

September 27, 2021

The Honorable Kate Brown
Governor of Oregon
900 Court Street NE, Suite 254
Salem, OR 97301-4047

Mr. Pat Allen
Director of Oregon Health Authority
500 Summer Street NE, E-65
Salem, OR 97301

Sent via Electronic Mail

Dear Governor Brown and Director Allen:

Disability Rights Oregon would like to acknowledge your leadership and dedication to protecting the health of all Oregonians during COVID-19 pandemic. However, we are writing to express our extreme concern about current conditions at the Oregon State Hospital (OSH), which have rapidly deteriorated during the pandemic.

For the second time this year, the National Guard has been deployed to the State Hospital to address staffing shortages. This staffing crisis within the hospital, which the Oregon Health Authority (OHA) has been aware of for the better part of a year, is likely leading to longer stays and worse quality of care for the patients. The longer these conditions persist, the less effective the hospital is in performing its duties, and the greater the negative effect is on patients, staff, and the larger behavioral health system that relies on the State Hospital to treat its highest-acuity patients.

When Disability Rights Oregon raised concerns earlier this year, the OHA and OSH assured us that staff would return to work once COVID leave ended and that few resignations were occurring. Even during the first deployment of National Guard troops to the hospital this year, OHA expressed confidence that it would not only retain its OSH staff but increase staff in numbers adequate to open two new units this fall. Instead, large numbers of staff resignations took place, and OHA did not recruit adequate staff to maintain even its existing level of service without National Guard assistance.

As Oregon's Protection and Advocacy (P&A) System, we have used our federal authority to access the State Hospital unaccompanied by OHA and OSH personnel to investigate conditions and treatment of people with mental illness. Since 1977 our staff have repeatedly exercised this authority and, in good faith, reported the problems we have identified to you and your predecessors in hope of quick action to improve conditions.

Below are specific complaints that Disability Rights Oregon, as the Federally mandated P&A System, has received from staff at OSH in recent weeks:

“Lack of treatment opportunities for patients, even when clinical needs have been identified. Many programs are no longer offering substance abuse treatment, psychoeducational groups, groups on symptom management. Some units don't even have staff to provide legal skills, even when a patient has been ordered here for competency restoration.”

“Patients are being transferred to units without any regard for individual patient needs, staff/provider expertise, or consideration for the milieu.”

“There are no actual plans for anything and there hasn't been from the start of COVID. We still don't know what the criteria is for moving a patient to the PUI unit (COVID unit), quarantining a unit due to suspected COVID outbreaks, or being screened out from contact tracing.”

“Our unit was contacted by the program director and told to come up with... patients to transfer to Junction City by the end of the week. We were told not to tell patients until right before it was time to move them. Everyone was so upset (staff and patients). Since then, they have been moving patients back and forth from Junction City to Salem because apparently transferring them between the two facilities counts as an admission (versus a transfer) and looks better for the hospital numbers.”

“Patients are being administratively transferred around the hospital against the recommendations of their treating providers. We are being given very little notice (at times <24hrs) to prepare patients for these moves, even when they have long-standing relationships with their current teams and are making gains in treatment.”

“Not allowing patients to see their family has been torture. They have been restricted from family visits for more than 1.5 years with no clear plan to allow visits in the future. Now some of them are at risk of being moved to Junction City where it will be difficult for family to visit once restrictions are eventually lifted.”

Disability Rights Oregon has also received in recent weeks specific complaints regarding the treatment of patients who are unable to aid and assist in their defense and have been transferred to OSH for restorative treatment, so called .370 patients, including:

“Complete absence of any training for clinicians who have no experience providing competency restoration services to support the influx of patients under .370.”

“There is inadequate discharge planning, especially for patients under .370, including those with high risk medical issues. We were told by a member of our PET that discharge planning for these individuals is 'not our monkey, not our circus.’”

During our investigation into the conditions and treatment of people with mental illness during the pandemic, staff and providers paint a picture of a State Hospital in complete disarray and an agency that is unwilling or unable to confront just how bad things have gotten. OSH staff report a lack of urgency from OSH administration and OHA in developing a hiring/retention strategy.

Furthermore, after a search of the P&A System's archives, we found that no Governor of Oregon has before taken the radical step of deploying the National Guard to the State Hospital. Across the United States, we have found no example of a Governor in any state deploying National Guard personnel who are not qualified mental health providers to a Psychiatric Hospital. Alarming, no end date has been given for the National Guard's presence in the facility.

As institutionalized persons, the people housed at OSH are among the most vulnerable to having their rights violated. The State has constitutional and moral obligations to provide people at OSH with prompt and proper treatment and prepare them for a timely release. This cannot be accomplished by well-meaning National Guard personnel.

If OSH continues to lose staff and is not able to increase its capacity to meet the needs of Oregonians with serious mental illness—or worse, if the hospital is forced to reduce capacity—you risk presiding over a system-wide breakdown as jails fill with people unable to aid and assist in their defense but with no where to go to receive appropriate treatment. Between conditions at OSH and those we have documented at some Oregon jails—it is plainly clear the system is teetering on the edge of this breakdown.

We respectfully ask for your leadership to address these issues. A number of the OSH staff who have come forward during our monitoring have reasonable and common-sense proposals for how the current crisis can be addressed. While we do not claim to have all of the answers, at the very least we ask that the following steps be taken:

- Increased transparency from OSH and OHA, both with staff and with the public, particularly with regard to COVID policies, policies around patient transfers, and policies related to patient care. Placing patient wellbeing at the center of decision-making and policy setting.
- Treat the staffing situation at OSH as the emergency that it is, and immediately put forth a hiring and retention plan to keep staffing at its current level in the short term and bring staffing up to levels necessary to provide the treatment and support that patients at the hospital need in the longer term—without the National Guard's presence.
- As part of the hiring and retention plan, lay out clear criteria for the removal of the National Guard from OSH, and a plan and timeline for when their deployment will end.

- To lower the burden on OSH's current resources, push for the release of patients that no longer require a hospital level of care but are awaiting transfer back to their county of residence, including the issuance of emergency housing vouchers so that patients can be safely housed and treated in their communities while awaiting the building of additional supportive housing funded in the 2021 legislative session.
- Engage with judges, prosecutors, and law enforcement to emphasize the current lack of resources to treat .370 patients and push for the dismissal of low-level charges against defendants who are unable to aid and assist in their own defense in order to free up resources for more serious cases.

Disability Rights Oregon stands ready to work with OHA and the State Hospital as partners in finding a path through these difficult times; however, the well-being of patients must always come first. We are asking for your urgent attention to this matter. To discuss this further, please contact KC Lewis, Managing Attorney of Disability Rights Oregon's Mental Health Rights Project.

Sincerely,



Jake Cornett
Executive Director
Disability Rights Oregon

Cc: Oregon Senator Peter Courtney
Oregon Senator Kate Lieber
Oregon Senator Elizabeth Steiner Hayward
Oregon Representative Rob Nosse
Oregon Representative Tawna Sanchez
Javonnie Shearn, Chair of the Oregon State Hospital Advisory Board