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DJ 168-58-12

CRIPA Investigation



MR-OH-001-001

MAR 5 1987

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Honorable Richard F. Celeste
Governor
State of Ohio
State House
Columbus, Ohio 43215

90197

Re: CRIPA Investigation of Montgomery Developmental Center

Dear Governor Celeste:

On September 10, 1985, we wrote to inform you of our intent to investigate Montgomery Developmental Center (MDC) in Huber Heights, Ohio, pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. §1997. We have concluded our investigation and, consistent with CRIPA, 42 U.S.C. §1997(b), are now writing to inform you of our findings.

As you know, disagreement regarding disclosure of the specific allegations prompting this investigation delayed our access to MDC. After numerous discussions with representatives of the Ohio Attorney General's office, we resolved these differences. Since that time, the cooperation of the Attorney General's office and of Montgomery Superintendent Williams and his staff has enabled us to proceed unhampered with our investigation.

The findings and recommendations that follow are based upon a two-day tour of MDC by an independent expert in the field of medical care for institutionalized mentally retarded persons. The expert observed residents and conditions in the cottages, reviewed training programs, interviewed administrators and other staff, and reviewed residents' records. In addition, we reviewed numerous documentary materials, including: organizational and census data, policies and procedures on restraints and seclusion practices, admissions and discharges, administration and monitoring of medications, and development and review of resident treatment plans, as well as descriptions of staff orientation and training, and unusual incident reports.

Among the rights of institutionalized mentally retarded persons recognized by the United States Supreme Court in Youngberg v. Romeo, 457 U.S. 307 (1982), are the rights to adequate medical care, freedom from undue bodily restraint, and protection from harm. Based upon our findings, we believe that existing psychoactive medication practices may pose a risk of harm to the health and safety of residents. Of equal concern is the apparent failure of MDC to fully protect its residents from unreasonable risks of harm to their personal safety.

Existing medication practices at MDC fall short of accepted professional standards. Our consultant found an unusually high number of MDC residents are administered psychotropic medication. Moreover, a significant number of these residents currently receive two or more psychotropic drugs absent any justification.

A review of individual medical records revealed that physicians often fail to describe the symptoms for which drugs are administered, and to disclose the rationale for use of a particular drug. Furthermore, the efficacy of and continued need for medication is not always documented. Residents described in medical records as "doing well" or displaying minimal behavioral problems were, at the time of our review, continuing to receive one or more psychotropic medications without any justification for their continued use or any consideration of attempts to reduce medication through the implementation of necessary and appropriate training programs.

Physician's notes in general are scant, and rarely refer to other critical aspects of the resident's plan of care such as training programs or use of seclusion. Medication appears to be used in lieu of training programs to address behavior problems, rather than in an integrated fashion consistent with the exercise of professional judgment.

Notes that did appear in the medical records advising drug reduction were not consistently followed. Our consultant found in one instance that a resident continued to receive high dosages of two psychotropic drugs one year after an entry in the record recommended that the medications be reduced. The foregoing unprofessional medication practices threaten the safety of MDC residents.

Our investigation revealed that MDC residents frequently sustain injuries from accidents, self-abuse, and resident-to-resident aggression. Often, there is no explanation in the records as to how these accidents and injuries occurred, demonstrating inadequate supervision of residents by staff or other problems in the deployment or training of staff. Significantly, our consultant found that MDC fails to appropriately monitor incidents, determine if patterns exist, and take necessary remedial action.

Staffing is generally adequate to provide for the needs of residents. As to general medical care, residents receive essential medical services. According to our consultant, MDC residents would benefit from closer direct medical surveillance by the physician, increased use of a neurology consultant as an element of MDC's effort to reduce over-reliance on psychotropic drugs and for the sizeable number of residents with convulsive disorders, and active supervision of the physical therapy and occupational therapy provided. Enclosed for your review is a copy of our consultant's report detailing his observations and conclusions, which we believe will be of interest to you.

In sum, while our consultant found medical practices generally and the numbers of staff to be adequate, problems of a constitutional dimension remain with respect to medication practices and resident safety. Regarding medication practices, we understand that the facility's psychiatrist is reviewing drug regimens of individual residents to determine their appropriateness. Our consultant determined that "a very vigorous effort" will be needed to complete this task and conform medication practices, including medical recordkeeping, to professional medical standards. Implementation of additional training programs designed to reduce or eliminate unreasonable use of restraints for residents who are in need of such programs in order to reduce or eliminate such restraints may well be necessary. In view of the adequacy of the number of staff, facility officials need to review the high incident rate of accidents and injuries, determine their cause, and take reasonable steps to eliminate any identified unreasonable risks to the personal safety of residents.

In consideration of the foregoing factors, we are exercising our discretion to permit an additional short period of time, namely, three months, for state officials to voluntarily remedy outstanding deficiencies. In view of the state's representations that it is currently continuing to improve conditions at the facility, it is realistic to expect the state to substantially complete remediation efforts already underway during this interval. We believe that this course of action offers the best means of furthering our common goal of protecting the constitutional rights of MDC residents and is consistent with our enforcement responsibilities pursuant to CRIPA.

We will contact Attorney General Celebrezze's office in the near future to discuss this matter in greater detail, including our need for continued access to MDC. We wish to express our gratitude to you, counsel for the State, officials of the Ohio Department of Mental Retardation and Developmental Disabilities, and the Superintendent and staff of Montgomery Developmental Center for the cooperation we received in conducting this investigation. We are confident that, with your continued cooperation, we can reach a fair and timely resolution of this matter.

Sincerely,

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Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

cc: Anthony J. Celebrezze, Jr. 90198
Attorney General of Ohio

Robert Brown, Director 90199
Department of Mental Retardation
and Developmental Disabilities

Fred L. Williams, Superintendent 90200
Montgomery Developmental Center

Christopher K. Barnes 90201
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