



U.S. Department of Justice
Civil Rights Division

Disability Rights Section - NYA
950 Pennsylvania Ave, NW
Washington, DC 20530

November 17, 2010

D.J. No. 204-54-121

VIA FEDERAL EXPRESS

Richard E. Slipsky
Special Deputy Assistant Attorney General
State of North Carolina
Department of Justice
114 West Edenton Street
Raleigh, North Carolina 27602-0629

RECEIVED

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NC Department Of Justice
Human Services / Medical Facilities

Re: ADA Complaint, D.J. No. 204-54-121

Dear Mr. Slipsky:

The purpose of this letter is to inform you that the U.S. Department of Justice has opened an investigation of the State of North Carolina for alleged violation of Title II of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12101, *et seq.*, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794(a) and the Supreme Court decision *Olmstead v. L.C.*, 527 U.S. 581 (1999). The Department of Justice has primary authority to enforce Title II of the ADA and the Rehabilitation Act. 42 U.S.C. § 12133, 29 U.S.C. § 794a. Title II of the ADA and Section 504 of the Rehabilitation Act prohibit discrimination by public entities against individuals with disabilities, including discrimination in the form of unjustified isolation of persons with disabilities. 42 U.S.C. § 12132; 29 U.S.C. § 794(a); *Olmstead*, 527 U.S. at 597.

This investigation was opened in response to a complaint filed with the Department of Justice alleging that the State of North Carolina relies on institutional and inappropriate adult care homes as settings in which to provide services to individuals with mental illness. The complaint contains allegations that the State's use of adult care homes in its mental health service system for people who would benefit from receiving services in community-based settings may violate the ADA, Rehabilitation Act and *Olmstead*.

We ask that you provide the information specified below within thirty (30) days of the date of this letter. To the extent possible, please provide the information and documents requested in electronic format.

1. The name, address, telephone number and email address of the individual to whom this office should direct any future questions and correspondence.
2. A list of all adult care homes that are licensed by the State of North Carolina to house more than 20 residents and in which 10% or more of the residents are individuals with mental illness. For each adult care home on the list, please provide the address, phone number, number of residents and percentage of residents with mental illness.
3. A list of all family care homes and group homes that are licensed by the State of North Carolina to house more than 20 residents and in which 10% or more of the residents are individuals with mental illness. For each family care home and group home on the list, please provide the address, phone number, number of residents and percentage of residents with mental illness.
4. A list of all adult care homes with special care units.
5. All documents relating to the suitability or appropriateness of adult care homes as housing for persons with mental illness.
6. All documents relating to special care units in adult care homes and services provided to residents of special care units.
7. All documents from January 1, 2005 to the present relating to the rules, policies and practices of adult care homes, including but not limited to rules, policies and practices relating to privacy, receiving visitors, curfews, staff access to resident rooms, telephone calls, meals, medication and money management.
8. All reports, including, but not limited to, investigative, legislative, state agency and/or state-sponsored reports, concerning adult care homes and/or residents of adult care homes.
9. All documents relating to the report by Technical Assistance Collaborative, Inc. entitled "Draft Study of Adult Care Homes, Family Care Homes, Group Homes and Permanent Supportive Housing for People with Disabilities in North Carolina," dated October 1, 2008.
10. All documents relating to the 2004 report entitled "Bridging Science to Service: A Plan to Implement Evidence-Based Practices for Adults with Mental Illness in North Carolina's Mental Health System."
11. All documents from January 1, 2005 to the present relating to rules, policies and practices concerning discharge planning from State psychiatric hospitals to adult care homes.
12. All documents sufficient to show, with respect to each facility included on the list in response to Request No. 2, the number of individuals with mental illness discharged

from the facility, from January 1, 2005 to the present, and their next known address and type of housing placement.

13. All documents sufficient to show, with respect to each facility included on the list in response to Request No. 2, the number of residents with mental illness who were discharged to an adult care home from a State psychiatric hospital.
14. All documents relating to criteria for admission to adult care homes.
15. All documents relating to assessments, or the possibility of assessments, of persons with mental illness residing in adult care homes for suitability to receive services in an alternate setting.
16. All documents from January 1, 2005 to the present concerning the desire of any resident of any of the facilities included on the list provided in response to Request No. 2 to live in an alternate setting.
17. All documents from January 1, 2005 to the present regarding the services and activities provided to persons with mental illness residing in any of the adult care homes included on the list provided in response to Request No. 2.
18. All documents relating to services or information provided to individuals with mental illness living in adult care homes to assist them in moving to a more integrated setting.
19. A description of all categories of community-based services available to persons with mental illness served in the State's mental health service system, including a description of all housing for persons with mental illness.
20. All documents relating to criteria for admission to housing for persons with mental illness, other than psychiatric hospitals, adult care homes, family care homes and group homes.
21. All documents relating to current and proposed assessment criteria for the In-Home Personal Care Services (PCS) Program.
22. All documents relating to the demographic characteristics of persons with mental illness residing in any of the facilities included on the list provided in response to Request No. 2, including age, gender, ethnicity, psychiatric diagnosis, functional level, treatment and support needs, capacity and desire for more integrated housing and supports necessary for more integrated housing.
23. All policies and procedures from January 1, 2005 to the present relating to supervision, inspection, certification, licensing and/or oversight by the North Carolina Department of Health and Human Services, or any of its divisions, of the facilities included on the list provided in response to Request No. 2.

24. A description of all plans, including policies, training materials, guidance and administrative directives, to ensure that persons with mental illness residing in adult care homes are afforded the opportunity to receive services in the most integrated setting appropriate to their needs.
25. A description of all funds the State spends on housing and other services for persons with mental illness residing in adult care homes.
26. A description of all funds the State spends on housing and other services for persons with mental illness residing in settings other than adult care homes, nursing homes, family care homes and group homes.
27. All documents containing analysis or information concerning the federal, state and county costs of providing services to persons with mental illness in adult care homes.
28. Documents from January 1, 2005 to the present sufficient to show the annual average per person and total aggregate amount billed annually to Medicaid and/or Medicare for services provided to persons with mental illness in adult care homes.
29. All documents containing analysis or information concerning the costs of providing care to persons with mental illness in settings other than adult care homes, nursing homes, family care homes and group homes.
30. Documents from January 1, 2005 to the present sufficient to show the annual average per person and total aggregate amount billed annually to Medicaid and/or Medicare for services provided to persons with mental illness in settings other than adult care homes, nursing homes, family care homes and group homes.
31. For each fiscal year since 2004, documents sufficient to show the various sources and amounts of funding that are or could be available for providing housing and services to persons with mental illness in North Carolina.

Under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, we may be required to release this letter as well as other correspondence and records related to the complaint in response to a request from a third party. Should we receive such a request, we will safeguard, to the extent permitted by FOIA, the release of information that constitutes an unwarranted invasion of privacy.

We appreciate your cooperation in this matter. Please be assured that all of the information that you provide will be carefully considered as we attempt to determine whether any violations of the ADA or Rehabilitation Act exist. We are amenable to negotiations for a resolution of the complaint, and if any violations are identified, we will afford you the opportunity to correct them and resolve the matter voluntarily before taking more formal actions.

Please send the materials requested by overnight mail to me at the following address:
1425 New York Avenue, N.W., Washington, DC 20005. Please reference the Department of
Justice complaint number assigned to this matter, DJ No. 204-54-121, in any correspondence that
you send to this office. If you have any questions, concerns, or would like to discuss this matter,
please contact me by phone, 202-305-1321, or fax, 202-307-1197.

Sincerely,

A handwritten signature in black ink that reads "Anne Raish" followed by a stylized monogram "ARA".

Anne S. Raish
Attorney
Disability Rights Section