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DJ 168-49-8

24 DEC 1985

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED** 90126

Honorable Toney Anaya ~~90126~~  
Governor  
State Capitol Building  
Santa Fe, New Mexico 87503

Dear Governor Anaya:  
On December 13, 1984, we notified you that we were commencing an investigation of the Fort Stanton Hospital and Training School, pursuant to the provisions of the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997. This letter will apprise you of the findings of our investigation as required by the statute.

In the course of our investigation we conducted a tour of Fort Stanton with expert consultants and Civil Rights Division personnel. In connection with the tour, the consultants examined resident records and interviewed the administrator, the professional staff, and some of the direct care staff at Fort Stanton. In addition, we reviewed records provided to us by the staff of Fort Stanton.

Throughout our investigation, the staff of Fort Stanton and personnel from the New Mexico Department of Health and Environment have provided us with substantial assistance. Both of our consultants expressed appreciation to New Mexico officials for their cooperation, and we join our consultants in thanking them. In addition, we should note that we were impressed with the dedication and enthusiasm of the Fort Stanton staff.

Below are our findings and recommendations. We will discuss only those particular areas of concern that rise to the level of deprivations of constitutional rights. These are medical care and medication practices. The supporting facts giving rise to these conditions are derived from the sources listed above. On the basis of our investigation we believe that these conditions have existed for an extended period of time and at least since 1982.

Medical-Care and Medication Practices

Insufficient medical coverage threatens the health of residents of Fort Stanton. Round-the-clock medical coverage for the entire facility is provided by one physician who lives thirty miles away from the facility.

One physician cannot provide minimally adequate routine care and also provide total emergency coverage for a facility of this size with this type of population. As a result, the medical staff is forced to use an unusually high number of pro re nata (p.r.n.) or "as needed" orders. With such orders, nursing staff may administer medications or treatment without prior approval from a physician. These p.r.n. orders are written on both an individual and institution-wide basis for prescription medications, including psychotropic drugs, and some physical restraints, as well as for non-prescription medications.

The use of institution-wide p.r.n. orders for prescription medications, including psychotropic drugs, and physical restraint is inconsistent with accepted medical practice. Non-individualized p.r.n. orders overlook individual drug or treatment response. Moreover, this practice shifts much of the responsibility for the diagnosis and treatment of medical and psychological needs of residents to the nursing staff. The nursing staff does not have the training or skills to perform these functions adequately. As a result, residents are subjected to inappropriate and potentially harmful treatment. Incomplete and inaccurate medical records also jeopardize the provision of minimally adequate medical care. Medical records are indispensable in evaluating and monitoring the physical condition of residents. Nevertheless, of the records reviewed, many lacked any evidence of a physical examination or progress notes and none reflected acceptably accurate or specific diagnoses.

The manner in which Ft. Stanton uses psychotropic medications represents a substantial departure from accepted medical practice. According to our medical expert, psychotropic medications are being used for some residents without a medical need for them.

Moreover, psychotropic drugs are being used as chemical restraints in cases where there has been no assessment of the need for restraints. Many residents are subjected to potentially dangerous polypharmacy without any medical justification. These conclusions are inferred from the absence of documented professional assessments and documented professional judgments made thereon. In addition, there is no screening for adverse drug reactions, including tardive dyskinesia or other debilitating involuntary movements.

Remedial Measures

On the basis of our investigation, we have concluded that the residents of Fort Stanton are subject to flagrant and egregious conditions resulting in violations of their constitutional rights. The following are the minimum measures which, in our view, are necessary to remedy the deficiencies discussed herein:

1. Fort Stanton must employ sufficient medical staff to ensure that residents are provided with adequate medical care.
2. Medication practices must be modified, as necessary, to ensure that they comport with accepted professional medical standards.

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 can be obtained through the United States Department of Health and Human Services' Regional Office (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 Department of Health and Environment to discuss this matter in greater detail. We want to resolve these matters in an amicable and reasonable manner and look forward to working with state officials toward that end.

Sincerely,

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division

cc: Fitzhugh Mullan, M.D., Secretary  
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