

Civil Rights and Human Dignity

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October 11, 2011

Governor Beverly Perdue
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Secretary, Division of Health and Human Services
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Roy Cooper
Attorney General for the State of North Carolina
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Dear Governor Perdue, Secretary Cansler and Attorney General Cooper:

We, a broad array of stakeholders, write on behalf of individuals with mental illnesses living in adult care homes in North Carolina. These individuals are members, constituents or clients of our organizations. We know that these individuals are capable of living rich and meaningful lives, marked by growth and community engagement. We believe that their rights under the Americans with Disabilities Act and the *Olmstead* decision are being violated by North Carolina's failure to provide services in the most integrated setting appropriate to their needs.

The U.S. Department of Justice confirmed this conclusion in its letter issued of July 28, 2011, finding that North Carolina is violating the ADA and *Olmstead* by needlessly segregating individuals with mental illness in adult care homes.¹ The Department found that individuals with mental illness are placed in adult care homes because more integrated settings are unavailable, rather than because of clinical need; that adult care homes are segregated, institutional settings that afford little privacy, autonomy, or contact with people without disabilities; that adult care home residents with mental illness are not materially different from individuals with mental illness who thrive in integrated settings; that most adult care home residents can be

¹ Letter of July 28, 2011 from Thomas E. Perez, Assistant Attorney General, to the Honorable Roy Cooper, Attorney General.

served successfully in supportive housing;² and that adult care home residents with mental illness would choose to move to integrated settings if they had the opportunity to do so.³ We note that individuals with other disabilities, including intellectual and other developmental disabilities, as well as individuals dually diagnosed with psychiatric and developmental disabilities, are also unnecessarily segregated in adult care homes.

As the Justice Department observed, North Carolina “plans, oversees, funds, and regulates programs and services for individuals with mental illness in a manner that leaves thousands of individuals with mental illness isolated in large, segregated adult care homes.”⁴ For example:

- The state has failed to develop sufficient capacity in integrated service settings, such as supportive housing, to meet the needs of adult home care residents.⁵
- The state has chosen to allocate resources to adult care homes (including approximately \$550 per month of Special Assistance to subsidize the cost of individuals with mental illness living in adult care homes) rather than to integrated settings.⁶
- The state’s Medicaid personal care program makes it more difficult to obtain personal care services in integrated settings than in adult care homes. Individuals living in their own homes must meet more stringent criteria to receive these services than individuals in adult care homes.⁷
- The state discharges individuals from psychiatric hospitals to adult care homes.⁸
- The state issues “certificates of need” for adult care home beds to “enable the development of adult care home beds to the detriment of integrated alternatives.”⁹

The Department found that North Carolina could readily serve adult care home residents with mental illness in more integrated settings – specifically, in scattered site supportive housing.¹⁰ The state’s mental health service system knows how to provide the services that these individuals need to live in integrated settings, such as assertive community treatment (ACT), case

² *Id.* at 9.

³ *Id.* at 10.

⁴ *Id.* at 11.

⁵ *Id.*

⁶ *Id.* at 12.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 13, 14.

management, crisis services and supported employment. Special Assistance and Medicaid funds currently used to support individuals with mental illness in adult care homes should be redirected to support them in integrated settings.¹¹

We would like to meet with you or your representatives to discuss the state's remedying its violation of *Olmstead*, including:

- Developing additional scattered site supportive housing so that individuals with mental illness now in, or being considered for admission to, adult care homes have the chance to live and receive services in the most integrated setting appropriate to their needs, which, in most cases, will be in their own home or in supportive housing.
- Ensuring that such individuals are offered the necessary supports and services to live successfully in integrated settings.
- Ensuring that individuals with mental illness in, or being considered for admission to adult care homes, have full and accurate information about their options, and the opportunity to make an informed choice about where they receive services.

Thank you for your prompt attention to this matter.

Sincerely,

Connie Cochran
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¹¹ *Id.*

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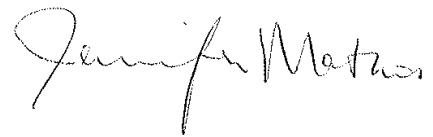
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By their counsel

A handwritten signature in black ink that reads "Jennifer Mathis". The signature is written in a cursive, flowing style.

Ira Burnim
Jennifer Mathis
Bazelon Center for Mental Health Law

cc: Vicki Smith
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