NATIONAL DISABILITY RIGHTS NETWORK

Protection & Advocacy for Individuals with Disabilities

SUMMARY IN RESPONSE TO WSJ ARTICLE

DRC staff attended a treatment and discharge planning meeting for William Bruce on March 23, 2006. As of that date William Bruce already had been a patient at RPC for more than 6 weeks. Throughout that period he had declined medication and the hospital had taken no action to initiate forced medication procedures.

The treating doctor entered a note on March 23 stating that William Bruce "remains competent to give or refuse informed consent."

A pre-condition for the non-emergency involuntary administration of medication under the Maine regulations as they applied at that time was that an individual must be found to lack capacity to give informed consent. Lacking capacity to give informed consent remains a requirement in Maine law even now.

As of March 23, William Bruce was within a few days time when a petition for recommitment would need to be filed. Under Maine Law at the time, the hospital was required to file an application for recommitment 30 days prior to expiration of the then current commitment.

A DRC attorney reviewed the documentation and expressed concern at a team meeting that the documentary evidence in the record would not support the legal standard for Mr. Bruce's recommitment. DRC staff also asked if the hospital would be amenable to obtaining an independent evaluation. DRC believes this is an appropriate request when a patient either is not engaging in or is not responding to the treatment the hospital is offering.

When a hospital has taken no action to recommit, a patient may leave at the end of a commitment with no plans for community services. Because of this, DRC consistently advocates with hospital social workers to assure adequate discharge planning. This includes issues such as housing, employment, income, psychological and psychiatric services, case management and other supports. DRC also provides information regarding services available in the community directly to the patient.

In early April, a new treating physician was assigned to Mr. Bruce. The new treating psychiatrist assessed Mr. Bruce as "not likely to meet criteria for re-initiation of emergency involuntary status" and arranged for discharge to occur.

The decision to apply for recommitment is a hospital decision. The hospital took no action to recommit Mr. Bruce. The hospital's Medical Director was actively involved with Mr. Bruce's care and could have directed that an application be initiated if he felt it was needed.

When Mr. Bruce was discharged on April 20, 2006, the doctor developed a plan which included an intake appointment with a therapist the following week and direction to the social work department to schedule a follow-up appointment with a psychiatrist at the clinic located in the hospital. Mr. Bruce had been encouraged to attend even though he was not taking medication.

Mr. Bruce also had an Intensive Case Manager (ICM) whom he had met with while still a patient at RPC, and who had been in contact with the hospital social worker and psychiatrist. An ICM is a state employee charged with responsibility for, among several other responsibilities, assessing client needs, arranging for and monitoring delivery of services and for ensuring the delivery of necessary crisis intervention services.

OTHER ACTIVITY:

Helen Bailey participated, along with William Bruce's father, on a "think tank" organized by NAMI ME to come up with strategies for addressing barriers to access to mental health services. Along with NAMI and provider representatives, Helen Bailey actively supported recommending increased development of low-barrier services, such as peer run social clubs, targeted to engaging individuals otherwise not engaged with mental health services. Helen Bailey also supported expansion of the "Portland Identification and Early Referral Program (PIER)" at Maine Medical Center to other areas of the state. When the state experienced serious budget shortfalls, this group disbanded.

DRC had opposed enactment of the Progressive Treatment Program (a type of outpatient treatment program). Helen Bailey sat on a committee charged with making recommendations to the legislature on the issue of outpatient commitment. Members of the group recommended amending the inpatient commitment law by shortening the time frames between an emergency admission and a court commitment so that should involuntary medication procedures need to be initiated, they could be resorted to sooner. DRC supported this amendment.

DRC participated on the committee to consider jail diversion and development of a mental health court. A mental health court was developed for the Kennebec County area following the recommendations of this committee.

DRC did oppose LD 1033, a bill designed to amend provisions governing involuntary administration of medications. Helen Bailey participated with other interested individuals to consider amendments to the bill, and proposed and drafted several options that combined early access to procedures along with due process protections.

DRC sat on a committee to examine the needs of individuals in nursing homes and worked with other interested individuals to amend the preadmission screening and resident review process to better assure that the mental health needs of such individuals were being properly assessed.

DRC worked with departmental staff and legislators to develop final language of a bill that created a forensic review panel to review deaths and other incidents involving individuals with mental illness. It addresses instances where individuals with mental illness are victims or the individuals charged with the crimes.

DRC supported amendments to the commitment statute that revised that portion of the law that mandated dismissal of a commitment application if the two independent examiners found that an individual did not meet commitment standards, and permitted a hospital to proceed if it disagreed with this assessment. In connection with this bill, DRC recommended that the time within which a hospital need apply for recommitment be reduced from 30 days to 21 days in light of the fact that commitments can be as short as 30 to 45 days.

Helen Bailey has been counsel for the plaintiffs in the case now captioned Bates v. Department of Health and Humans Services, since the case was first initiated in 1989. In accordance with the terms of the settlement agreement in this case, the state has developed significant resources to address the housing, vocational, treatment and other needs of individuals with mental illness.