

Licensure of Substance Abuse Treatment Programs – Required Amendments



Public Health Council
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Overview



- Overview of the opioid epidemic,
- Overview of Section 35 civil commitment and the MA substance use disorder treatment system
- Summary of regulations
- Overview of proposed amendments
- Next steps



Overview: Opioid Epidemic



- Massachusetts is among the states across the nation that are working to combat the opioid crisis.
- Over the past 10 years, the trend in the number of opioid related deaths has been increasing.
- In 2012, the rate of unintentional opioid related deaths reached a level that was previously unseen in the state (from 5.3 per 100,000 residents in year 2000 to 10.1 per 100,000 in year 2010).
- The number of confirmed cases of unintentional opioid overdose deaths for 2014 (1089) represents a 63% increase over 2012 (668).



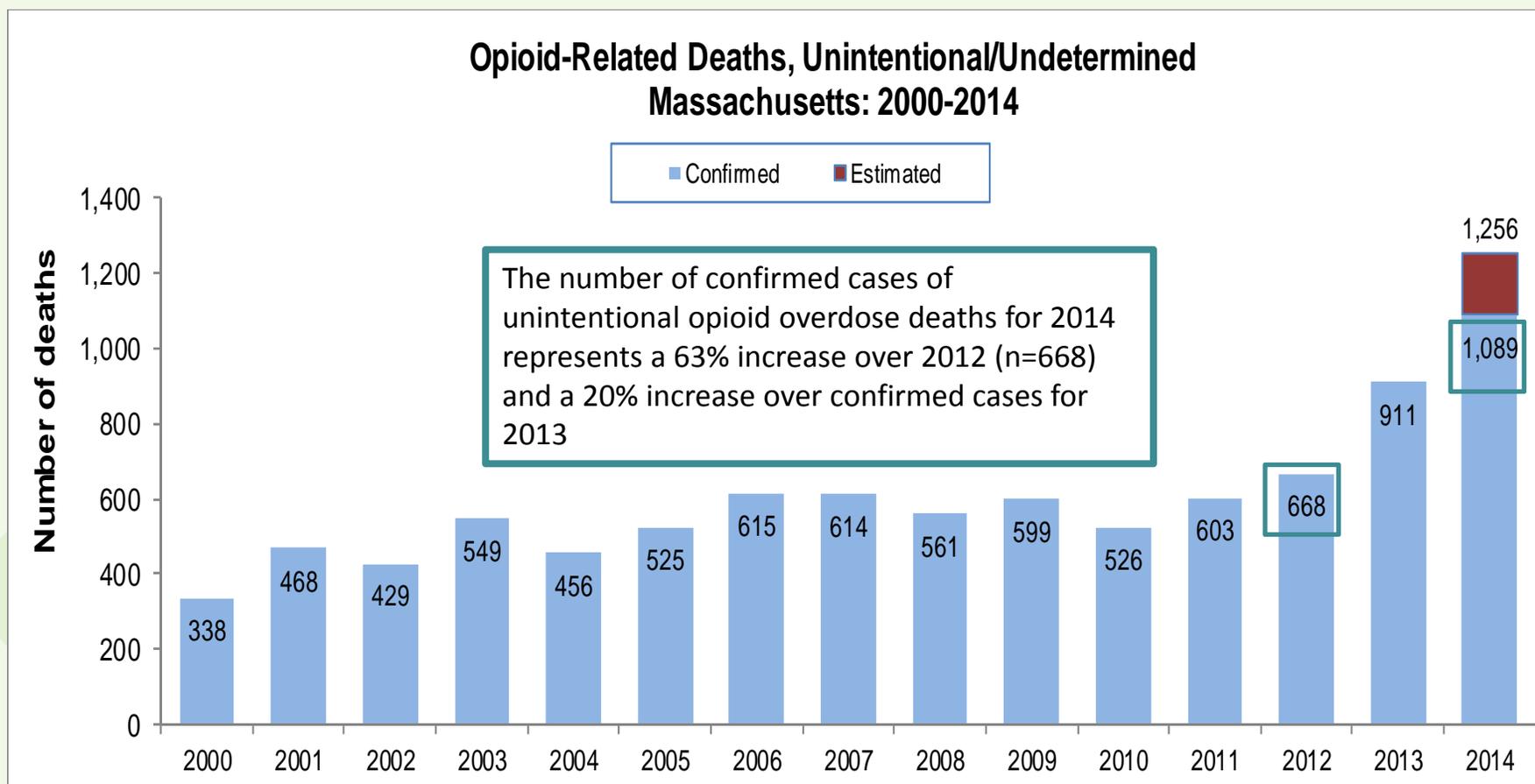
Overview: Opioid Epidemic



- In 2014, a Public Health Emergency was declared in order for DPH to take key measures to address the crisis.
- In 2015 Governor Baker established the Opioid Workgroup which has developed a set of recommendations that aim to take a comprehensive approach to stem the tide of the opioid epidemic. These measures include prevention through targeted education for youth families and practitioners, intervention with increased access to naloxone, increased capacity for treatment and recovery support.



Opioid-related deaths in MA



Source: MDPH "Data Brief: Fatal Opioid-related Overdoses among Massachusetts Residents" Oct. 2015 Report



Section 35 Civil Commitment



- M.G.L. c. 123, s. 35 (“section 35”), allows for the involuntary civil commitment for a period not to exceed 90 days of an individual who is found by a court to be an alcoholic or substance abuser and presents a likelihood of serious harm as a result of the person’s alcoholism or substance abuse.
- Such commitment must be made for inpatient care in a public or private facility approved by DPH for the treatment of alcoholism and substance abuse. If there is no bed available at a DPH-approved facility, a female individual may be committed to MCI-Framingham, and a male to MCI-Bridgewater, provided that the committed individuals are housed and treated separately from convicted criminals.
- A person committed under section 35 may be released prior to the period of commitment, but only upon a written determination by the facility director that release of the person will not result in a likelihood of serious harm.
- DPH currently licenses and funds two dedicated facilities for individuals committed under section 35: Women’s Addiction Treatment Center (WATC) in New Bedford and Men’s Addiction Treatment Center (MATC) in Brockton. These programs combined have a total of 198 beds.



Section 35 Civil Commitment (Cont'd)

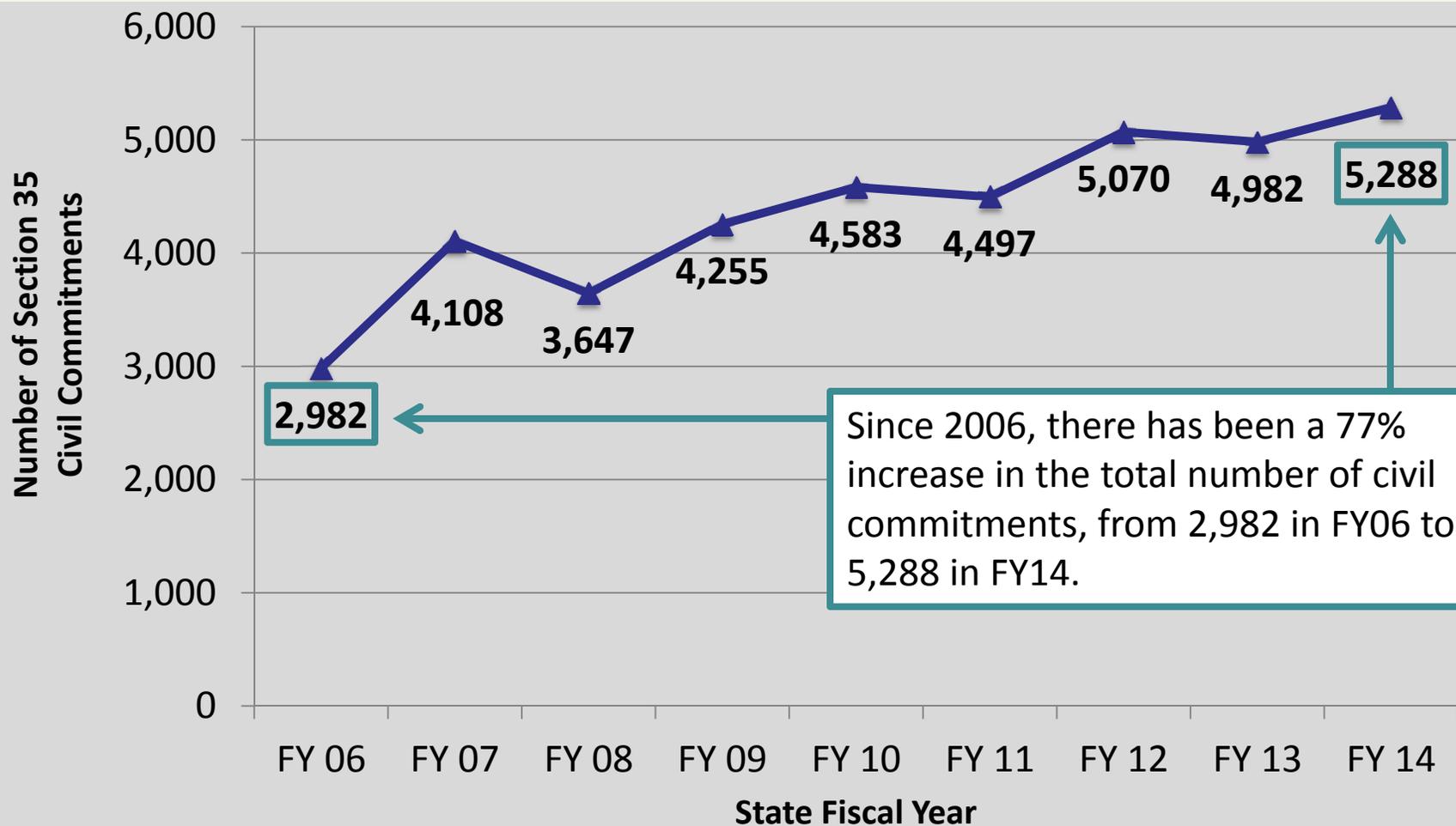


Admissions

- Since 2006, there has been a 77% increase in the total number of civil commitments, from 2,982 in FY06 to 5,288 in FY14.
- FY15 Enrollments
 - ATS (Public) – 41,232 Enrollments
 - MATC – 1,998 Enrollments
 - WATC – 1,653 Enrollments



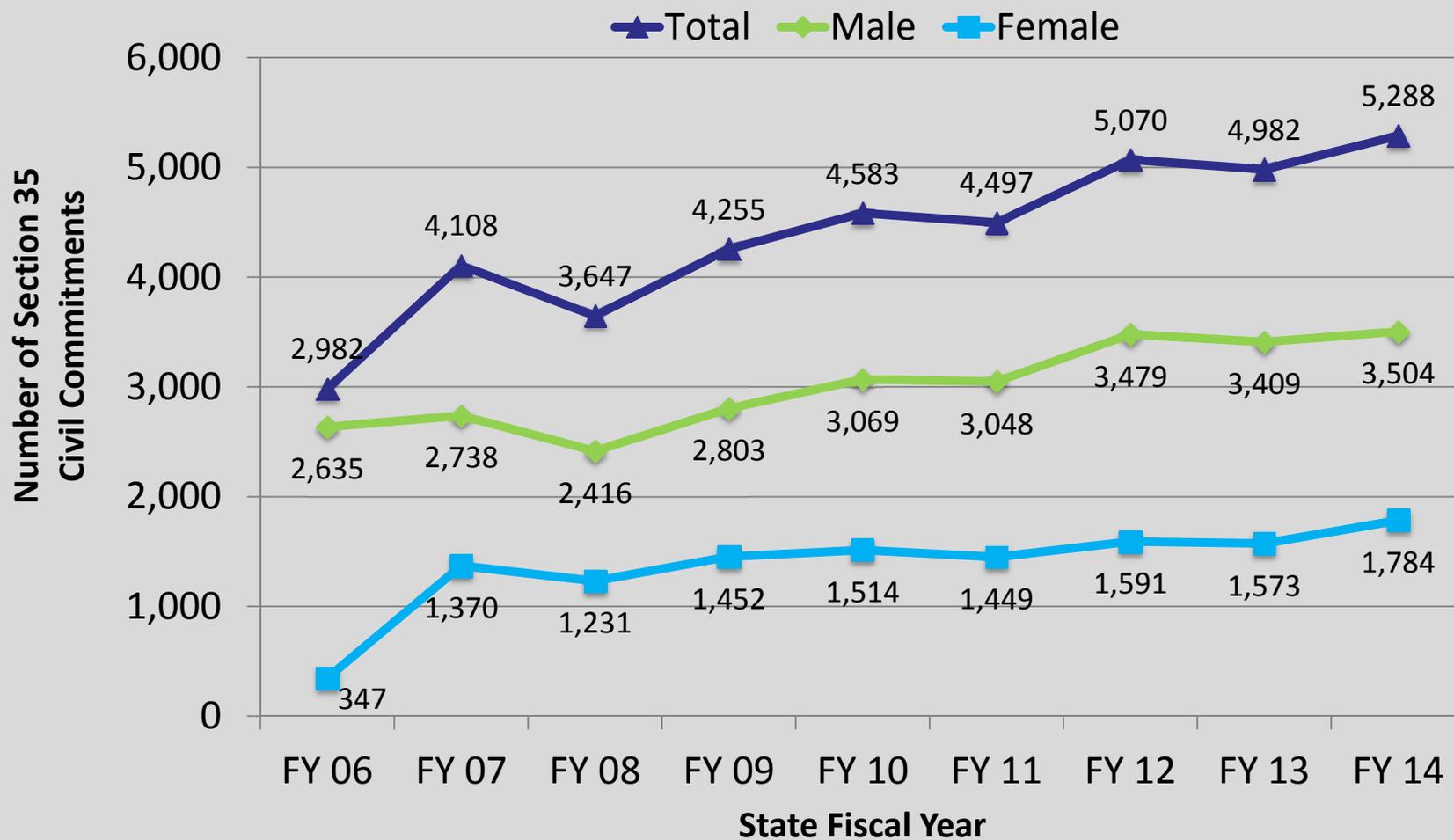
Section 35 Civil Commitments Trend



*Numbers civil commitments include those MATC - WATC - MASAC - MCI-Framingham - public ATS - CASTLE



Section 35 Civil Commitments by Sex



*Numbers civil commitments include those MATC - WATC - MASAC - MCI-Framingham - public ATS - CASTLE



Section 35 Civil Commitment (Cont'd)



- Although a commitment under section 35 is involuntary, thereby necessitating a secure facility, DPH statutes and regulations contemplate only voluntary treatment.
- DPH approved facilities for section 35 operate in accordance with the statutes and regulations governing voluntary treatment. Civilly committed individuals may leave. Presently, the facilities do not provide a secure environment for involuntary commitments, as implied by section 35.



Summary of Regulations



- DPH regulations at 105 CMR 164.000 require that individuals in DPH-approved treatment facilities be allowed to terminate treatment at any time, and also prohibit the use of physical restraints on individuals in treatment facilities.
- The right to terminate treatment is based on the statutory language in M.G.L. c. 111E, s. 18(c), which states that “no patient may be detained in any facility, other than a penal facility, without his consent.”
- However, section 35 (and earlier versions of it) predates M.G.L. c. 111E, s. 18(c), indicating that the requirements for voluntary treatment were instituted at a later date in order to accommodate individuals who sought treatment on their own. Because a commitment under section 35 is involuntary, it follows that the requirements for voluntary treatment do not apply to an individual committed under section 35.



Proposed Amendments



The Department proposes to amend the following sections of the regulations for substance abuse treatment:

- 105 CMR 164.075(A)(1)(b)
- 105 CMR 164.078(C)
- 105 CMR 164.079(B)(8)
- The amendment to these sections would add the following language:
“...except in the case of an individual committed for treatment under M.G.L. c. 123, s. 35.”
- These amendments provide further alternatives to address the growing number of section 35 civil commitments and allow for increased capacity for safe and adequate treatment across the system.



Next Steps



- The Department proposes to make these regulatory amendments on an emergency basis, to be effective immediately upon filing with the Secretary of State.
- The Department will hold a public hearing on the amendments to collect testimony from interested parties by early December 2015.
- For the emergency regulation to remain in effect after 3 months, the Department must file an amended regulation in time for publication, or file a notice of compliance, no later than January 21, 2016.