

STATE OF MAINE
KENNEBEC, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-89-088

PAUL BATES, et al.,

Plaintiffs

v.

RECOMMENDATIONS

COMMISSIONER,
DEPARTMENT OF HEALTH AND
HUMAN SERVICES, et al.,

Defendants

In accordance with Paragraph 298 of the Settlement Agreement, I make the following factual findings and recommendations with regard to the Department's obligation to implement unit based staffing at Riverview Psychiatric Center (RPC) and its obligation to reopen the admission process to the full extent of its capacity for civil and forensic admissions.

1. On January 22, 2015, the Department filed a written response to the recommendations made in the report of Elizabeth Jones and presented that response to Justice Horton on February 27, 2015.
2. After considering the response together with the oral explanation and comments provided by the Superintendent of RPC, the Court approved the response of the Department.
3. Among other undertakings, RPC agreed in its response "to move to a unit based staffing model to enhance the continuity of care for all patients." The practice of having staff float from one unit to another had been identified as one of the factors contributing to the incidents that led to the suspension of CMS certification and unit based staffing was offered as means of reducing the risk presented by staffs'

unfamiliarity and lack of knowledge of individuals with challenging behaviors. This change was deemed particularly critical for the forensic units.

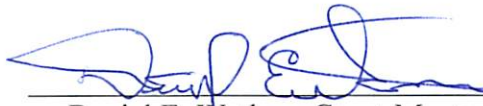
4. The timeline for the unit based staffing model was to align with the acuity based staffing model described elsewhere in the response and is scheduled for completion by December of 2015.
5. When the Department appeared before the court on February 27, 2015 the daily census at RPC was in the range of eighty five to eighty seven, with five to seven vacant beds available. At that level the hospital was making effective use of its ninety two bed capacity. Within weeks thereafter, however, the hospital was closed to new admissions as a result of staff departures, some on family medical leave, and the acuity level of clients on the units. Since that time, the census has dropped in pace with discharges. Since March 20, 2015, the census has dropped from eighty to its present level of sixty two. On April 14, 2015, the census stands at sixty two, with thirty vacant beds, ten in the forensic units and twenty in the civil units . There are twenty forensic clients awaiting admission, five District Court committed civil clients awaiting admission, and no clients scheduled for admission. When admissions to RPC are restricted, clients back up in the community, thereby putting pressure on jails, emergency departments and community hospitals.
6. The hospital has implemented acuity based staffing and is making up for staff shortages by limiting admissions. It is imperative that the implementation of unit based staffing proceed apace with acuity based staffing in the manner described in the Department's response if the hospital is to comply with its service obligations under the Consent Decree, Settlement Agreement and Consent Decree Plan.

7. The biennial budget now before the Legislature, does not in its present posture include the twelve acuity specialists included in the Governor's recommended budget even though they were included in the supplemental spending bill enacted for FY15. Since the acuity specialist positions are a necessary element of a successful transition to unit based staffing, it is vitally important that the Department continue to advocate before the Legislature for funding those positions.

Accordingly, based on the foregoing I recommend:

- (1) That the Department and the Superintendent of RPC implement unit based staffing in conformity with their response to the Court, with all deliberate speed.
- (2) That RPC reopen its admissions and accept clients in accord with the minimum staffing ratios required by the Consent Decree.
- (3) That the Department continue to advocate before the Legislature for twelve acuity positions originally included in the budget recommended for the biennium.

Dated: April 24, 2015



Daniel E. Wathen, Court Master