- Least restrictive alternative
  - *Lake v. Cameron (1966)*
  - *Olmstead v. L.C. (1999)*



- Dangerousness
  - *O'Connor v. Donaldson (1975)*
    - "a State cannot constitutionally confine, without more, a nondangerous individual who is capable of surviving safely in freedom by himself or with the help of willing and responsible family members or friends."

MUSC
Medical University of South Carolina

One Challenge: Variability in Terminology

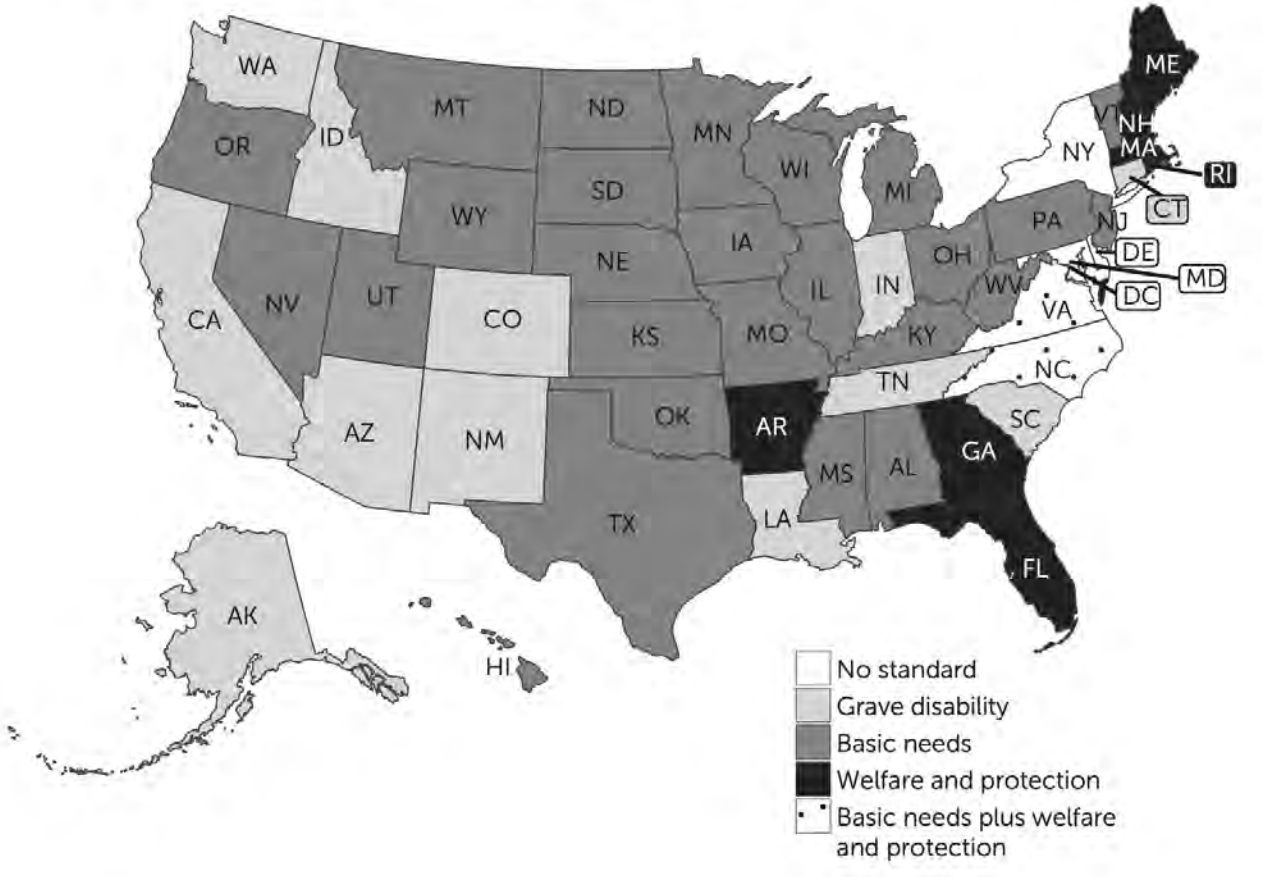
- Involuntary Hospitalization
- Outpatient civil commitment, mandated community treatment, assisted outpatient treatment, and involuntary outpatient treatment
- All states require a mental illness or mental disorder
  - Definition of mental illness or mental disorder varies
- States use different definition of “risk” or “dangerousness”
  - “Danger to self”
  - “Danger to others”
  - “Grave disability”

MUSC
Medical University of South Carolina

Grave Disability: *Barnard et al.* (2026) Psychiatry Services

- 47 states have involuntary commitment with language including grave disability
- Standards varied across jurisdictions
  - Evidence
  - Exclusions
  - Requirements
- Research is needed to better understand the implications of the variance

FIGURE 1. States' psychiatric disability standards, by type



MUSC
Medical University of South Carolina

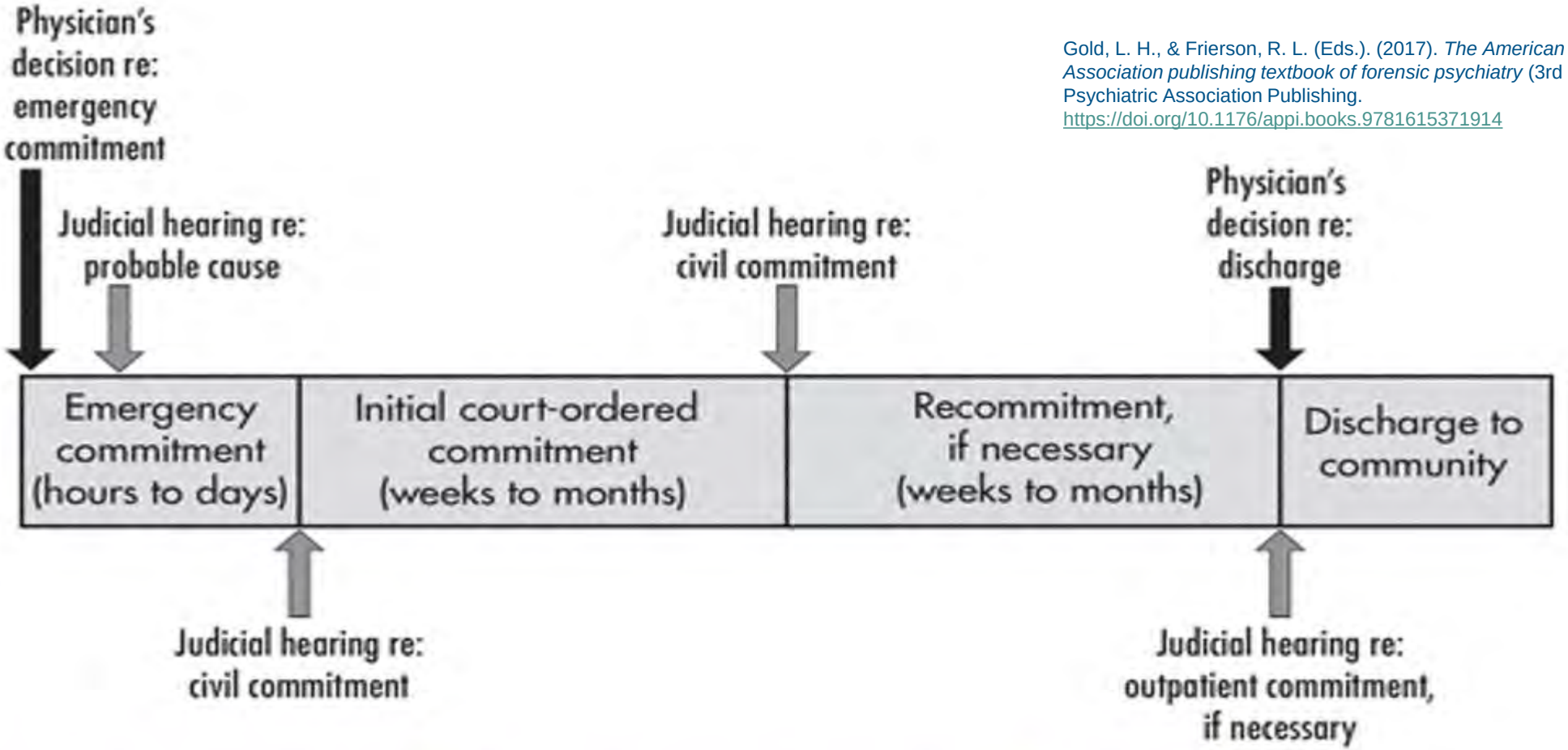
Grave Disability: *Barnard et al.* (2026) Psychiatry Services

TABLE 4. Exclusions to the psychiatric disability criterion as defined by the standards of grave disability, inability to meet one's own basic needs, or inability to provide for one's own welfare and protection

Exclusion	State
Diagnostic	
Developmental or intellectual disability	AL, AK, AZ, AR, CA, CO, FL, ID, IL, IA, KS, LA, ME, MD, MN, MO, MT, NV, NH, NM, ND, OK, SD, TN, TX, VT, WA, WY
Neurocognitive disorder (e.g., dementia)	AZ, FL, ID, IL, KS, MD, MI, MS, MO, MT, NV, OK, TX, WA, WI
Personality disorder	AZ, FL, IL, KS, ME, WV
General medical disorder (e.g., epilepsy, traumatic brain injury)	AL, AK, AR, FL, ID, KS, LA, MI, MN, MS, MO, MT, NV, NH, NJ, OK, SD, TX, WI
Other	
Provision for basic needs by third party	CA, ID, MA, NJ, NC, OH, OR, WY
Criminal behavior or history	AZ, FL, IL, IA, SD, TX, WV
Treatment via spiritual or religious practice	ID, KS, OH
Indigence or homelessness	KS, MN, OK, TX
Temporary intoxication	AR, FL, MN, MS, MO, MT, NV, NH, SD, WY

MUSC
Medical University of South Carolina

Civil Commitment: General Framework



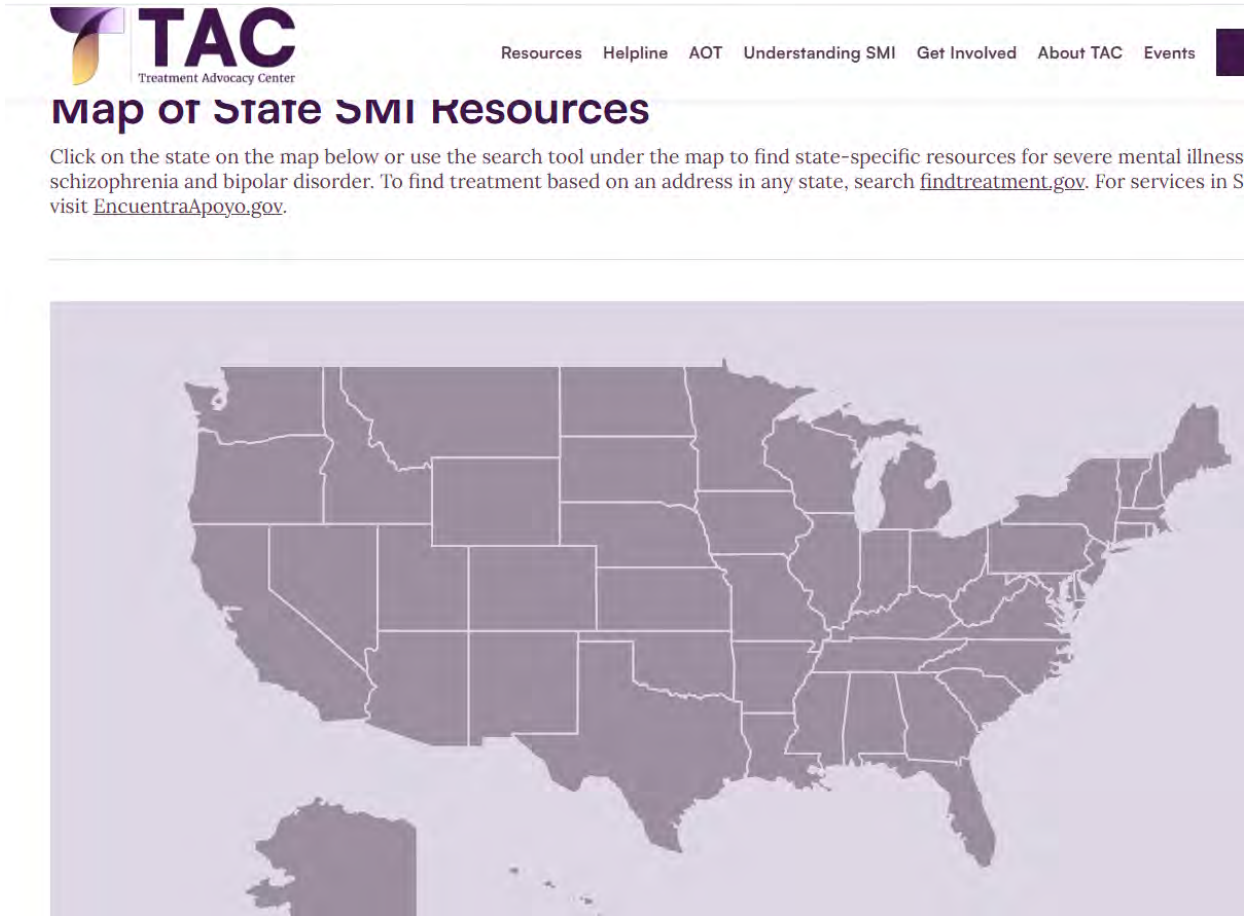
Example of a civil commitment scheme.

Gold, L. H., & Frierson, R. L. (Eds.). (2017). *The American Psychiatric Association publishing textbook of forensic psychiatry* (3rd ed.). American Psychiatric Association Publishing. https://doi.org/10.1176/appi.books.9781615371914

MUSC
Medical University of South Carolina

Civil Commitment: Let's Look Up Maryland…

Website: https://www.tac.org/look-up-your-state/



MUSC
Medical University of South Carolina

APA Official Actions

Position Statement on Voluntary and Involuntary Hospitalization of Adults with Mental Illness

Approved by the Board of Trustees, July 2020
Approved by the Assembly, April 2020

"Policy documents are approved by the APA Assembly and Board of Trustees. . . These are . . . position statements that define APA official policy on specific subjects. . ." – *APA Operations Manual*

7. Substantive criteria for involuntary hospitalization shall include:

- **The person is suffering from a mental disorder[2] as defined in the current Diagnostic and Statistical Manual of the American Psychiatric Association (not solely Intellectual Developmental Disorder, or solely Substance Use Disorder); *and*,**
- **There is a reasonable prospect that hospital treatment will lead to the improvement or prevent deterioration of the person's psychiatric symptoms; *and*,**
- **Hospitalization is consistent with the principle of the least restrictive alternative; *and*,**
- **The person is either unable or unwilling to consent to voluntary hospitalization; *and*,**
- **As the result of the mental disorder, the person is likely to (i) cause harm to self; (ii) suffer physical harm as a result of an inability to satisfy the person's basic needs for nourishment, personal or medical care, shelter, or self-protection; (iii) suffer substantial mental deterioration associated with significant impairment of judgment, reason, or behavior causing a marked decrement in the person's previous ability to function; *or* (iv) cause harm to others.[3]**

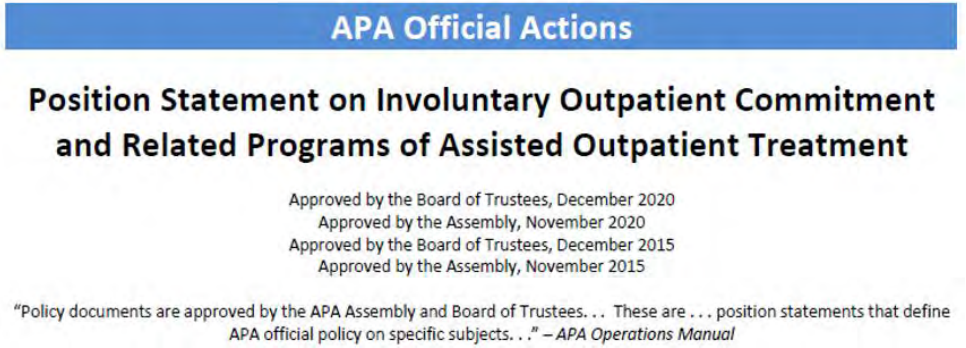
MUSC
Medical University of South Carolina

APA re: Involuntary Outpatient Commitment

- APA recognizes there is a “substantial population” of people with “severe mental illness” who do not have needs met by community mental health programs

- “…involuntary outpatient commitment can be a useful tool…”

- 15 principles outlined by APA…



APA Official Actions

Position Statement on Involuntary Outpatient Commitment and Related Programs of Assisted Outpatient Treatment

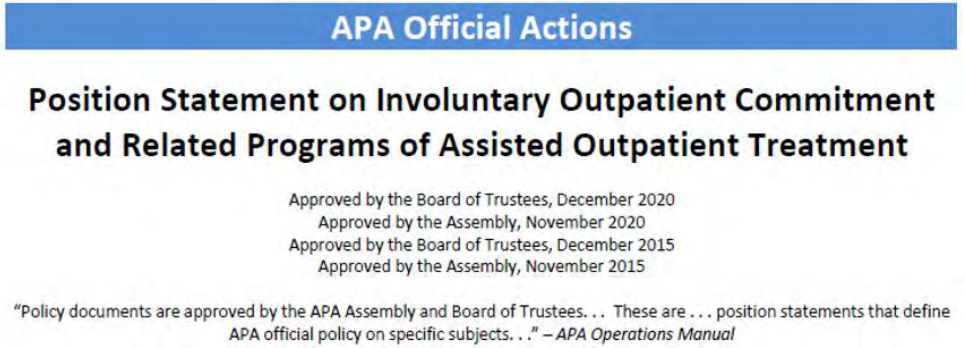
Approved by the Board of Trustees, December 2020
Approved by the Assembly, November 2020
Approved by the Board of Trustees, December 2015
Approved by the Assembly, November 2015

“Policy documents are approved by the APA Assembly and Board of Trustees. . . These are . . . position statements that define APA official policy on specific subjects. . .” – *APA Operations Manual*

MUSC
Medical University of South Carolina

APA re: Involuntary Outpatient Commitment

- "…can be a useful tool to promote recovery through a program of intensive outpatient services designed to improve treatment adherence, reduce relapse and re-hospitalization, and decrease the likelihood of dangerous behavior or severe deterioration among a sub-population of patients with severe mental illness."



APA Official Actions

Position Statement on Involuntary Outpatient Commitment and Related Programs of Assisted Outpatient Treatment

Approved by the Board of Trustees, December 2020
Approved by the Assembly, November 2020
Approved by the Board of Trustees, December 2015
Approved by the Assembly, November 2015

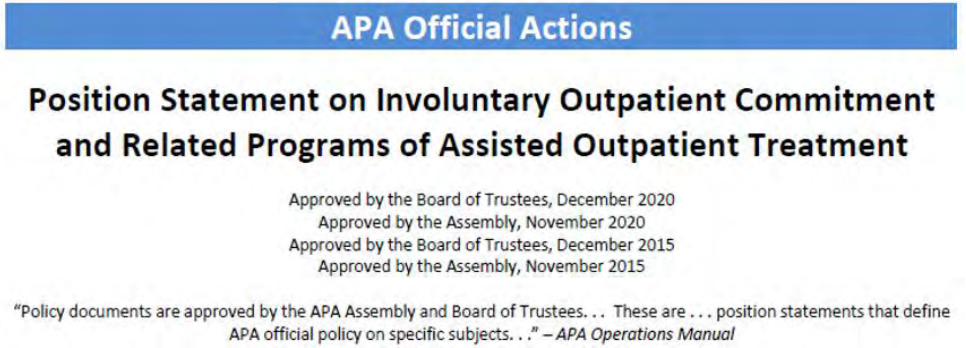
"Policy documents are approved by the APA Assembly and Board of Trustees. . . These are . . . position statements that define APA official policy on specific subjects. . ." – *APA Operations Manual*

MUSC
Medical University of South Carolina

APA re: Involuntary Outpatient Commitment

- "Involuntary outpatient commitment should not be considered as a primary tool to prevent acts of violence."

- "…should be available in a preventive form and should not be exclusively reserved for patients who meet the criteria for involuntary hospitalization."



APA Official Actions

Position Statement on Involuntary Outpatient Commitment and Related Programs of Assisted Outpatient Treatment

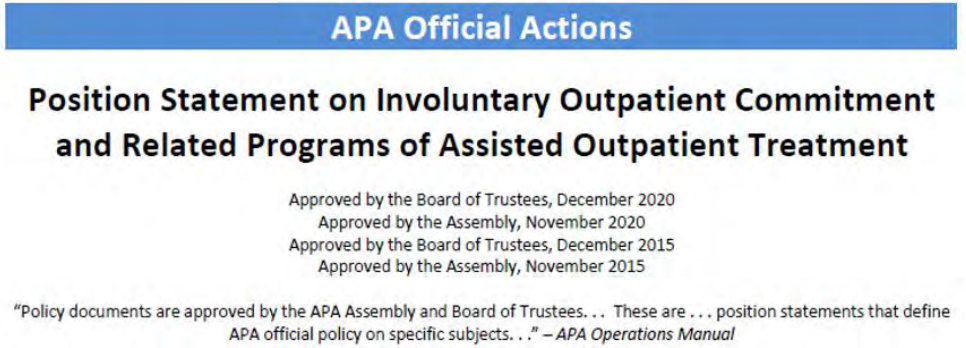
Approved by the Board of Trustees, December 2020
Approved by the Assembly, November 2020
Approved by the Board of Trustees, December 2015
Approved by the Assembly, November 2015

"Policy documents are approved by the APA Assembly and Board of Trustees. . . These are . . . position statements that define APA official policy on specific subjects. . ." – *APA Operations Manual*

MUSC
Medical University of South Carolina

APA re: Involuntary Outpatient Commitment

- "Assessment of the likelihood of relapse, deterioration, and/or future dangerousness to self or others should be based on a clearly delineated clinical history of such episodes in the past several years based on available clinical information."



APA Official Actions

Position Statement on Involuntary Outpatient Commitment and Related Programs of Assisted Outpatient Treatment

Approved by the Board of Trustees, December 2020
Approved by the Assembly, November 2020
Approved by the Board of Trustees, December 2015
Approved by the Assembly, November 2015

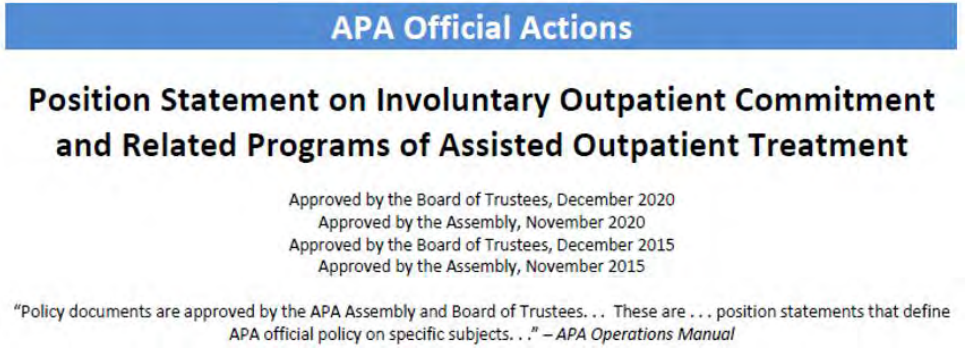
"Policy documents are approved by the APA Assembly and Board of Trustees. . . These are . . . position statements that define APA official policy on specific subjects. . ." – *APA Operations Manual*

MUSC
Medical University of South Carolina

APA re: Involuntary Outpatient Commitment

- “Involuntary outpatient commitment should be available to assist patients who, as a result of their mental illness, are unlikely to seek or voluntarily adhere to needed treatment.”

- Due process protections are important



APA Official Actions

Position Statement on Involuntary Outpatient Commitment and Related Programs of Assisted Outpatient Treatment

Approved by the Board of Trustees, December 2020
Approved by the Assembly, November 2020
Approved by the Board of Trustees, December 2015
Approved by the Assembly, November 2015

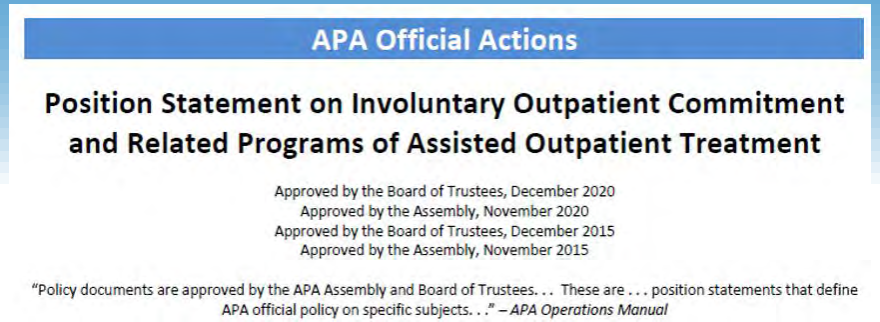
“Policy documents are approved by the APA Assembly and Board of Trustees. . . These are . . . position statements that define APA official policy on specific subjects. . .” – *APA Operations Manual*

MUSC
Medical University of South Carolina

APA re: Involuntary Outpatient Commitment

- “Studies have shown that involuntary outpatient commitment is most effective when it includes a range of medication management and psychosocial services equivalent in intensity to those provided in assertive community treatment or intensive case management programs.”

- “States adopting involuntary outpatient commitment statutes should assure that adequate resources are available to provide such intensive treatment tot hose under commitment.”



APA Official Actions

Position Statement on Involuntary Outpatient Commitment and Related Programs of Assisted Outpatient Treatment

Approved by the Board of Trustees, December 2020
Approved by the Assembly, November 2020
Approved by the Board of Trustees, December 2015
Approved by the Assembly, November 2015

“Policy documents are approved by the APA Assembly and Board of Trustees. . . These are . . . position statements that define APA official policy on specific subjects. . .” – *APA Operations Manual*

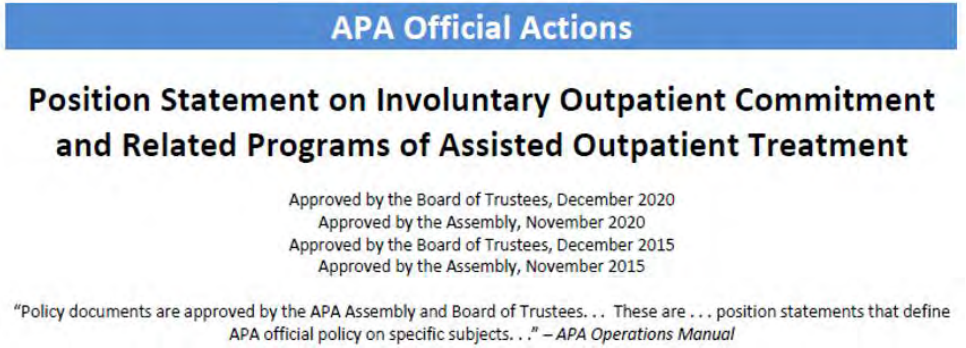
MUSC
Medical University of South Carolina

APA re: Involuntary Outpatient Commitment

- Data supports that commitment is more likely to work when commitment is provided for sustained period of time

- Initial commitment of 180 days
  - Extensions should be permitted

- Clinical judgment should permit early termination of commitment



APA Official Actions

Position Statement on Involuntary Outpatient Commitment and Related Programs of Assisted Outpatient Treatment

Approved by the Board of Trustees, December 2020
Approved by the Assembly, November 2020
Approved by the Board of Trustees, December 2015
Approved by the Assembly, November 2015

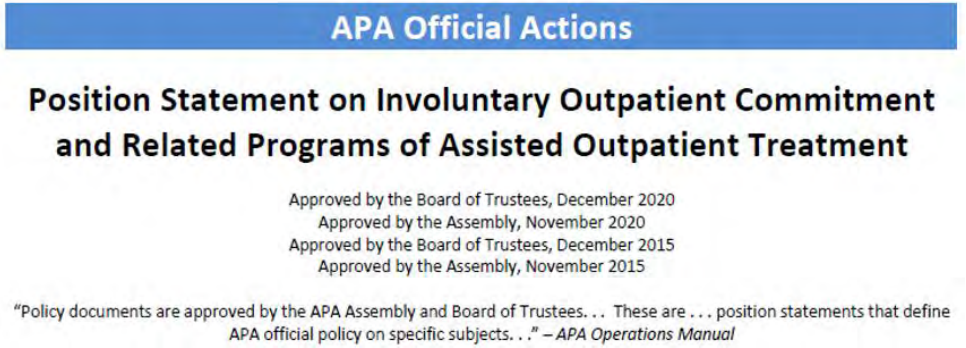
"Policy documents are approved by the APA Assembly and Board of Trustees. . . These are . . . position statements that define APA official policy on specific subjects. . ." – *APA Operations Manual*

MUSC
Medical University of South Carolina

APA re: Involuntary Outpatient Commitment

- “A thorough psychiatric and physical examination should be a required component of involuntary outpatient commitment…”

- “Clinical judgment should be employed in determining when, where and how these examinations are carried out.”



APA Official Actions

Position Statement on Involuntary Outpatient Commitment and Related Programs of Assisted Outpatient Treatment

Approved by the Board of Trustees, December 2020
Approved by the Assembly, November 2020
Approved by the Board of Trustees, December 2015
Approved by the Assembly, November 2015

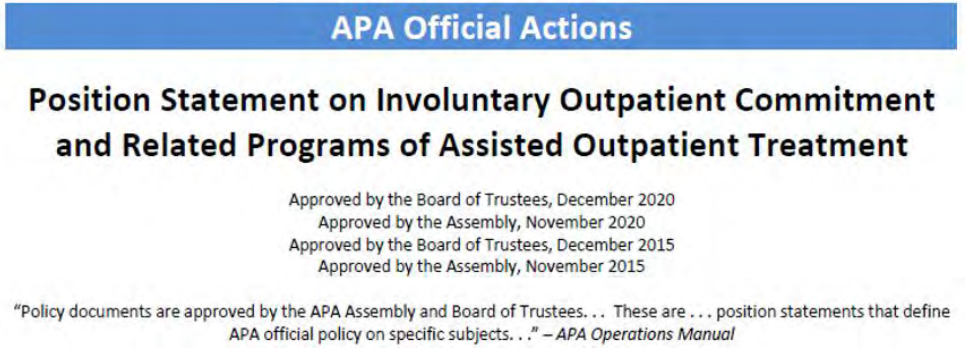
“Policy documents are approved by the APA Assembly and Board of Trustees. . . These are . . . position statements that define APA official policy on specific subjects. . .” – *APA Operations Manual*

MUSC
Medical University of South Carolina

APA re: Involuntary Outpatient Commitment

- Clinicians should be involved in the decision-making process to confirm their ability to carry out treatment plan.

- Court should be satisfied that the recommended course of treatment is available



APA Official Actions

Position Statement on Involuntary Outpatient Commitment and Related Programs of Assisted Outpatient Treatment

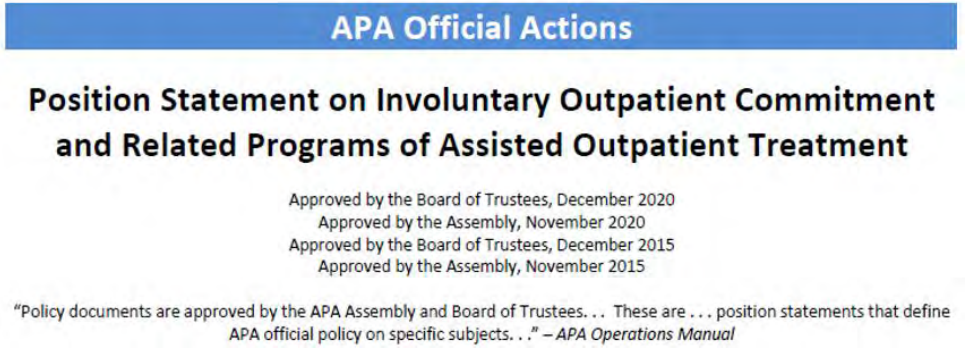
Approved by the Board of Trustees, December 2020
Approved by the Assembly, November 2020
Approved by the Board of Trustees, December 2015
Approved by the Assembly, November 2015

"Policy documents are approved by the APA Assembly and Board of Trustees. . . These are . . . position statements that define APA official policy on specific subjects. . ." – *APA Operations Manual*

MUSC
Medical University of South Carolina

APA re: Involuntary Outpatient Commitment

- “Efforts to engage patients and, where appropriate, their families in treatment should be a cornerstone of treatment, even though court-ordered.”



APA Official Actions

Position Statement on Involuntary Outpatient Commitment and Related Programs of Assisted Outpatient Treatment

Approved by the Board of Trustees, December 2020
Approved by the Assembly, November 2020
Approved by the Board of Trustees, December 2015
Approved by the Assembly, November 2015

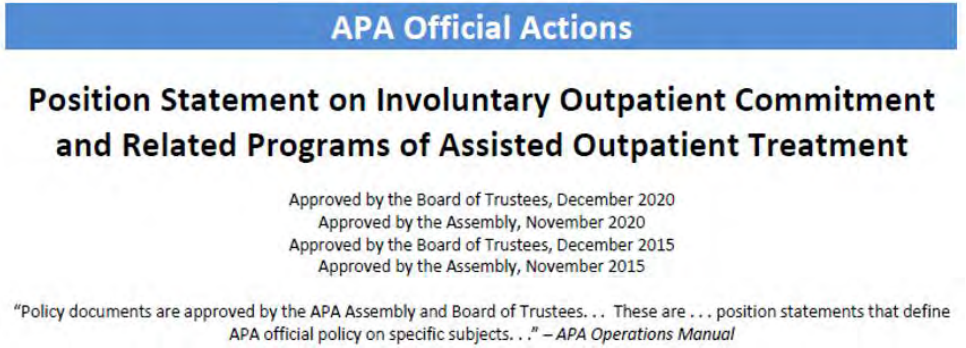
“Policy documents are approved by the APA Assembly and Board of Trustees. . . These are . . . position statements that define APA official policy on specific subjects. . .” – *APA Operations Manual*

MUSC
Medical University of South Carolina

APA re: Involuntary Outpatient Commitment

- Specific procedures should be included re: patient non-adherence

- "…provisions to assist with adherence may include empowering law enforcement officers to assume custody of non-adherent patients to bring them to the treatment facility for evaluation."



APA Official Actions

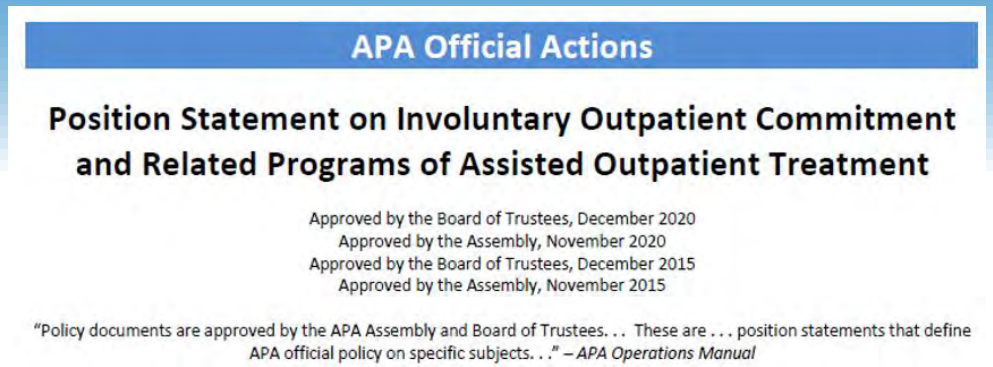
Position Statement on Involuntary Outpatient Commitment and Related Programs of Assisted Outpatient Treatment

Approved by the Board of Trustees, December 2020
Approved by the Assembly, November 2020
Approved by the Board of Trustees, December 2015
Approved by the Assembly, November 2015

"Policy documents are approved by the APA Assembly and Board of Trustees. . . These are . . . position statements that define APA official policy on specific subjects. . ." – *APA Operations Manual*

MUSC
Medical University of South Carolina

APA re: Involuntary Outpatient Commitment



APA Official Actions

Position Statement on Involuntary Outpatient Commitment and Related Programs of Assisted Outpatient Treatment

Approved by the Board of Trustees, December 2020
Approved by the Assembly, November 2020
Approved by the Board of Trustees, December 2015
Approved by the Assembly, November 2015

"Policy documents are approved by the APA Assembly and Board of Trustees. . . These are . . . position statements that define APA official policy on specific subjects. . ." – *APA Operations Manual*

- "Psychotropic medication is an essential part of treatment for most patients under involuntary outpatient commitment. The expectation that a patient take such medication should be clearly stated in the patient's treatment plan when medication is indicated. However, **involuntary administration of medication should not be authorized as a part of the involuntary commitment order** without separate review and approval consistent with the state's process for authorizing involuntary administration of medication on an outpatient basis."

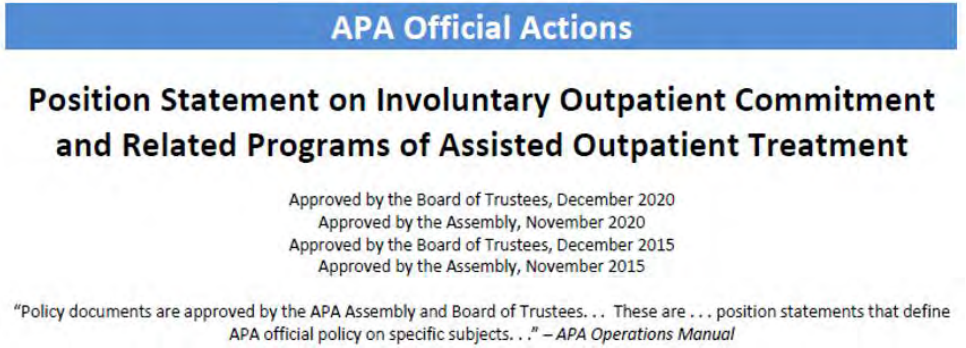
MUSC
Medical University of South Carolina

APA re: Involuntary Outpatient Commitment

- "Implementation of a program of involuntary outpatient commitment requires critical clinical and administrative resources and accountability…"

- Administrative oversight

- "…the ability to track involuntary outpatient commitment orders and to report program outcomes."



APA Official Actions

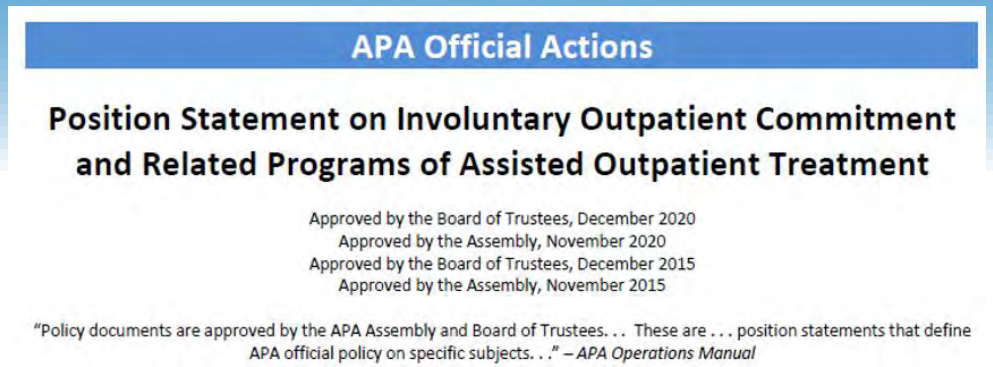
Position Statement on Involuntary Outpatient Commitment and Related Programs of Assisted Outpatient Treatment

Approved by the Board of Trustees, December 2020
Approved by the Assembly, November 2020
Approved by the Board of Trustees, December 2015
Approved by the Assembly, November 2015

"Policy documents are approved by the APA Assembly and Board of Trustees. . . These are . . . position statements that define APA official policy on specific subjects. . ." – *APA Operations Manual*

MUSC
Medical University of South Carolina

APA re: Involuntary Outpatient Commitment



APA Official Actions

Position Statement on Involuntary Outpatient Commitment and Related Programs of Assisted Outpatient Treatment

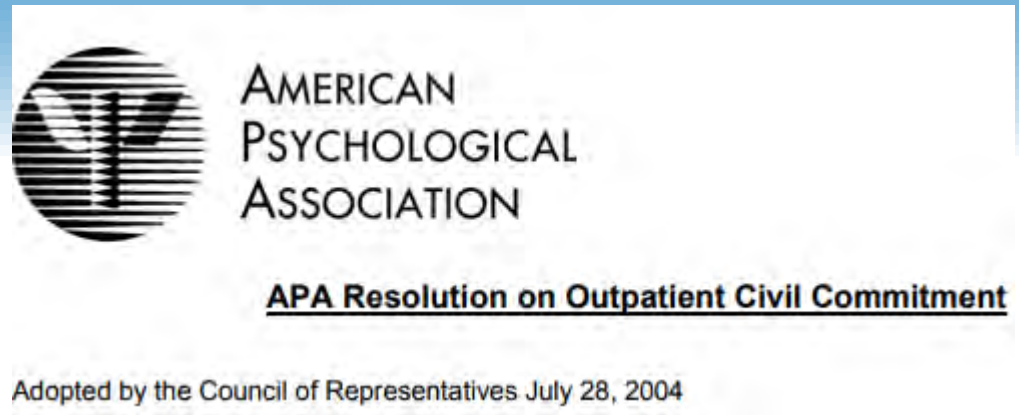
Approved by the Board of Trustees, December 2020
Approved by the Assembly, November 2020
Approved by the Board of Trustees, December 2015
Approved by the Assembly, November 2015

"Policy documents are approved by the APA Assembly and Board of Trustees. . . These are . . . position statements that define APA official policy on specific subjects. . ." – *APA Operations Manual*

- "There is limited research to evaluate the possible disproportionate use of involuntary outpatient commitment among minority and disenfranchised groups. As a result, independent evaluation of involuntary outpatient commitment programs should be conducted at regular intervals and reported for public comment and legislative review, especially in view of concerns about is appropriate use…"

MUSC
Medical University of South Carolina

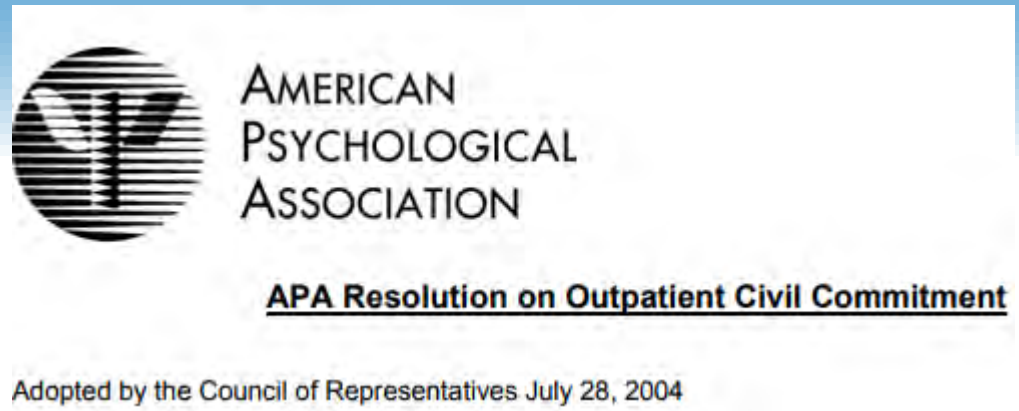
APA Resolution on Outpatient Civil Commitment (OCC)



- WHEREAS…
  - Increased use across country
  - “Heated controversy about the legitimacy of OCC…”
  - Risk for discrimination of certain groups of individuals

MUSC
Medical University of South Carolina

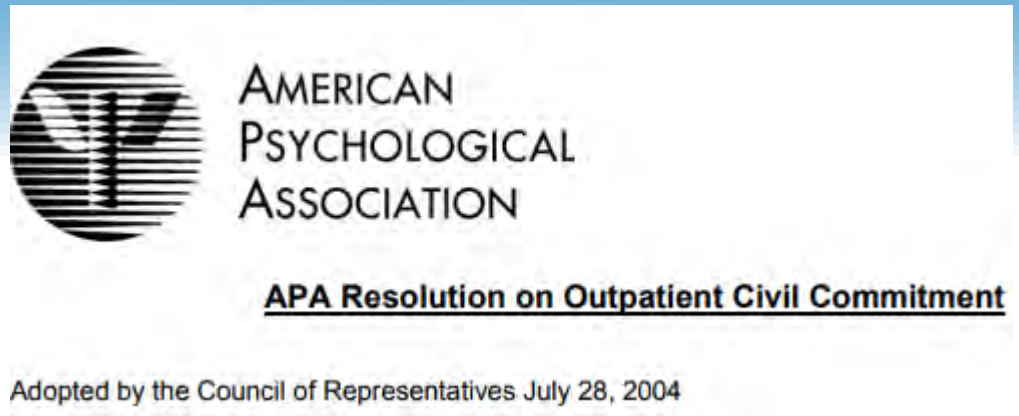
APA Resolution on Outpatient Civil Commitment (OCC)



WHEREAS Mandating involuntary mental health services is a legal, not a clinical process; except in cases of dire emergency, it is never the role of any mental health practitioner, of any discipline, acting in the role of caregiver, to make decisions that infringe upon a person's right to consent to services. Moreover, as specified in the APA Ethics Code, psychologists are required to respect the rights of individuals to self-determination and autonomy, and to act in accordance with the requirements for informed consent to therapy and related procedures.

MUSC
Medical University of South Carolina

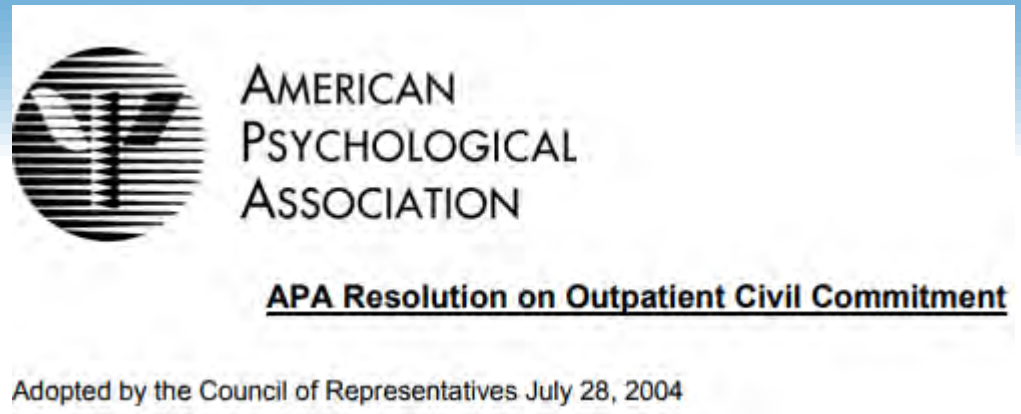
APA Resolution on Outpatient Civil Commitment



- BE IT FURTHER RESOLVED…
  - Develop further evidence-based tools for risk and dangerousness determinations
  - Actively participate in research related to this area

MUSC
Medical University of South Carolina

APA Resolution on Outpatient Civil Commitment



BE IT FURTHER RESOLVED that psychologists should continue to vigorously promote the view that involuntary services and related infringements on individual liberty can only be mandated through legal processes, not by mental health professionals acting as caregivers. However, psychologists also should assertively provide professional expertise and consultation to legal and judicial authorities in order to ensure that legal processes and decisions are appropriately informed by scientific and clinical considerations.

Mental health, human rights and legislation: guidance and practice

- “Mental health is a growing public health priority and human rights imperative.”
- “The Guidance is intended for legislators, policy-makers, and professionals involved in mental health legislation and care.”

World Health Organization

UNITED NATIONS HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER



MUSC
Medical University of South Carolina

Mental health, human rights and legislation: guidance and practice

- 2.3.4 Prohibition of involuntary hospitalization and treatment
  - "…legislation can prohibit all involuntary measures and mandate that all services, outpatient or inpatient, implement non-coercive responses."

World Health Organization

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

MUSC Medical University of South Carolina

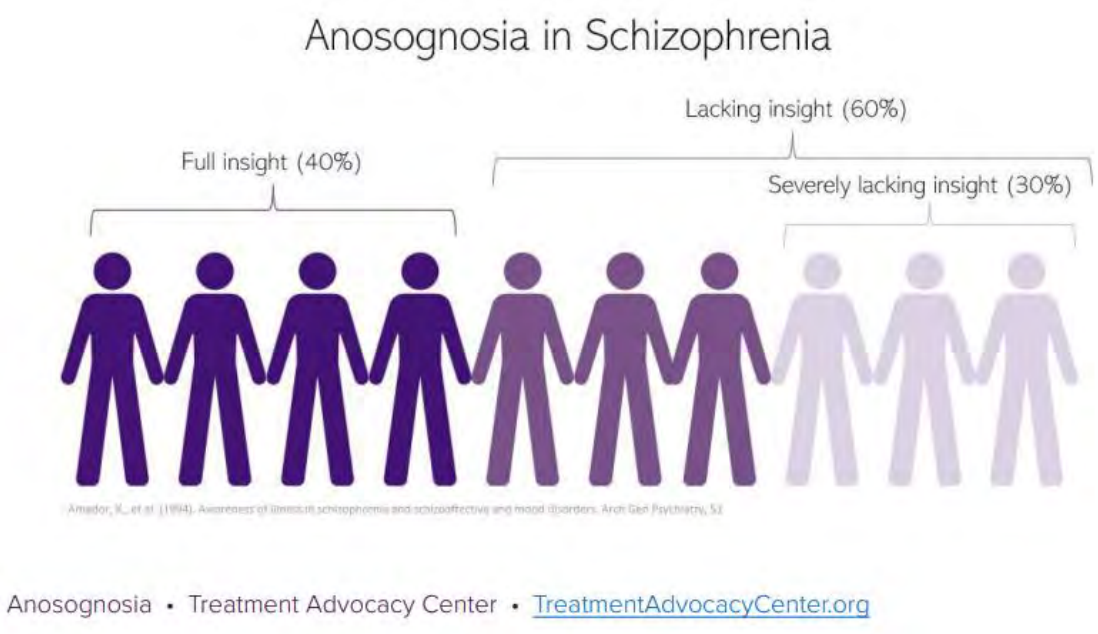
Mental health, human rights and legislation: guidance and practice

- Community-based services, advance directives, supported decision-making, peer support, and appropriate crisis support can usually provide a comprehensive framework to support individuals experiencing a crisis. However, there may be exceptional cases in which a crisis escalates and responses fail to create a safe and supportive environment for all persons involved. With such cases, it has been suggested that the authorization of some form of coercion may be justified (238). However, regardless of these circumstances, the case against coercion remains valid: all coercive practices can be contested from a legal, ethical and clinical point of view (see Box 2). Moreover, there is evidence that even when laws seek to regulate the most exceptional cases, the use of coercion is normalized and coercion rates do not decrease (92).

Anosognosia: Lacking Insight

- Thought to be one of the most common reasons for treatment dropout and refusal among those with severe mental illness

- Present to some extent in up to 60% of those with schizophrenia, and up to 50% with bipolar disorder



MUSC
Medical University of South Carolina

Anosognosia in the DSM-5-TR (2022)

- Associated Features with Schizophrenia
  - “Some individuals with psychosis may lack insight or awareness of their disorder. This lack of ‘insight’ includes unawareness of symptoms of schizophrenia and may be present throughout the entire course of the illness. Unawarenss of illness is typically a symptom of schizophrenia itself rather than a coping strategy. It is comparable to the lack of awareness of neurological deficits following brain damage, termed *anosognosia*. This symptom is the most common predictor of nonadherence to treatment, and it predicts higher relapse rates, increased number of involuntary treatments, poorer psychosocial functioning, aggression, and a poorer course of illness” (p.116).

MUSC
Medical University of South Carolina

Anosognosia: Lacking Insight

- Treatment Options
  - Interventions for early psychosis
  - Medications
  - Psychological Interventions
  - Transcranial Direct Current Stimulation (tDCS)



MUSC
Medical University of South Carolina

Anosognosia: Lacking Insight

- Interventions for Early Psychosis
  - First break programs
  - Improved short- and long-term outcomes re: those with psychosis
  - Address insight?



MUSC
Medical University of South Carolina

Anosognosia: Lacking Insight

- Medications
  - Some evidence linking improved insight with medications
    - More gains in other domains



MUSC
Medical University of South Carolina

Anosognosia: Lacking Insight

- Psychological Interventions
  - Cognitive behavioral therapy
  - Motivational interviewing
  - Metacognitive reflection and insight therapy
  - Mindfulness-based strategies



MUSC
Medical University of South Carolina

Anosognosia: Lacking Insight

- Transcranial Direct Current Stimulation (tDCS)
    - Data with insight and schizophrenia
        - Systematic review



MUSC
Medical University of South Carolina

Let's Not Forget…

- Involuntary treatment of individuals with mental health concerns is not a new concept
- We need to be clear about related (but distinct terms) including civil commitment, involuntary hospitalization, involuntary outpatient treatment and how states vary in statutes
- Evidence based research in this area is limited
- Professional organizations have detailed opinions on this topic
- Anosognosia should be considered



Questions? Email me!

Lewiset@musc.edu



MUSC
Medical University of South Carolina