



MR-CT-005-006

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	
STATE OF CONNECTICUT, <u>et al.</u> ,)	Civil Action No.
)	N-86-252 (EBB)
)	
Defendants.)	

STIPULATION

It is hereby agreed by and between the parties that the agreed-upon Order set forth below be entered in this action.

ORDER

In order to remedy deficiencies at Southbury Training School, Southbury, Connecticut, the Defendants shall, within the time frames specified in each subparagraph below, do the following:

1. (A) (i) By September 1, 1990 employ or contract for nine (9) additional registered nurses who will serve in "Clinical Nurse II"^{1/} positions. Thereafter, Defendants will maintain the employment of at least 28 registered nurses as Clinical Nurse IIs

^{1/} It is understood by the parties that registered nurses serving in the "Clinical Nurse II" position are assigned specific caseloads and work on the Units providing direct nursing care to Southbury residents. Such care includes performing nursing assessments, participating in monthly psychotropic medication reviews, making presentations at Program Review Committee meetings, performing quarterly assessments and reviews, providing acute care, chronic care and monitoring, providing health education for direct care staff and other duties as set forth in Attachment II.

and otherwise ensure a sufficient number of nonsupervisory registered nurses are employed to maintain, in all units: (a) the caseloads set forth in Attachment I during each of the 1st, 2nd, and split shifts, (e.g., In Unit I, each Clinical Nurse II on duty during the 1st, 2nd, and split shifts shall have an average 2/ caseload of 36 residents); (b) on duty in the residential units during the evening shift, at least three (3) registered nurses; and, (c) on duty in the Health Care Unit during the 1st, 2nd, and 3rd shifts, at least one registered nurse. With respect to each registered nurse in this subparagraph, Defendants shall ensure that he/she has an identifiable group of specific residents as his/her patients.

(ii) By September 1, 1990, ensure a sufficient number of supervisory nurses are employed to fill each supervisory nursing position (e.g. RN Supervisors, Assistant Director of Nursing, Director of Nursing) set forth in Attachment I;

(iii) By September 1, 1990 employ or contract for such additional Licensed Practical Nurses to ensure that a sufficient number of Licensed Practical Nurses are available to administer medication in all residential units;

(iv) Immediately ensure that the nursing care provided to residents at Southbury Training School meets, at all times, the nursing care standards set forth in Attachment II which is incorporated herein.

2/ No Clinical Nurse II in Units 1, 2, 5, or 9 shall have a caseload of more than 40 residents.

(v) Within 45 days, employ or contract for a sufficient number of physicians to maintain, as specified in Section IV, paragraph 1A of the Consent Decree, at least a ratio of one medical doctor serving as a primary care physician for every 125 residents. With respect to each primary care physician in this subparagraph, Defendants shall ensure that he/she has an identifiable group of specific residents as his/her patients. In maintaining the overall ratio (i.e., 1:125), Defendants may assign more or less than 125 residents to each primary care physician based on a professional judgment that the medical needs of each resident so assigned will be met. No primary care physician, however, shall be assigned more than 175 residents.

(vi) Immediately ensure that physician care provided to residents of Southbury Training School meets, at all times, the standards for physician care set forth in Attachment II which are incorporated herein.

(B) By February 12, 1990, appoint a physician eligible for Board Certification to serve as the facility's medical director and maintain a physician in that position at all times.

(C) Within 30 days, employ or contract for the equivalent of at least one qualified psychiatrist to provide full-time services at Southbury. If Defendants choose to meet this requirement by providing more than one psychiatrist serving in a part-time capacity, then each psychiatrist shall be assigned an identifiable group of specific residents as their patients.

(D) Within 10 days, inspect the professional licenses of all staff required to be licensed to ensure that such licenses are current.

(E) Within 10 days, ensure that medications and equipment to be used in case of emergency are readily available to cottage staff in each cottage and the Health Care Unit.

(F) Within 30 days, begin providing appropriate physical therapy to each resident with physical handicaps for whom a program of physical therapy has been ordered by a qualified professional, and ensure records of such treatment are made and entered in the resident's medical record.

(G) (1) Within 45 days, have a qualified physician assess each resident with physical disabilities to determine whether a physical therapy program should be initiated or an existing physical therapy program modified to prevent contractures, physical degeneration, and inappropriate body growth and deformity. The physician shall refer those residents for whom such a need is identified to a registered physical therapist. (2) Within 45 days from any such referral, a registered physical therapist shall assess and evaluate each resident so referred and develop a written physical therapy program for each of them.

(H) Within 30 days, employ, contract or otherwise obtain the services of such additional medical specialists as may be needed to provide such medical services as will eliminate, within the following 30 days, all residents currently on waiting

lists 3/ for the following medical specialty services: (1) orthopedics; (2) scoliosis clinic; (3) gynecology; (4) ophthalmology; (5) dermatology; (6) neurology; (7) cardiology; (8) surgery; (9) endocrinology; (10) ear, nose and throat; and, (11) podiatry.

(I) Within 60 days, employ or contract for the services of such medical specialists as may be needed to ensure that no resident is on a waiting list longer than medically indicated or, in any event, longer than 30 days for any medical examination or treatment by a medical specialist that has been requested by a qualified professional.

(J) Within 30 days, take such steps as may be necessary to assure that medical test results, medical, psychiatric, and psychology reports, and minutes of the Program Review Committee are completed, typed if required, and placed in resident records within seven working days from the completion of the medical test, examination, treatment, meeting, or other event which resulted in the report.

(K) Within 30 days, have a qualified professional evaluate, for the presence of drug-induced side-effects, those

3/ A "waiting list" as that term is used here, includes of residents whom qualified Southbury professionals have referred for tests, examination or treatment by a medical specialist consultant, including testing facilities. Not included are residents for whom appointments have been scheduled beyond 30 days by the medical specialist consultant to whom the resident was referred, so long as the scheduling was a result of the exercise of professional judgment regarding the resident's medical condition by the medical specialist consultant and the primary care physician.

residents who are receiving behavior modifying medication and develop a plan to ensure regular monitoring of such residents for such side-effects at not less than three month intervals, including quality assurance procedures that will document such monitoring and confirm the accuracy of the evaluations;

(L) (1) Within 15 days, have a qualified professional evaluate for tardive dyskinesia those residents who have received or who are receiving neuroleptic medication and have not been evaluated for tardive dyskinesia within the last four months. (2) Following completion of the evaluations required by (L)(1) above, ensure that further such evaluations are conducted in accordance with DMR Medical Advisory No. 86-3, as revised, February 23, 1988, which is incorporated herein by reference.

(M) Within 60 days, train medical and direct care staff in how to recognize common side effects of behavior modifying medication, including extrapyramidal effects. Special emphasis will be given to training direct care staff on the common side effects of behavior modifying medications in use in the cottages where they are regularly assigned.

(N) Conduct and document, on a monthly basis, a review of each resident receiving behavior modifying medication to determine whether such medication continues to be medically necessary. A physician and psychologist shall take part in each such review. Each monthly review will include and document: (i) a preceding physical observation of the resident by the physician, (ii) a review and confirmation of the resident's

psychiatric diagnosis in light of data reflecting behavioral symptoms exhibited by the resident and recorded by staff, and (iii) an analysis of whether prescribed or proposed medication is appropriate for those specific symptoms in light of experience. Within 30 days, Defendants will develop quality assurance procedures that will verify that such reviews are occurring, that they are complete, uniformly comprehensive, and that their results are accurate;

(O) Within 30 days, have a qualified professional review resident medical records, making revisions as necessary to ensure: (1) that medical "problem lists" are comprehensive and current, and (2) that known drug allergies are conspicuously displayed.

(P) Within 45 days, inspect resident records to ensure that they contain the most current data and reports and, as necessary, reorganize resident records to ensure that entries and reports from the different disciplines are uniformly located in the proper section in each record.

(Q) Within 30 days, ensure that resident records, including behavioral program records, accompany residents placed in the hospital annex and develop a plan to monitor implementation of this instruction.

(R) Within five days, ensure that a resident's medical record accompanies the resident to any local hospital to which he/she is admitted and, further, ensure that upon discharge, the local hospital provides Southbury, in a timely manner, with a

comprehensive record of the resident's diagnosis, course of hospitalization while at the hospital, and prescribed treatment.

(S) Within 45 days have the Human Rights and Program Review Committees, including the treating psychiatrist and primary care physician, review the training programs, including relevant data, of each resident who: (1) exhibits self-injurious or aggressive behavior and (2) is subject to aversive programming, or receives behavior modifying medication, to ascertain whether (i) there is sufficient behavioral data recorded, (ii) such data is reliable, and (iii) the continuation of such training or treatment program is justified or the program, including medication, should be modified for any reason. Where inadequate or unreliable data is found, or the continuation of the training or treatment program is otherwise not justified, the matter shall be referred to the appropriate Interdisciplinary Team which shall, within 30 days from the referral, modify the existing program in accordance with professional judgment of qualified professionals, including the primary care physician and psychiatrist.

(T) Within 30 days, establish a permanent committee of qualified professionals who shall, on a regular and periodic basis, review the training programs, including relevant data, of residents who are not receiving behavior modifying medication and are not subject to aversive programming but who exhibit self-injurious or aggressive behavior. This review will ascertain whether (i) there is sufficient behavioral data recorded, (ii)

such data is reliable, and (iii) the continuation of such training or treatment program is justified or the program should be modified for any reason. Within 30 days from the establishment of this committee, it shall evaluate the training program of each resident identified in subsection (1) and (2) above, and, where inadequate or unreliable data is found, or the continuation of the training or treatment program is otherwise not justified, will refer the matter to the appropriate Interdisciplinary Team which shall, within 30 days from the referral, modify the existing program in accordance with professional judgment of qualified professionals, including the primary care physician.

(U) Within 45 days have the appropriate Interdisciplinary Team review the Overall Plan of Service of each resident who exhibits frequent self-injurious or aggressive behaviors, or is subject to frequent behavior control procedures, but has no training program to eliminate or reduce the self-injurious or aggressive behaviors, or the use of behavior control procedures, to determine whether such a training program is appropriate. If determined appropriate, the Interdisciplinary Team, within 30 days of each review, shall modify the existing Overall Plan of Service of such residents in accordance with professional judgment of qualified professionals.

(V) Within 45 days, implement the existing Plan of Implementation to assure that: (1) such training programs as are needed to protect residents from unreasonable risks to their

personal safety and from unreasonable bodily restraints are consistently implemented; (2) recordkeeping systems are implemented with respect to each resident's course of training so as to ensure that sufficient relevant information regarding training is maintained and kept available for use by appropriate staff; and (3) restraints are administered only pursuant to the exercise of judgment by a qualified professional and they are not used as a form of punishment, for the convenience of staff, or in lieu of a prescribed training program.

(W) Within 60 days: (1) develop, implement, and, thereafter, regularly evaluate, a system for observing and recording observations regarding client behavior relevant to training programs and (2) develop and implement a system to verify that the data are reliable.

(X) Within five days, ensure that a resident's primary care physician and medical and training records are present at all meetings of the Program Review Committee at which that resident's medical care, including medication, is discussed. With reference to any other matter considered by the Program Review Committee, the primary care physician shall be available to respond to questions of the committee or appear at the meeting if the committee so requests.

(Y) Within 45 days, only personnel authorized by state and federal law shall administer medication.

2. Defendants shall file with the Court and with the United States reports describing the actions taken, progress made, and

the plans developed to fulfill each of the provisions of this Order. Such reports shall be attached as addenda to the next succeeding Quarterly Compliance Report required to be filed pursuant to paragraph 2A of Section VI of the Consent Decree. Each addendum shall address, at a minimum, each of the lettered paragraphs of this Order, and, as appropriate, shall list the specific residents that the Order provides shall be identified, evaluated, receive medical care or physical therapy or whose records were reviewed pursuant to the various provisions herein. Any documents that support statements regarding actions taken or progress toward fulfilling requirements of this Order shall be provided with each addendum.

3. (A) The requirements of this Order shall be in addition to those in the Consent Decree and Plans filed pursuant thereto. The Consent Decree, Plans and this Order constitute the remedial orders in this case. All provisions of the Consent Decree remain enforceable to the extent that they are consistent with this Order.

(B) In agreeing to this Order, the United States does not waive its right to demonstrate at a future proceeding that Defendants are and have been in contempt of this Court's prior remedial orders and to seek sanctions based on those violations.

(C) In agreeing to this Order, the State of Connecticut does not admit any violation of the Consent Decree or its Implementation Plan.

4. (A) The parties contemplate that Defendants shall have fully and faithfully implemented all provisions of this Order and of the Consent Decree by June 30, 1991.

(B) The Court shall retain jurisdiction of this action for all purposes until Defendants have fully and faithfully implemented all provisions of this Order, the Consent Decree, and plans submitted pursuant thereto, and until the judgment is discharged.

(C) On or after the date on which Defendants shall have fully and faithfully implemented all provisions of this Order, the Consent Decree, and plans submitted pursuant thereto, Defendants may move that the injunctions be dissolved, jurisdiction terminated, and the case closed and dismissed with prejudice on grounds that they have fully and faithfully implemented the provisions of this Order, the Consent Decree, and plans submitted pursuant thereto.

(D) Dismissal shall be granted unless, within sixty (60) days after the receipt of Defendants motion, the United States objects to such motion. If an objection is made with particularity, the Court shall hold a hearing on the motion and the burden shall be on Defendants to demonstrate that they have fully and faithfully implemented the provisions of the Consent Decree, any approved plan(s) or part thereof, and this Order, to which the United States' objection(s) relates. If objection is based upon failure to implement any plan or part thereof, the Defendants shall bear the burden of demonstrating that such plan

or part thereof is not essential to the achievement of one or more of the purposes and objectives set forth in Part I of the Consent Decree.

(E) Part VII of the Consent Decree, concerning the termination of the Consent Decree, is repealed.

FOR THE STATE OF CONNECTICUT

FOR THE UNITED STATES OF AMERICA

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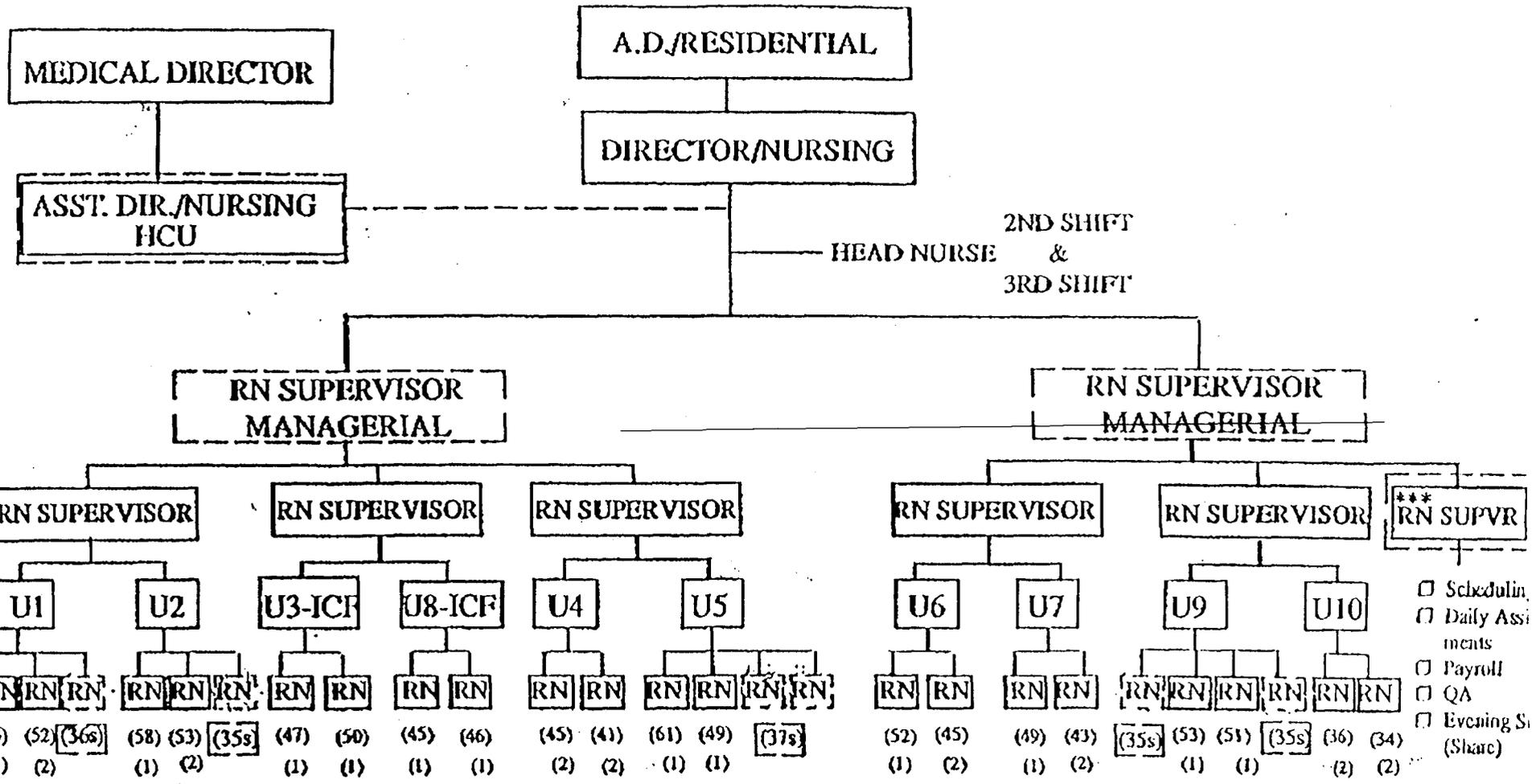
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SO ORDERED this 24th day of April, 1990, at New Haven,
Connecticut.

Ellen Bree Burns

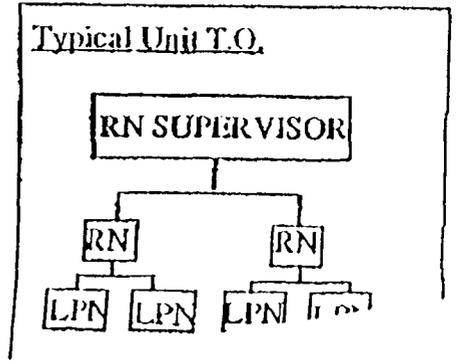
ELLEN BREE BURNS, CHIEF JUDGE
UNITED STATES DISTRICT COURT



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Units = 4 cottage average
 RNS generally assigned to 2 cottages
 LPNs generally 4 per unit

Proposed Average Caseload
 S - Split Shift
 * Present Assigned Caseload
 ** (1) = 1st shift (2) = 2nd shift
 *** This position, presently filled, is assigned to HCU
 [] = Proposed new positions



[RN] - Where six (6) new Clinical Nurse II positions would be assigned, i.e., Unit 1, 2, 5 (2).
[] - due to highest concentration of individuals with chronic and increasing nursing needs.