

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	1:09-CV-119-CAP
THE STATE OF GEORGIA;)	
SONNY PERDUE, Governor of the State)	
of Georgia, in his official capacity only;)	
B.J. WALKER, Commissioner, Georgia)	
Department of Human Resources, in her)	
official capacity only; GWENDOLYN)	
SKINNER, Director, Georgia Division of)	
Mental Health, Developmental Disabilities)	
and Addictive Diseases, in her official)	
capacity only; and SUSAN TRUEBLOOD,)	
Administrator, Georgia Regional)	
Hospital/Atlanta, in her official capacity)	
only,)	
)	
Defendants.)	
)	

JOINT STATUS REPORT

In response to the Court’s April 6, 2009, Order, the Parties and the coalition of advocacy groups, appearing in this case as *amici curiae*, have met and now report below the following, jointly as to all sections except Section B.

I. BACKGROUND

On January 15, 2009, the United States and the State of Georgia entered into a Settlement Agreement (the “Agreement”) that resolved the United States’ investigation of the seven state psychiatric hospitals in Georgia (collectively, the “Georgia Psychiatric Hospitals”) under the Civil Rights of Institutionalized Persons Act (“CRIPA”), 42 U.S.C. § 1997. In accordance with the Agreement, on January 15, 2009, the United States filed the Complaint initiating this action with the Court and, on the same day, it filed with the State of Georgia a joint motion of the Parties, requesting that the Court conditionally dismiss the case and retain jurisdiction to enforce the terms of the Agreement. See Agreement, ¶ V.C.

On January 23, 2009, the majority of the advocacy groups now appearing as *amici curiae* sent a letter to the Court expressing concern about the Agreement. The United States and the *amici curiae* discussed these concerns, and the Parties and the *amici curiae* submitted briefings to the Court regarding the concerns and recommendations raised by the *amici curiae*. Subsequently, the court directed the Parties to meet with all of the interested Parties to this case no later than June 5, 2009, in order to discuss the various issues of concern and attempt to reach a resolution amongst themselves. The Court further ordered that all interested Parties should file a report by no later than June 12, 2009, with the Court

regarding the outcome of the meeting, including any resolutions that were made and outstanding issues. Accordingly, the Parties met with representatives of the *amici curiae*¹ on May 14, 2009, at the Carter Center. See Exhibit A (Agenda and List of Attendees).

II. REPORT TO THE COURT

The Parties and *amici curiae* report to the Court the following:

A. Agreement Regarding Plan of Implementation for the Agreement.

The Parties and the *amici curiae* have agreed that an implementation plan is the most beneficial method for achieving compliance with the Agreement and have further agreed to a process for the development of the plan.

The State has already begun a process to develop a concrete implementation plan that will lay out specific actions the State will take to achieve each element of the Agreement, the person(s) responsible for the actions, the dates by which the outcomes will be achieved, measures of progress/compliance, and the anticipated date for compliance. On April 30, 2009, the State submitted to the United States a partial draft of an implementation plan addressing initial “priority areas” in the Agreement. Agreement, ¶ V.E.

¹ For the purposes of this Joint Status Report, the term “*amici curiae*” includes the National Alliance on Mental Illness.

The Parties and the *amici curiae* agreed that, going forward, the State will continue to develop the implementation plan with input from the United States Department of Justice (“DOJ”), including members of the DOJ’s expert monitoring team, and the *amici curiae*. The specific process is as follows:

1. DOJ and the *amici curiae* will provide written feedback to the State regarding its April 30, 2009, draft “Plan of Implementation” by June 30, 2009. DOJ and the *amici curiae* will also provide the State a list of suggested “focus areas” to be addressed next in the implementation plan.
2. The State, DOJ (including some members of DOJ’s expert monitoring team), and the *amici curiae* will meet in person on July 14, 2009, to begin further work on the implementation plan. This meeting will focus on the areas addressed in the State’s current draft of its implementation plan as well as any identified “focus areas” to be addressed next in the implementation plan.
3. The State, DOJ (including some members of DOJ’s expert monitoring team), and the *amici curiae* will meet again in person on a mutually agreed day in August to continue working on the implementation plan. This meeting will address additional, agreed-upon “focus areas”

to be addressed next in the implementation plan, including discharge planning pursuant to the requirements of ¶ III.F of the Agreement, including, but not limited to, ¶ III.F.1.b.

4. As future portions of the implementation plan are developed by the State, the United States and the *amici curiae* will continue to meet periodically with the State to provide comments and recommendations to ensure that the plan is targeted to achieve compliance with the Agreement until an implementation plan has been developed for all obligations in the Agreement.

The Parties and the *amici curiae* further agreed that:

1. The initial implementation plan will be filed with the Court by September 15, 2009, as an exhibit to the State's first compliance report due to the DOJ, as provided in ¶ IV.D of the Agreement. The Parties agreed to move the due date for the State's first compliance report from July 15 to September 15, 2009, to permit the State to submit a report that reflects the revisions to the implementation plan. The extension of the due date for the first report will not impact the due date for subsequent reports, and the second compliance report from the State will still be due on January 15, 2010.

2. The Parties and *amici curiae* will hold meetings at least once every six months to discuss implementation of the Agreement and get feedback from the *amici curiae*.

B. Agreement Regarding Community-Based Services.

As indicated, the Parties and the *amici curiae* reached agreement regarding community-based services at the May 14, 2009, meeting. The *amici curiae* and the DOJ believe that the following language represents the agreement that was reached:

The Parties and the *amici curiae* agreed that there needs to be an expansion of community-based services to support people who are discharged from the hospitals into the community and those who are at risk of hospitalization. The State will conduct a comprehensive “needs assessment,” which will include examining what community-based services exist and what are needed services, as well as what community-based services need to be improved, redirected, and added. The *amici curiae* and the DOJ will be included in the planning process for the needs assessment. The State will then use the information from the needs assessment to improve, redirect, and add community-based services where appropriate. Where this improvement, redirection, and addition of community-based services is necessary to comply with the provisions of the Agreement, the State has agreed to

include these actions in the implementation plan. Development of the needs assessment and a discussion of how information will be used to improve, redirect, and add services will be among the topics discussed at the August planning meeting, see *infra* at 4-5.

The State believes the following reflects the agreement that was reached: The parties and the amici curiae agreed that there needs to be an assessment of community-based services to support people who are discharged from the hospitals into the community and those who are at risk of hospitalization. The State will conduct a comprehensive “needs assessment,” which will include examining what community-based services exist and what are needed services, as well as what community based serviced need to be improved, redirected, and/or added. The amici curiae and DOJ will be included in the planning process for the needs assessment. The State agreed to consider the results of such “needs assessment” in implementing section III.F of the Settlement Agreement. Development of the needs assessment and a discussion of how information will be used to improve, redirect, and/or add services will be among the topics discussed at the August planning meeting.

C. Agreement Regarding Judicial Oversight

The Parties and the *amici curiae* agreed that the Court should be periodically apprised of the State's compliance with the Agreement. To this end, the Parties and the *amici curiae* agreed that:

1. The State will file the reports regarding compliance with the Agreement, as required by ¶ IV.D of the Agreement to be submitted to the United States, with the Court. These filings will include as an attachment the most current version of the implementation plan.
2. Once the compliance reporting required by ¶ IV.D of the Agreement is to occur on an annual basis, the State or DOJ will continue to file the most current version of the implementation plan every six months and the ¶ IV.D compliance report will be filed annually.
3. Simultaneous with the filing of reports on implementation, DOJ will file with the Court a listing of its monitoring visits since the last filing.
4. All reports regarding implementation of the Agreement, including the Quality Assurance reports required by ¶ IV.K. of the Agreement and DOJ's monitoring reports, will be publicly available on the State's website, or through a similar mechanism, in a reasonable time period

and, in any event, no later than after 30 days are completed from the issuing of the relevant report.

The Parties and the *amici curiae* further agreed that:

1. The State will create a process for the *amici curiae* to bring individual cases to the State's attention for investigation. The State will investigate, attempt to resolve the issues, and will inform the *amici curiae* how the issue was addressed, unless prohibited by law. The development of this process will be one of the topics addressed at either the July 14 or August implementation planning meetings.
2. The *amici curiae* will notify the DOJ about individual cases of concern. Because of the statutory limitations imposed by CRIPA, which prohibit the United States from representing individuals, the *amici curiae* recognize that the DOJ will use the information provided by the *amici curiae* to assist in identifying potentially systemic issues for remedial actions.

III. CONCLUSION

Therefore, because the State will file its initial implementation plan for the Agreement with the Court on September 15, 2009, the *amici curiae* and the DOJ respectfully request that the Court permit them to file a joint report² updating the Court as to the status of the case and any remaining issues no later than September 30, 2009. *The amici curiae* and the DOJ further request that the Court conduct a status conference with regard to the remaining issue regarding community-based services upon which the Parties cannot reach agreement. The State respectfully requests an opportunity to respond to such report if necessary.

The State further respectfully requests this Court approve the Parties' Joint Motion that the Court Enter the Parties' Negotiated Settlement Agreement. The DOJ and the *amici curiae* respectfully request that this Court take no further action prior to conducting a status conference.

² The State does not believe that a joint status report is necessary but reserves the right to file a response to any such report filed with the Court.

Respectfully submitted,

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