

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
WILLIAM DIXON, et al.,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 74-285
)	
ANTHONY A. WILLIAMS, et al.,)	(NHJ/AK)
)	
Defendants.)	
_____)	

FILED

MAY 23 2002

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

**CONSENT ORDER TERMINATING AND VACATING RECEIVERSHIP
PROSPECTIVELY, APPOINTING MONITOR AND
APPROVING AGREED EXIT CRITERIA**

Upon consideration of the Transitional Receiver’s Report of Updated Findings and Recommendations filed on May 15, 2002, the agreement of the parties, and the entire record herein, the Court finds that the defendants are capable of implementing and are implementing the Plan approved by the Court on April 2, 2001 (the “Plan”). Therefore, the Court finds that the transitional receivership and the underlying orders imposing the transitional receivership and prior receiverships in this case should be terminated and vacated prospectively and that, consistent with ¶10 of the March 6, 2000 Consent Order and ¶7 of the May 3, 2001 Consent Order, the former Transitional Receiver shall commence the monitoring of the defendants’ compliance with the requirements contained in the Plan. In addition,

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the Court approves the agreed exit criteria that have been appended to and are hereby incorporated in this order.

Accordingly it is by the Court this *22nd* day of May, 2002:

ORDERED that the transitional receivership imposed by the March 6, 2000 Consent Order, and all underlying orders relating to the transitional receivership and prior receiverships in this case, shall be terminated and vacated prospectively effective May 15, 2002; and it is further

ORDERED that Dennis R. Jones' appointment as Transitional Receiver shall be terminated and vacated prospectively; and it is further

ORDERED that the Court shall, pursuant to its inherent authority to enforce its orders, appoint Dennis R. Jones as Monitor to monitor defendants' compliance with this Order and the Plan; and it is further

ORDERED that the duties of the Monitor shall be to observe, monitor, report on the status of compliance with the Plan, and make recommendations to the Court and to the parties concerning steps that should be taken to achieve compliance with the Plan; and it is further

ORDERED that the Monitor shall endeavor to assist the defendants in achieving compliance in whatever ways he may deem possible, and shall confer informally with the parties on matters affecting compliance with the Plan; and it is further

ORDERED that the Monitor shall report to the Court and to the parties regularly, and in no event less than every six months, concerning the status of defendants' compliance with the Plan; and it is further

ORDERED that the Monitor shall be authorized to engage such neutral experts and consultants as reasonably necessary to assist him in monitoring and reporting on defendants' compliance with the Plan. The Monitor shall notify counsel for the parties, in writing, at least two weeks in advance of his intention to employ a particular expert or consultant. The notification shall include a copy of the proposed engagement agreement, a recitation of the scope of the proposed engagement, the expert or consultant's resume, and a statement of the anticipated fee, costs, and hourly rate; and it is further

ORDERED that the plaintiffs and defendants may raise with the Monitor objections to the proposed engagement and make alternative recommendations. In the event there is a dispute regarding the proposed engagement of any expert or consultant that cannot be informally resolved, any party may file an objection with the Court within two weeks of receipt of the Monitor's notice. The Monitor shall be deemed authorized to employ such expert or consultant if an objection is not filed within the two week time period and the anticipated expenditure is within the court approved budget limit; and it is further

ORDERED that the Monitor and any expert or consultant hired by the Monitor shall be granted access by the defendants to the facilities and records of the Department of Mental Health and the District of Columbia to the extent such access

is reasonably necessary to permit the Monitor to monitor and report fully on defendants' compliance with the Plan; and it is further

ORDERED that the Monitor, and any expert or consultant employed by the Monitor, shall have the right to conduct confidential interviews with officials and staff of the District of Columbia Department of Mental Health; and it is further

ORDERED that the Monitor shall be authorized to confer and to correspond with either plaintiffs or defendants on an ex parte basis; and it is further

ORDERED that, by June 15, 2002, the Monitor shall prepare and submit to the Court a proposed monitoring budget of anticipated fees and expenses for the period commencing on July 1, 2002 and ending on September 30, 2002. Fifteen days in advance of this submission, the Monitor shall provide the parties with a draft of the monitoring budget, and the parties may raise with the Monitor any objections thereto. In the event of an unresolved dispute regarding the proposed monitoring budget, any party may file objections with the Court within five days following the Monitor's submission of the budget to the Court. The Court shall consider all objections and may make such adjustments as it may deem to be appropriate prior to approving the budget; and it is further

ORDERED that within 30 days of the Court's approval of the monitoring budget of anticipated fees and expenses for the period commencing on July 1, 2002 and ending on September 30, 2002, defendants shall provide the Monitor with a check for the total approved budgeted amount. The Monitor shall

deposit these funds into an appropriate interest-bearing operating account, which account shall be used by the Monitor to pay for approved budgeted fees and costs¹; and it is further

ORDERED that the Monitor shall thereafter prepare and submit to the Court for approval, subject to the process set forth herein, on an annual basis commencing September 15, 2002, a proposed annual monitoring plan and monitoring budget of anticipated fees and expenses for the upcoming subsequent fiscal year beginning on October 1 and ending the following September 30; and it is further

ORDERED that the Monitor may prepare and submit to the Court for approval at any other time a proposed revised monitoring budget of anticipated fees and expenses, along with an explanation of the reason(s) therefore; and it is further

ORDERED that, fifteen days in advance of submission to the Court of an annual or revised monitoring budget, the Monitor shall provide the parties with a draft of the annual or revised monitoring budget. The plaintiffs and defendants may raise with the Monitor any objections to the proposed budget. In the event of a continued disagreement between a party and the Monitor concerning the budget, any party may file objections directly with the Court. The Court shall consider all objections and make any adjustments as it may deem to be reasonably appropriate prior to approving the annual or revised budget; and it is further

¹ All interest accrued on the operating account shall revert to the defendants at the conclusion of the monitoring period.

ORDERED that the Monitor shall, by October 15, 2002, and thereafter by the fifteenth day of the first month following the end of each quarter of the fiscal year, provide to the parties a quarterly monitoring statement of fees and costs, with supporting invoices, detailing all monitoring and consulting services performed and costs incurred during the preceding quarter, setting forth the current balance in the operating account, and providing a statement, consistent with the approved budget, of projected expenditures for the current quarter; and it is further

ORDERED that the plaintiffs and defendants may raise with the Monitor any objections to the statement of projected expenditures provided in the quarterly statement. In the event of a continued disagreement between a party and the Monitor concerning the projected expenditures for the current quarter, any party may file objections directly with the Court within ten days following the Monitor's submission to the parties of the quarterly statement; and it is further

ORDERED that, in the event there is no objection filed to the projected expenditures for the current quarter, defendants shall issue a check to the Monitor for the total fees and costs reflected in the quarterly statement of projected expenditures within 30 days of the Monitor's submission of the quarterly statement to the parties. In the event there are objections filed, defendants shall issue a check for all non-disputed fees and costs reflected in the quarterly statement of projected expenditures within 30 days of the Monitor's submission. The Court shall consider all objections to the statement of projected expenditures provided in the quarterly statement and make such adjustments as are appropriate, and defendants shall

then issue a check for any additional amounts approved by the Court; and it is further

ORDERED that the difference between the Monitor's actual and projected expenditures shall be reconciled by the Monitor on an annual basis. The reconciliation shall be documented and appropriate documentation shall be provided to the parties within 30 days following the start of each fiscal year. The Monitor will present to the parties a proposed reconciliation approach, taking into account the need for maintaining a reasonable operating account balance and the need to return surplus funds to the defendants; and it is further

ORDERED that the plaintiffs and defendants may raise with the Monitor any objections to the proposed reconciliation approach. In the event of a continued disagreement between a party and the Monitor concerning the proposed reconciliation approach, any party may file objections directly with the Court within twenty days following the Monitor's submission of the proposed reconciliation approach to the parties. The Court shall consider all objections and adjust the amount of the Monitor's reimbursement, if appropriate, specifying a timeline within which any reimbursement shall be made; and it is further

ORDERED that, in the event there is no objection to the proposed reconciliation approach, the Monitor shall reimburse the defendants, in the amount proposed in the reconciliation approach, within thirty days following the Monitor's submission of the reconciliation approach to the parties; and it is further

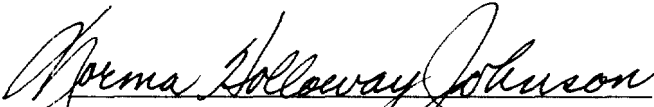
ORDERED that the Monitor shall obtain, on an annual basis, an independent financial audit of all accounts established by the Monitor to implement this Order. The auditor shall be selected with the consent and approval of the parties; and it is further

ORDERED that the agreed exit criteria appended hereto is hereby approved; and it is further

ORDERED that the defendants shall routinely inquire about, collect and compile, as part of the DMH data-collection system, information provided by DMH consumers in response to inquiries concerning their own arrests and/or re-arrests. The DMH shall collect this information and provide this data to the Monitor and, if requested, to the plaintiffs; and it is further

ORDERED that the defendants shall routinely collect administrative cost data in a manner consistent with municipal budgetary reporting requirements. Defendants shall provide this data to the Monitor and, if requested, to the plaintiffs; and it is further

ORDERED that any party may, at any time, move to terminate or vacate prospectively the appointment of the Monitor.


Norma Holloway Johnson
United States District Judge

Consented and Agreed to:

FOR THE TRANSITIONAL RECEIVER

Robert B. Duncan/s/b

Robert B. Duncan, Bar No. 416283
Hogan & Hartson, L.L.P.
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(202) 637-5600

FOR THE DEFENDANTS

Grace M. Lopes/s/b

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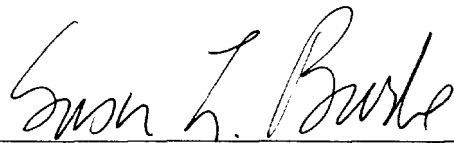
Janet L. Maher/s/b

Janet L. Maher
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FOR THE PLAINTIFFS

Handwritten signature of Peter J. Nickles in cursive, followed by a horizontal line.

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Handwritten signature of Susan L. Burke in cursive, followed by a horizontal line.

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AGREED EXIT CRITERIA AND METHODOLOGY

Pursuant to the Court's Order of September 21, 2001, the following specific exit criteria, and the methodology to be utilized in gathering measurement data for each, have been agreed upon by the parties and the Transitional Receiver. The parties are also in agreement that the second phase of overall exit criteria development will involve the establishment of necessary baselines for identified exit criteria approved by the Court, and that the third and final phase will consist of the establishment and Court approval of the performance levels that will satisfy each criterion. A proposed Consent Order, adopting the exit criteria, has been filed jointly today by the parties and Transitional Receiver.

EXIT CRITERIA

**GENERAL METHODOLOGY FOR
MEASUREMENT**

**1. Demonstrated Implementation and
Use of Functional Consumer
Satisfaction Method(s).**

- 1. a. DMH will select specific consumer satisfaction method(s), and submit them to the monitor for review and approval based on their ability to provide timely, accurate and service specific information.
- b. The monitor will review the implementation of the approved method(s) to assess the extent to which consumer satisfaction data is being considered and utilized as appropriate to improve the availability and quality of care.

**2. Demonstrated Use of Consumer
Functioning Review Method(s) as
Part of the DMH Quality
Improvement System for
Community Services.**

- 2. a. DMH will select specific consumer functioning review method(s) to be used in the DMH quality improvement system for community services.
 - b. The monitor will review the use of the consumer functioning review method(s) in the DMH quality improvement system for community services.
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EXIT CRITERIA

**GENERAL METHODOLOGY FOR
MEASUREMENT**

**3. Demonstrated Planning for and
Delivery of Effective and Sufficient
Consumer Services**

3. a. Consumer services reviews shall be conducted using stratified random samples of individuals who have received services within the DMH system – with sample size sufficient to provide statistical levels of confidence.
- b. Annual reviews will be conducted by independent teams – one for children and youth and one for adults.
- c. Actual data collected on individuals sampled will include a combination of: consumer and family interviews; record reviews; staff interviews; caregiver interviews; document reviews; and analysis of data.
- d. The independent teams selected to perform the reviews must measure in each of the following life and service domains in order to determine the adequacy of the intervention or response:

Children/Youth

1. Community Living: children/youth are provided sufficient support to live in their own home or a caregiver's home.
 2. Life Skills: children/youth are provided programs to enhance their life skills (education, vocational training or other community living skills).
 3. Health and Development: children/youth are provided access to needed health care and developmental services.
 4. Treatment: diagnostic assessment, outpatient, inpatient, crisis/emergency, homeless outreach, crisis stabilization, assertive community treatment, school-based mental health services, day activities, rehabilitation, community based intervention, intensive day treatment, community support, peer supports, medication somatic treatment and other services included in the Department's Services Plan are provided in a manner that matches the needs and preferences of the child/youth, family or caregiver and with the child/youth, family members and caregivers included in the assessment and treatment planning process for each of the services listed above.
 5. Family Support: the family or child's caregiver(s) are provided the training, assistance and supports necessary for them to perform essential parenting or caregiver functions.
 6. Systems Capacity for Prevention and Early Intervention: children/youth are provided access to prevention and early intervention services.
 7. Service System Capacity: processes are in place for implementing Department standards for continuity and coordination of care, emergent, urgent and routine response, treatment planning and other Department service-related standards.
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Adult

1. Community Living: adults are provided sufficient support to live in their own home, or in their family or caregiver's home; or are provided residential services when indicated.
 2. Health: adults are provided access to health care in a timely manner and with adequate information to assure continuity between mental health and health care providers.
 3. Meaningful Activity: transitional or supported employment programs, rehabilitation and day activities, referral to vocational rehabilitation services, and access to continuing education (including G.E.D. programs) will all be provided in a manner that matches the needs and preferences of the adult and with the adult included in the assessment and treatment planning process for each of the services listed above.
 4. Social Network: adults are provided access to peer support and community activities.
 5. Income: adults are provided referral to benefit programs and follow-up to assure access to the full array of benefits to which the adult is entitled.
 6. Treatment: diagnostic assessment, outpatient, inpatient, crisis/emergency, homeless outreach, crisis stabilization, assertive community treatment, day activities, rehabilitation, community based interventions, intensive day treatment, community support, peer supports, medication somatic treatment and other services included in the Department's Services Plan, are provided in a manner that matches the needs and preferences of the adult, and with the adult included in the assessment and treatment planning process for each of the services listed above.
 7. Service System Capacity: processes are in place for implementing Department standards for continuity and coordination of care, emergent, urgent and routine response, treatment planning and other Department service-related standards.
- e. The scoring methodology will allow aggregation of the data collected.
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EXIT CRITERIA

**GENERAL METHODOLOGY FOR
MEASUREMENT**

4. Demonstrated System Performance

Penetration Rates

Demonstrated provision of service to children and adolescents (0-17)	The percentage of each District sub-population served by the system shall be measured.
Demonstrated provision of service to adults (age 18 and over)	Same as above.
Demonstrated provision of service to adults with serious mental illness	Same as above.
Demonstrated provision of service to children with serious emotional disturbances	Same as above.

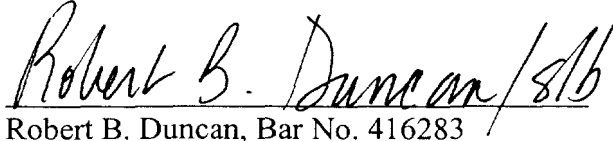
Specialized Services for Adults

Demonstrated provision of supported housing for adults with serious mental illness	The number of persons with serious mental illness served by DMH who have received within a given time period the identified services will be measured as a percentage of the total number of persons age 18 or older served in the community with any serious mental illness.
Demonstrated provision of supported employment (programs which provide ongoing supports so that individuals are employed in socially integrated settings with non-handicapped persons who are not paid care givers and for which individuals receive competitive wages) for adults with serious mental illness	Same as above.
Demonstrated provision of assertive community treatment for adults with serious mental illness	Same as above.
Demonstrated provision of newer generation anti-psychotic medications for adults with schizophrenia (utilizing DMH standards for clinical practice and medication administration)	The number of adults with a DSMIV diagnosis of schizophrenia who have received during a given time period one of the newer generation anti-psychotic medications (ziprasidone, clozapine, olanzapine, quetiapine, risperidone, and any additional FDA-approved anti-psychotic medications that come on the market during the monitoring period) will be measured as a percentage of the total number of persons served with schizophrenia during the same time

	period.
Demonstrated provision of services to adults who are homeless and mentally ill	The number of adult persons served by DMH identified as homeless and mentally ill will be measured as a percentage of the total number of adults served by DMH for the same time period.
Specialized Services for Children/ Youth and Families	
Demonstrated provision of services in natural settings (home, school and other community-integrated settings (e.g. churches, youth centers, recreational settings, etc.))	The number of children/youth with serious emotional disturbance who receive services in various natural settings will be measured as a percentage of the total number of children/youth with serious emotional disturbance served by the DMH for the same period.
Demonstrated support for children/youth with serious emotional disturbance to live in their own home or surrogate home	The number of DMH-served children/youth with serious emotional disturbance who live in their own home or surrogate home will be measured as a percentage of the total number of SED children and youth served by DMH for the same time period.
Demonstrated provision of services to children/youth who are homeless and seriously emotionally disturbed	The percentage of DMH-served children/youth who are homeless and SED during a given time period will be measured.
Demonstrated Continuity of Care Upon Discharge from Inpatient Facilities	
	The percentage of DMH consumers (calculated separately for adults and children/youth) discharged from an inpatient unit who are seen in a non-emergency outpatient setting within seven days of discharge will be determined.
Demonstrated Efficient Use of Resources	
Demonstrated increase in the percentage of total resources directed toward community-based services	The percentage of dollars expended for community services (Department-run and contracted) will be measured as a percentage of the total DMH expenses for the same time period.
Demonstrated maximization of use of Medicaid funding to support community-based services	The percentage of total community services expenses (Department-run community services as well as contracted community services) that is reimbursed by Medicaid (federal dollars only) will be measured.

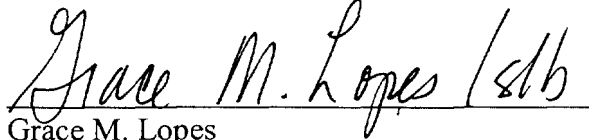
Respectfully submitted,

FOR THE TRANSITIONAL RECEIVER

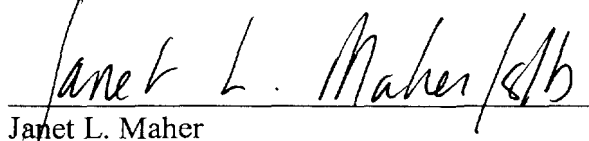
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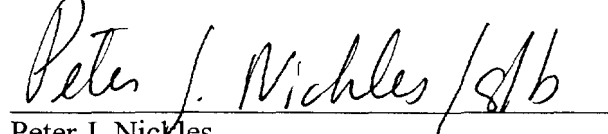
 Grace M. Lopes /s/b

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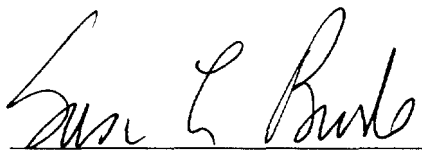
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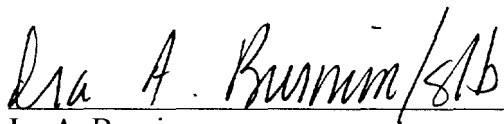
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