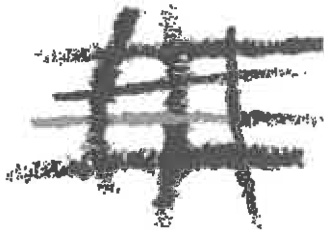

DISABILITY RIGHTS OREGON

February 15, 2019

Sent via mail and email: patrick.allen@dhsoha.state.or.us

Patrick Allen, Director
Oregon Health Authority
500 Summer Street, NE, E-20
Salem, OR 97301-1097

Re: Response to your 2/5/19 letter

Dear Director Allen,

Thank you for your February 5th letter, which lays out the Oregon Health Authority's ("OHA") actions in response to our shared concerns about the utilization review for residential care conducted by KEPRO. It appears that OHA has taken significant steps to address due process concerns, to ensure better transition planning, to track long-term healthcare outcomes (through a designated staff person and the creation of a data "dashboard"), to align the frequency of medical appropriateness reviews with a timeline that makes sense for the setting, to add an OHA clinical review to KEPRO's SRTF denials, and to develop more meaningful elements that comprise a person-centered plan. We are encouraged by OHA's actions to prevent future harm to people residing in residential mental healthcare settings.

The second part of your letter, however, heightens Disability Rights Oregon's ("DRO") concerns about the harm that has occurred in the past six months. Since August 2018, DRO has pressed OHA for a report on outcomes for people who were discharged from various types of residential settings. Your February 5th letter is the first comprehensive report that has been provided, with the creation of the "Data Dashboard."

The dashboard provides outcome information according to the setting from which the person discharged (SRTF, RTF/RTH, Adult Foster Home) and explains that individuals may be duplicated in more than one data set. Nevertheless, it's clear that significant numbers of people have ended up in jail, in acute care, at the state hospital, homeless, or dead following a discharge from residential settings.

For example, based on our review of the dashboard, of the 364 people discharged from an adult foster home in the past six months,

- 24 (7%) were homeless
- 15 (4%) were admitted to the state hospital
- 45 (12%) were admitted to acute care at a local hospital
- 153 (42%) visited an emergency department
- 9 (3%) were arrested (according to self-report); and

511 SW 10th Avenue, Suite 200 / Portland, OR 97205
Voice: 503-243-2081 or 1-800-452-1694 / Fax: 503-243-1732 / **www.droregon.org**
Disability Rights Oregon is the Protection and Advocacy System for Oregon

- 19 (5%) died

Of the 591 people discharged from a residential treatment home or facility,

- 30 (5%) were homeless
- 50 (9%) were admitted to the state hospital
- 77 (11%) were admitted to acute care at a local hospital
- 236 (40%) visited an emergency department
- 21 (4%) were arrested (according to self-report); and
- 23 (4%) died.

We hope that OHA shares our shock and concern at these tragic outcomes. Is OHA investigating the circumstances surrounding the deaths? Were their deaths related to the circumstances of their discharge? Were their deaths preventable?

Your letter states that OHA embraces the concept of the "dignity of risk." DRO also supports each individual's right to make choices about their living situations, treatment, and healthcare. The outcomes described above, however – death, homelessness, and institutionalization - suggest that individuals did not have the opportunity to make a meaningful choice, and that OHA did not facilitate contingency plans for people who had previously relied on the safety net of residential care.

In our December 3rd letter, we called upon OHA to work with local providers to identify and locate people in untenable situations (homeless or housed in temporary shelters, motels, hospitals, or jails) as a result of KEPRO denials, and to provide the services they need to stabilize. The urgency of that request is heightened by this new information.

Interestingly, outcomes appear worse for people who were discharged from lower levels of care and who were, presumably, healthier and more stable than those in locked residential settings. For example, 1% of people who left locked facilities died (3 people), but 4% of people who left lower levels of care died (42 people). Rates of homelessness were also higher among people discharging from lower levels of care. These disparities likely relate to lack of available housing at the bottom of the continuum – affordable housing and permanent supportive (or supported) housing. We can conclude that the people discharging from SRTFs were more likely to transition to a lower level of residential treatment, but people vacating RTFs/RTHs or adult foster care may not have had any available destination.

In addition to investigating the known deaths and taking affirmative steps to find and stabilize former residents who are in vulnerable situations, DRO respectfully requests OHA take the following steps:

1. Memorializing individual rights regarding person-centered planning and transition planning in administrative rule and engaging stakeholders in the rulemaking process;

2. Creating a user-friendly publication for the OHA website and for distribution to residents and guardians that explains the medical appropriateness review process and addresses the following specific questions:
    a. How often will eligibility for current level of care be reviewed?
    b. How can I trigger such a review?

c. What can I do if I disagree? (explain notice and hearing rights, who to contact at OHA, and how to identify and contact one's Choice contractor).
d. Person-centered planning and transition planning – what should these processes involve?
e. What are my rights regarding choice of residential provider?

Please respond by March 18, 2019 to confirm in writing the steps that OHA intends to pursue. We look forward to continued dialogue with OHA about how to improve the quality of life and long-term health of Oregonians with mental health conditions.

Sincerely,

Sarah Radcliffe, Managing Attorney
Mental Health Rights Project
Disability Rights Oregon