



CONNECTICUT
LEGAL
RIGHTS
PROJECT, INC.

April 18, 2020

VIA ELECTRONIC MAIL AND USPS

Governor Ned Lamont
State Capitol
210 Capitol Avenue
Hartford, CT 06106

Attorney General William Tong
165 Capitol Avenue
Hartford, CT 06106

Re: Safety and Civil Rights of Patients in State Psychiatric Facilities

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Dear Governor Lamont and General Tong,

The Connecticut Legal Rights Project represents all patients in all state psychiatric facilities pursuant to a federal consent decree issued in *Doe v. Hogan* in 1989. We write to inform you that patients on psychiatric inpatient units in state-operated psychiatric facilities are in significant danger from COVID-19. For this reason, we request that you issue an executive order that would accomplish the following:

- immediately stop all new admissions to all state-operated psychiatric facilities;
- require that every facility review the present mental status of each patient;
- require that each facility make every effort to discharge every patient who does not absolutely need inpatient hospital level of care; and
- require that each facility make every effort to discharge every patient for whom the risks of inpatient psychiatric care in the face of the COVID-19 pandemic outweigh the benefits of that level of care when such discharge does not pose an unreasonable risk to the public.

We request that you order all possible patients discharged to community mental health service providers, and that you order the emergency expenditure of funds necessary to provide for each discharge. Moreover, we recommend that you order immunity for decisions to discharge any patient from state-operated psychiatric facilities. Each facility has authority to discharge civil patients who are voluntary patients, committed patients admitted pursuant to an order from the probate court, patients who are transfers from the Department of Corrections, and end-of-sentence committed patients. All civil commitments should be diverted to community mental health providers; additional funding should be provided to ensure adequate residential supports and services.

We request that you order suspension of General Statutes § 54-56d Competency to Stand Trial commitments for all non-violent C Felonies, all D Felonies and all misdemeanors and order that all competency restoration be completed in the community pursuant to Track 2, General Statutes § 54-56d(h)(2). If any criminal defendant is charged with a felony and is not competent but restorable, that person should be tested for COVID-19, and the results of such test obtained, before a court may issues an order remanding the defendant to Whiting Forensic Hospital. If the person is positive for COVID-19, the person should go into DOC or WFH COVID-19 protocol for treatment.

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We request that you order suspension of General Statutes § 17a-580 to § 17a-603, and order immediate review of all acquittees committed to the jurisdiction of the Psychiatric Security Review Board and order immediate discharge, temporary leave or conditional release of all patients who do not pose a clear and imminent danger to the public. Many acquittees pose no significant risk to the public. Other states are releasing many persons from prisons who have been convicted of crimes. Acquittees have not been convicted of any crime, cannot be punished by law, have received years of treatment and pose no or little danger to the public. We further request that you order community mental health service providers to accept all released acquittees and that adequate funds be provided for residential community supports and services necessary to adequately treat acquittees in the community.

COVID-19 poses a significant risk to health, welfare and safety of all patients in all state psychiatric facilities. The state has a moral and legal obligation to ensure the health, welfare and safety of all patients at all state facilities and that each person is treated in the least restrictive setting. The

COVID-19 pandemic makes this legal obligation an emergency and a crisis. Please take immediate action before patients die from the virus. As of April 17, 2020, DMHAS has reported that 20 patients at CVH and WFH have laboratory-confirmed COVID-19. Surely many more have been exposed and may become symptomatic. Moreover, there have been 34 staff confirmed to have COVID-19. Staff and patients at state facilities deserve your attention and immediate action to mitigate the risk of illness and death.

Finally, Coronavirus testing must be a priority at all state facilities. Three full shifts of hundreds of dedicated health care providers and DMHAS police are cycling into each facility every day. Every health care worker and every patient must be tested in order to ensure that no asymptomatic super-spreader has the opportunity to infect and cause the death of staff or patients who are confined against their will in state custody for treatment.

Sincerely,

s/Kathy Flaherty
Kathy Flaherty
Executive Director

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s/Kirk W. Lowry
Kirk W. Lowry
Legal Director