



Hospitals and the NH Department of Health and Human Services Resolve Long-Standing Litigation Over Boarding of Patients in Acute Psychiatric Crisis

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Following the decision in federal court earlier this year and the permanent injunction issued by Judge McCafferty in May, the Commissioner of the Department of Health and Human Services (DHHS), hospitals across the state, and the New Hampshire Hospital Association have agreed to resolve long-standing litigation to ensure that patients in acute psychiatric crisis are able to get the care they need, when and where they need it.

By agreeing to resolve this matter, the Commissioner will waive her right to appeal Judge McCafferty's order which granted summary judgment on the hospitals' Fourth Amendment claim and granted a permanent injunction. The permanent injunction requires that, by May of 2024, patients who are the subject of an involuntary emergency admission (IEA) petition must be accepted for transfer to a designated receiving facility (DRF) within 6 hours to receive care.

In exchange, the hospitals will set aside the remaining claims still pending in both federal and state courts and will also forego their claims for legal fees they incurred as part of their efforts in federal court.

With this agreement, the Commissioner and the hospitals are committed to working together and with all other stakeholders to meet the one-year timeline set forth by Judge McCafferty to solve the long-standing problem of boarding IEA patients in emergency rooms by ensuring that patients across the state are able to receive the appropriate care and outcome in the best environment while maintaining accuracy and transparency of the process.

Steve Ahnen, NHHA President: "For the hospitals, this case has always been about ensuring patients suffering from an acute psychiatric crisis are able to receive the care they need by immediately being transferred to a health care facility specially designed for that purpose. Hospitals have long partnered with the State on many critical issues, most notably our collective response to the COVID-19 pandemic in recent years.

We look forward to working with the Commissioner over the next year to ensure that the state has sufficient clinical and community behavioral health resources in place to end hospital emergency department boarding once and for all so that IEA patients will finally be able to receive timely and appropriate care.

Much has been done over the past several years to address the behavioral health crisis, and we appreciate and applaud those efforts. Our agreement to resolve this case with the Commissioner is an important step to ensure that patients in an acute psychiatric crisis will get the specialized care they need, when and where they need it.”

DHHS Commissioner Lori Weaver: “Individuals waiting in hospital emergency departments for a psychiatric bed is an issue that persists across the country. I am committed to eliminating this state’s waiting list. We will achieve this important milestone by working with our partners throughout the healthcare system to increase access to mental health services for all residents. We look forward to working collaboratively with New Hampshire’s hospitals, who will continue to play a critical role in ensuring people get access to the care they need, when and where they need it. We all need to act with urgency, unity and compassion to resolve the emergency department boarding list.”

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