



MR-LA-004-002

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DJ 168-32-50

16 JAN 1986

Honorable Edwin Edwards  
Governor of Louisiana  
State Capitol building  
Baton Rouge, Louisiana 70802

Re: Findings of Investigation, Belle Chasse  
State School, 42 U.S.C. §1997

Dear Governor Edwards:

On November 30, 1984, we notified you that we were commencing an investigation of the Belle Chasse State School, a mental retardation facility, pursuant to the provisions of the Civil Rights of Institutionalized Persons Act, 42 U.S.C. §1997 (1982). As the statute requires, we are now writing to inform you of the findings of our investigation.

In the course of our investigation, we conducted a tour of Belle Chasse with expert consultants and Civil Rights Division personnel. In connection with the tour, the consultants observed residents, examined resident records, and interviewed the administrator, the professional staff, and some of the direct care staff at Belle Chasse. Throughout the investigation, Belle Chasse staff and officials of the Louisiana Department of Health and Human Resources have provided us with substantial assistance. We join our consultants in expressing our appreciation of the full cooperation offered by school personnel and state officials.

Based on our investigation, we believe that the conditions at Belle Chasse deprive residents of their constitutional rights. Mentally retarded persons have constitutional rights to adequate medical care, reasonable safety, and such training as would ensure personal safety and freedom from undue bodily restraint. Youngberg v. Romeo, 457 U.S. 307, 324 (1982). Accordingly, we will discuss only those particular areas of concern that rise to the level of deprivations of those constitutional rights. Our findings and conclusions have been summarized below.

## 1. Medication Practices

The medication practices employed at Belle Chasse State School create an unacceptable risk of harm to residents. Approximately 31 percent of the residents receive at least one psychotropic drug. Many medication practices at the facility represent significant departures from accepted medical standards.

While Belle Chasse physicians are prohibited by institution policy from writing PRN ("as needed") orders for psychotropic agents, our consulting psychopharmacologist discovered that PRN orders were being used. Moreover, records indicate that physicians are ordering "one-time" doses of psychotropic drugs by telephone without directly assessing or examining residents. Such practices are impermissible because they permit the administration of dangerous drugs without the judgment of a qualified professional.

Our consultant noted the practice of dangerous intraclass polypharmacy, the administration of multiple drugs from the same drug class. The records reviewed indicated no justification whatsoever for the practice, which increases dramatically the risk of drug side effects and overmedication. Furthermore, the review of drug prescriptions is inadequate. Belle Chasse policies do not require physicians to review their drug orders at reasonable intervals to ensure appropriate usage through the exercise of professional judgment.

The monitoring of drug usage is totally inadequate. Tardive Dyskinesia (TD) is an antipsychotic drug induced side effect, potentially irreversible, that may result in permanent physiological damage. Belle Chasse currently has no policies, guidelines, or procedures for TD screening. Moreover, there are no policies governing the diagnosis and care of residents with TD. Significantly, our consultant observed several residents who appeared to suffer from TD. A review of the records of these residents indicated that none had been evaluated or screened for TD. Our consultant concluded that Belle Chasse personnel do not adequately screen residents for TD or treat residents suffering from the condition. Finally, residents do not receive physical examinations or periodic tests for drug-induced ailments, including life threatening conditions caused by the misuse of psychotropic medication.

Belle Chasse policy permits non-nursing personnel to administer medication. Absent training and necessary professional supervision, these individuals lack the competence to make necessary judgments with respect to dangerous drug induced side effects and the need for further medical evalua-

tion. Compounding the deficiency, nurses are not immediately available on the night shifts in a majority of facilities to render necessary medical assistance. Finally, our consultant concluded that psychotropic drugs are being used as chemical restraints in lieu of behavioral training, which would eliminate or reduce the need for restraints for some residents. Overuse and misuse of psychotropic medication, including polypharmacy without documented medical justification, and the absence of training programs exacerbate the improper reliance on drugs as a means of controlling behavior.

## 2. Recordkeeping

Inadequate recordkeeping at Belle Chasse contributes to numerous harmful consequences, including drug side effects. Belle Chasse has no recordkeeping requirements for physicians; progress notes are written on an "occurrence basis." Without accurate medical records, staff cannot determine which therapies have been effective and which have had significant deleterious effects. Our consultant determined that the integrated recordkeeping system at Belle Chasse was well managed, yet the quality of the physicians' progress notes was poor. The notes were poorly organized, nearly illegible, and they routinely omitted any discussion of the treatment rationales, target symptoms, and side effects. As a result, it is nearly impossible to read a resident's chart and find a coherent account of the drug treatment process or a discussion of any non-pharmacological therapy. Without such documentation, there is no assurance that drugs causing significant adverse effects will be properly re-evaluated. Finally, a significant part of the training deficiency can be traced to inadequate recordkeeping. Our consultant identified a distinct absence of accurate data with respect to the residents' course of treatment. Again, without accurate and sufficient information, judgments with respect to necessary training cannot be made on a professional basis. Accordingly, inadequate recordkeeping is causing a significant risk of harm to the Belle Chasse residents.

## 3. Staffing

Our consulting psychiatrist determined that psychiatric staffing at Belle Chasse is inadequate. Belle Chasse employs the services of a single psychiatrist who spends, on average, only about 6 hours per week at the facility. The psychiatrist evaluates residents at the request of other Belle Chasse physicians, but does not routinely examine every resident receiving psychotropic drug therapy. Accordingly, the majority of direct psychiatric services are handled by the physicians, who are not knowledgeable about psychiatric diagnoses, indica-

tions for drug therapies, and drug side effects. Our consultant concluded that the underemployment of psychiatric consultants has caused most of the aforementioned psychopharmacological deficiencies.

Finally, our consultant determined that the direct-care staff at Belle Chasse appears unable to put into practice the basic skills necessary to render minimally adequate care and that degree of training required by Youngberg. For instance, the staff routinely fails to comply with basic recordkeeping requirements, such as the documentation of behavioral programs and restraints. The staff should play a vital role in the development of effective behavioral training, and its inattention to duty exposes the clients to significant dangers.

#### REMEDIAL MEASURES

On the basis of our investigation, we have concluded that the residents of Belle Chasse State School are subject to flagrant or egregious conditions that violate their constitutional rights. We believe that a continuing pattern of these conditions has existed at least since 1982. To rectify the deficiencies at Belle Chasse and to assure that constitutionally adequate conditions are maintained thereafter, we propose to enter into a legally binding and judicially enforceable agreement with the State of Louisiana. The following are the minimum measures which, in our view, are necessary to remedy the deficiencies discussed above:

1. Belle Chasse must ensure that its direct care staff is sufficiently competent and qualified to provide, as appropriate, training necessary to afford Youngberg protections.
2. Belle Chasse must increase the level of staffing with respect to psychiatric services.
3. Medication practices must be modified, as necessary, to ensure that they comport with accepted professional medical standards.
4. Belle Chasse must ensure, in accordance with professional judgment, that residents are provided the training necessary to protect them from unreasonable risks to personal safety and undue physical or chemical restraints.
5. Recordkeeping must be improved and a quality assurance system must be implemented in order to ensure that the residents' rights to personal safety and freedom from undue bodily restraint are sufficiently unimpaired.

We are prepared to provide you with our consultants' reports or other technical assistance. Information about federal financial assistance, which may be available to assist you, is available through the Regional Office of the United States Department of Health and Human Services (Director, Intergovernmental and Congressional Affairs, 214-767-3338) and through the United States Department of Education, Office of Special Education.

Our attorneys will be contacting attorneys for the Louisiana Department of Health and Human Resources to discuss this matter in greater detail. We seek to resolve this matter in the spirit of cooperation intended by the Civil Rights of Institutionalized Persons Act. We look forward to working with state officials toward that end.

Sincerely,

Wm. Bradford Keynolds  
Assistant Attorney General  
Civil Rights Division