

June 17, 2021

The Honorable Dan McKee
Governor of Rhode Island
State House
82 Smith Street
Providence, RI 02903

RE: Eleanor Slater Hospital Crisis: Request for Independent Expert

Dear Governor McKee:

Disability Rights Rhode Island (DRRI) is the independent, federally mandated Protection and Advocacy (P&A) System for the state of Rhode Island. We are one of 57 P&As in the United States, one in each state and territory. We are federally funded to protect and advocate for the legal rights of individuals with disabilities.

We write with urgency about the ongoing crisis at Eleanor Slater Hospital (ESH), which has escalated in recent months, and has been reported extensively to your administration and that of former Governor Raimondo, as well as been the subject of multiple hearings before the Rhode Island General Assembly.

In response to this ongoing and escalating crisis, Executive Office of Health and Human Services (EOHHS) Secretary Womazetta Jones announced to the General Assembly that internal evaluations of ESH would be conducted by the Hospital Association of Rhode Island (HARI) and Care New England.

DRRI has serious concerns about this approach and at this time we request the appointment of an outside, independent expert and/or expert team, without personal or professional ties to or history with the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH) and/or ESH. For the reasons that follow, this action is necessary and urgent for the sake of patient safety and to ensure that patient rights are protected.

As a brief history, on February 10, 2021, DRRI formally instituted an investigation, pursuant to our statutory federal access authority, into discharge practices at ESH. The investigation was instituted by DRRI following multiple community complaints about serious irregularities that met the definition of potential abuse and neglect. See, the Protection and Advocacy for Individuals with Mental Illness Act (PAIMI), 42 U.S.C. 10801 et seq., the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (the DD Act), 42 U.S.C. 15041-15045, and the Protection and Advocacy System – Right of Access statute, R.I. Gen. Laws 40.1-25-1 et seq.

Since the commencement of our ongoing investigation, DRRI has conducted extensive witness interviews and document production requests from BHDDH. Due to the ongoing nature of our investigation, we cannot comment on specific findings. However, we bring the following general concerns to your attention, as they support our request:

- Serious patient rights violations;
- Lack of written discharge policies;
- Lack of consistent policies and implementation of policies, as well as contradictory policy directives from ESH leadership;
- Inappropriate communication with discharge facilities regarding the discharge of patients in violation of patient rights;
- Unrefuted staff allegations of patient neglect at Zambarano Unit;
- Serious disarray of medical and other records/documentation for patients and processes at ESH;
- Significant turnover in leadership and administration at BHDDH and ESH, and questions concerning qualifications of high level personnel;
- A culture of intimidation reported by numerous staff;
- Significant lack of confidence in the leadership and administration at ESH as expressed by middle and senior level staff.

Internal evaluations, with no apparent findings and/or changes, have been announced by previous BHDDH Director Kathryn Power, Secretary Jones, and the RI Department of Health. Most recently, Secretary Jones announced the evaluations that would be conducted by HARI and Care New England. These are not, however, independent parties appropriate for addressing the critical problems that have persisted for years at ESH. As a plan to close this hospital was initiated, the problems we note, among others, have reached a tipping point, creating enormous internal and external chaos, and most concerning, threatening patient care and patient rights.

As you may be already aware, HARI is the trade association and lobbyist for Rhode Island hospitals, and as such, is not a disinterested third party suitable to undertake this comprehensive review. In fact, the notion that HARI is best suited to conduct an “evaluation” of potential wrongdoing by one of its paying members, makes a mockery of those patients, among others, who are entrusting their care to ESH.

In addition to the lack of independent review that HARI or its other member hospital systems would provide, other problems loom. The personal and professional interconnections between individuals appointed to and/or employed by HARI, ESH, and BHDDH are numerous as well. These connections are concerning and may imply, if not actually create, non-transparency and bias, not to mention the potential risks to patients with serious disabilities.

The problems to be evaluated range from operational deficiencies such as significant noncompliance with federal policies preventing tens of millions of dollars in federal reimbursements to the state, to the most serious of potential substantive issues, including documented neglect and inappropriate discharges of highly vulnerable patients with disabilities, in contravention of their rights.

This situation is far too serious and potentially dangerous to patients with disabilities to risk such potential bias and non-transparency for the sake of a less expensive evaluation process. In point of fact, attempting to utilize local hospital players because, as was stated by BHDDH, the services are “free” is deeply concerning at this stage. Such action may well be symptomatic of a fundamental flaw in the

hospital system, as well as an underlying lack of objective fact-finding and leadership accountability all throughout the troubled history of ESH.

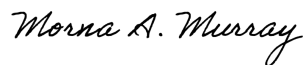
As the federally mandated P&A for the state of Rhode Island that, it is DRRI's position that nothing short of a wholly independent, transparent and comprehensive review of ESH will suffice to guarantee patient safety at this stage and to avert worsening reported neglect and chaotic care delivery to individuals with disabilities who rely upon ESH for care.

We cannot say it strongly enough. Transparency is required now. Public findings must be made and shared with, not only your administration, but the General Assembly, and the public. Requests for documents from our office are ongoing, with a statutorily mandated deadline for response. We note that some responses from BHDDH have been inconsistent, incomplete, and in some cases, noncompliant, impeding our ability to carry out our mandate. We do not know if the nonresponsiveness to some of our requests is intentionally uncooperative, or simply reflective of the very serious systemic flaws we note above across the BHDDH and/or ESH management and operations.

At this time, DRRI calls for an independent and wholly unrelated expert and/or team of experts to evaluate the very serious management and operational issues at ESH. We also request that we have input into the selected expert(s) and will make ourselves available for a meeting to discuss such selection at any time.

We note that time is of the essence with this request. We look forward to your response at the earliest possible time.

Sincerely,



Morna A. Murray, J.D.
Executive Director

cc: Womazetta Jones, Secretary, EOHHS
Richard Charest, Director, BHDDH