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JUDGE DAVID L. ———
BAZELON
CENTER
FOR MENTAL HEALTH LAW



Center for Public Representation

Leading Disability Rights Groups File Preliminary Injunction Addressing Undue COVID-19 Risk at Mental Health Facilities

Washington, D.C. June 10, 2020 – The Connecticut Legal Rights Project, Judge David L. Bazelon Center for Mental Health Law and Center for Public Representation this week filed a motion for a preliminary injunction in a class action case challenging Connecticut’s failure to take adequate steps to protect residents of two state psychiatric hospitals from contracting and dying from COVID-19. Both hospitals, Connecticut Valley Hospital (CVH) and Whiting Forensic Hospital (WFH), have had outbreaks of the virus. Five patients at CVH have died from COVID-19. At CVH and WFH, Defendants have confirmed 73 cases of COVID-19 among patients and 64 cases among staff, since testing began.

The patients are seeking relief under the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution, which affords individuals institutionalized in state mental health facilities a right to safety and protection from harm. Specifically, they seek to compel the state to comply with professional standards to ensure that patients are adequately protected from harm, including by accelerating discharges from the hospitals and reducing the census to allow social distancing in the hospitals. The risk for COVID-19 spread and infection at facilities like CVH and WFH risks have been widely recognized.

The patients are requesting that the Court issue a preliminary injunction ordering CVH and WFH to:

1. Conform their testing protocols to CDC standards
2. Take steps to ensure that staff consistently wear masks and that patients are encouraged and supported in wearing masks including through education
3. Improve hygiene and decontamination practices
4. Implement social distancing to the maximum extent possible including by reducing patient census
5. Undertake a clinical review in order to accelerate discharges
6. Grant such other or different relief the Court deems appropriate.

“It is clear that DMHAS continuing to do “business as usual” is unacceptable and poses a serious risk to the physical health and safety of people who are in CVH and Whiting to receive care and treatment for their mental health condition. We are appreciative of the work put in by all of our partners and the experts with whom we have consulted in this effort to save our clients’ lives,” said Kathy Flaherty, Executive Director of the Connecticut Legal Rights Project.

“The patients’ rights are clearly being violated at these facilities,” said Ira A. Burnim, Legal Director at the Bazelon Center for Mental Health Law. “Forty percent of deaths from COVID-19 in the United States have involved residents or staff at facilities like at Connecticut Valley

Hospital and Whiting Forensic Hospital, our injunction is the first step to ensuring the health and safety of all mental health patients at these types of facilities.”

“People with disabilities are becoming infected and dying at a disproportionate rate in congregated facilities in almost every State. This case is about requiring the State of Connecticut to transition as many people as possible from these institutions back to their home communities, and ensuring that those who remain are at least kept safe,” said Steven Schwartz, the Legal Director of the Center for Public Representation.

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