MASSACHUSETTS MEDICAL SOCIETY
Every physician matters, each patient counts.

TESTIMONY IN SUPPORT OF H.1966/S.1247
AN ACT ENSURING ACCESS TO ADDICTION SERVICES
BEFORE THE JOINT COMMITTEE ON MENTAL HEALTH, SUBSTANCE USE, AND RECOVERY
OCTOBER 30, 2023

The Massachusetts Medical Society (MMS) is a professional association of over 25,000 physicians, residents, and medical students across all clinical disciplines, organizations, and practice settings. The Medical Society is committed to advocating on behalf of patients, for a better health care system, and on behalf of physicians, to help them provide the best care possible. The MMS has long advocated for all persons civilly committed for substance use disorder (SUD) to be confined only in facilities monitored and approved by the Department of Public Health (DPH) or the Department of Mental Health (DMH), and subject only to treatment consistent with accepted medical guidelines. Therefore, the Medical Society supports H.1966/S.1247, which would end the practice of incarcerating men who have not been charged with any crime, but who have been civilly committed for involuntary treatment for alcohol and substance use disorders under M.G.L. c.123 § 35 (Section 35).

Amid a historic overdose crisis, the adoption of involuntary commitment for SUD has gained momentum as a strategy to reduce the loss of life. In the Commonwealth, over 6,000 people annually are subject to treatment under Section 35, the statute that governs involuntary commitment for SUD.[1] This statute allows for initial commitment lasting up to 90 days. While state law requires all facilities for women to be operated by DPH and DMH, most men in Massachusetts held under Section 35 are sent to a correctional facility. Massachusetts is the only state in the nation that sends patients involuntarily committed for SUD to carceral settings – even if they have not been charged with a crime.[2]

The need for SUD treatment is significant. But in a moment in time when the prevailing SUD treatment community is trying to move away from a punitive approach to addiction and toward a disease model, the optimal oversight authority for any non-criminal justice involved person is surely a public health-oriented agency rather than the one based in criminal justice. Underlying this call for policy change is the reality

[1] Messinger, J.C., Vercollone, L., Weiner, S.G. *et al.* Outcomes for Patients Discharged to Involuntary Commitment for Substance Use Disorder Directly from the Hospital. *Community Ment Health J* **59**, 1300–1305 (2023). https://doi.org/10.1007/s10597-023-01112-2
[2] Ibid

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that SUD is a chronic brain disease, not a moral failing. Being sent to a correctional facility for SUD treatment exacerbates the shame and stigma that people with addiction experience, and the punitive environment in these facilities is traumatizing and not conducive to recovery. For many patients, the trauma and shame of incarceration can reverberate even after reentry into the community and adds layers of psychological distress and mental health challenges that jeopardize the recovery process.

A growing body of literature recognizes the harms of involuntary commitment for SUD. Notably, a newly published study evaluating the outcomes of Massachusetts patients discharged to involuntary commitment for SUD found that these patients universally relapsed to substance use and had high rates of morbidity and mortality following their release.[3] In a 2019 review of Section 35 treatment statistics, DPH found that individuals who had a history of involuntary treatment were actually 1.4 times as likely to die for an opioid-related overdose compared to those with no history of civil commitment for treatment.[4] Such findings warrant reconsideration of the use of Section 35.

Moreover, many families, patients, and physicians view Section 35 as an option of last resort. MMS notes with interest data indicating nearly 11,000 petitions for Section 35 were filed in Massachusetts courts in 2018, the year the most recent data is available.[5] With such significant numbers, we suggest ongoing evaluation of the role of Section 35, and whether it is serving as the last resort that it is intended to be, or if it has instead turned into a band-aid for structural problems facing the SUD treatment system across the Commonwealth. The Medical Society was pleased to raise these important considerations, among many other related topics, through its participation in the Section 35 Commission, which was charged with studying the efficacy of involuntary inpatient treatment for non-court involved individuals diagnosed with a substance use disorder.[6] The Medical Society urges the Joint Committee on Mental Health, Substance Use and Recovery to look broadly at the Commission's report to determine whether this legislation could be paired with other thoughtful, evidence-based reforms to the Section 35 system.

To ensure patients who are civilly committed for SUD have the best opportunity for recovery, we urge a favorable report on this important legislation. Thank you for your consideration.

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[3] Ibid
[4] Massachusetts Department of Public Health. Section 35 Commission Treatment Statistics from BSAS programs. February 28, 2019. https://www.mass.gov/files/documents/2019/03/04/DPH%20Section%2035%20Commission%202-28-2019.pdf
[5] Section 35 Commission Report. July 1, 2019. https://www.mass.gov/lists/section-35-commission-report
[6] Ibid