

GREYSTONE PARK PSYCHIATRIC HOSPITAL SETTLEMENT AGREEMENT OVERSIGHT COMMITTEE ANNUAL REPORT DECEMBER 2022

INTRODUCTION

The Office of the Public Defender and the Department of Health reached an agreement to settle the lawsuit filed by the Public Defender *J.M., S.C., A.N., P.T., J.L., R.H., "John Doe," "Robert Doe," T.W., M.K., and E.A., individually and on behalf of all other persons similarly situated v. Shereef M. Elnahal, et. al.* (Civil Action Case No. 2:18-cv-17303). This agreement was placed on the record in the United States District Court on February 19, 2020. At that time, it was contemplated that many of the provisions of the Settlement Agreement would be implemented by June 1, 2020. However, in March 2020, the COVID-19 pandemic and public health emergency caused OPD and DOH to adjust implementation dates. The Settlement Agreement was approved by the Federal Court on April 7, 2021.

An amendment to the Settlement Agreement was agreed to by counsel for both parties and was filed in Federal Court on December 17, 2021. This amendment allows the Committee to meet virtually even after December 31, 2021, which was the date previously agreed upon to end virtual meetings for the Committee (*Section II.2.8*). The members of the Committee voted that virtual monthly meetings may take place only in cases of a public health or weather emergency. Moreover, if a virtual meeting must occur under these circumstances after December 2021, the quorum required for a vote could be comprised of members who are either meeting in-person or virtually. (Attachment A)

The Committee subsequently agreed to meet twice per month, with one in-person meeting and one virtual meeting. This schedule came about because there had been insufficient time to review all complaints as well as business items and standing items at the regularly scheduled monthly meetings. Generally, during the Oversight Committee's in-person meeting, new business, old business, and standing items are reviewed while during the virtual meeting, complaints are reviewed.

OVERSIGHT COMMITTEE

One provision of the Settlement Agreement was that a committee would be formed to oversee the enforcement and implementation of the terms of the Agreement. The function of the Oversight Committee [hereinafter Committee] is to review and report to the Deputy Commissioner of the Department of Health and the Director of the Division of Mental Health Advocacy on Defendants' compliance with the Agreement annually at minimum and more frequently, if necessary. Owing to the adjusted time frames of the Agreement, the Committee first met in June 2021.

The Oversight Committee is comprised of seven (7) members. Three (3) members each are appointed by Office of Public Defender (OPD) and Department of Health (DOH), and one (1) member is jointly appointed by both agencies. There have been some changes in membership

of the Committee over the past year. Currently, the Committee members and their appointing authorities are:

- Michelle Borden – Jointly appointed member and Committee Co-chair. Ms. Borden is the Chief Executive Officer of Newbridge Services, a non-profit provider of community behavioral health services. Ms. Borden has been elected as the incoming Committee Chair for 2023.
- Laurie Becker – Appointed to the Committee by OPD. Ms. Becker retired from her position as the Mental Health Administrator for Morris County and is very knowledgeable about the needs of patients at Greystone.
- Robert Davison – Appointed to the Committee by OPD. Mr. Davison is the Chief Executive Officer of the Mental Health Association, a provider of behavioral health and advocacy services in counties throughout northern New Jersey,
- Chris Morrison – Appointed to the Committee by DOH. Mr. Morrison is the Assistant Commissioner, Division of Behavioral Health, within the Department of Health.
- Ann Portas – Appointed to the Committee by OPD and Committee Chair. Ms. Portas is the Assistant Director of Mental Health Advocacy with the Office of the Public Defender.
- Vivian Schwartz – Appointed to the Committee by DOH. Ms. Schwartz retired from a long and distinguished career in the Division of Mental Health and Addictions Services. Ms. Schwartz is the incoming Co-chair of the Oversight Committee.
- Pauline Simms – Appointed to the Committee by DOH. Ms. Simms is the Chief Operating Officer of Serv Behavioral Health, a provider of behavioral health services throughout the state.

Ms. Simms and Ms. Becker are recent appointees to the Oversight Committee, replacing Maria Kirshner, DOH appointee, and Larry Bemby, OPD appointee.

The first Oversight Committee meeting occurred in June 2021 at Greystone Park Psychiatric Hospital. The Committee's in-person meetings continue to be held at Greystone. The Committee approved by-laws in October 2021. (Attachment B)

SETTLEMENT AGREEMENT LIAISON

Arlington King, MSW, had been employed by Greystone for approximately twelve years and was selected by the Department of Health as the Settlement Agreement Liaison. Given the volume of work, Praveen Sasi, who is a nurse and the Quality Assurance Coordinator at Greystone, was assigned to assist Mr. King with duties related to the Committee. Mr. King provides the Committee with a very detailed monthly report, including all complaints submitted to the Committee and whether they are substantiated or unsubstantiated. This report also provides details of Greystone's operations that had been central points of the lawsuit and are standing items reviewed by the Committee.

- Census information
- Staffing updates
- Ambulance usage
- Violence prevention
- Analysis and details regarding incidents occurring at the patient information centers (PICs)
- Code cart compliance
- Number and type of emergency "all available" calls and Special Instruction Services Unit (SISU) calls

Mr. King has been an invaluable resource to the Oversight Committee since its inception and Mr. Sasi's input and assistance has proven to be quite helpful. The Settlement Agreement did not anticipate how vital the role of the Settlement Agreement Liaison would be.

HOSPITAL MAXIMUM CAPACITY

The maximum patient capacity of Greystone is four hundred fifty (450) patients in the main hospital building and fifty-six (56) patients in the cottages, totaling 506 patients. Prior to December 2018, when the lawsuit was filed, the hospital census was much higher than this. For the month of November 2022, the average daily census at the hospital was 354 patients, inclusive of both the main building and the cottages.

According to the New Jersey Department of Human Services, Division of Mental Health and Addictions Services [DMHAS], the Greystone census had been about 550 prior to the filing of the lawsuit. (In October 2018, Gov. Murphy returned DMHAS to the Department of Human Services, while the state psychiatric hospitals remained under the jurisdiction of DOH, which is why DMHAS previously gathered this information.)

DMHAS leases beds at other hospitals, which may have impacted the demand for beds at Greystone. The census began to decrease in mid-2019 and has remained at a fairly low number since then.

Calendar Year	Average Daily Census
2018	547
2019	486
2020	344
2021	348
2022	355 (year-to-date)

STAFFING REQUIREMENTS

A major complaint in the lawsuit focused on the lack of appropriate staff in clinical positions. The Department of Health continues to work on recruiting and maintaining staff in a variety of positions.

Psychiatry

Both psychiatrists and psychiatric advanced practice nurses provide psychiatric care to patients at Greystone. The Settlement Agreement states that the psychiatric care provider-to-patient ratios shall average one to fifteen (1:15) on admissions units and Developmental Disability (DD) units, a one to twenty-five (1:25) ratio on all other units, and an additional two psychiatrists assigned to the cottages (*Section VI.2*). The Settlement Agreement anticipated that Greystone would meet the requirement of having psychiatric care providers assigned to each unit as described above. The Department of Health has been unable to meet these requirements, despite recruitment efforts. Because the census at Greystone is low, however, the psychiatric care provider-to-patient ratio is approximately one to thirteen (1:13), which is lower than the ratio agreed upon for most units and the cottages. Including staff psychiatrists, agency psychiatrists, and psychiatric advanced practice nurses, the patients at Greystone are receiving a greater level of psychiatric care than projected, which is beneficial to the current patients.

It must be noted that only one psychiatrist is assigned to the cottages, with a caseload of approximately forty-one (41) patients. Therefore, while the ratio of psychiatric care provider-to-patient is far better than anticipated and exceeds the ratio in the Settlement Agreement, the Department of Health must continue recruitment efforts in order that all psychiatric care providers at Greystone experience manageable caseloads and guarantee optimal care for patients at the hospital.

Psychology

The Department of Psychology, which includes psychologists, behavioral analysts, and behavioral support technicians, is fully staffed in accordance with the Settlement Agreement (*Section VI.3*). Greystone is staffed with 20 psychologists, eight behavioral support techs, and one board certified behavioral analyst.

Medical Staff

The Settlement Agreement called for a ratio of one internist to forty-five (45) patients, which Greystone exceeds. Currently, the ratio of internists to patients is approximately one to thirty (1:30). Patients also receive specialized medical care outside of the hospital as needed.

Dental Staff

The Settlement Agreement anticipated that a dentist would be employed full-time at Greystone by July 2021. One candidate who had been offered the position in late 2020 was not approved by the Civil Service Commission, and throughout 2021 and 2022, DOH continued to recruit and interview candidates. In March 2022, a candidate accepted the position and following Civil Service Commission approval, began her employment with Greystone in June 2022. The required positions of dental hygienist and dental assistant remain filled.

Social Work Staff

The Oversight Committee had multiple discussions over several monthly meetings regarding the definition social worker licensure requirements and whether Greystone met the requirements outlined in the Settlement Agreement. After receiving guidance from the Deputy Attorney General assigned to advise the Board of Social Work Examiners, the Committee voted that Greystone was not in compliance with the agreement and informed acting CEO Tom Rosamilia of this in April 2022.

Of the thirty-six (36) social workers at Greystone, only eighteen (18) of them meet the requirements set forth in the Settlement Agreement (*Section VI.7.a*) which requires that they hold a master's degree from an accredited school of social work and that they be eligible to be licensed by the Board of Social Work Examiners [BSWE]. Currently, there are six staff who are in the process of obtaining licensure from the BSWE. Unlicensed staff cannot be removed from their positions nor be required to obtain licensure because they meet Civil Service Commission (CSC) requirements for this job title. The requirements in the Settlement Agreement are more stringent than the CSC requirements. Over time, this situation may be rectified if the Civil Service Commission requirements change or if candidates who meet the Settlement Agreement requirements apply for and receive these positions.

While Greystone is not in compliance with this requirement, this does not pose an inherent risk to the health or safety of patients at the hospital.

In November 2022, Deborah Hartel, Deputy Commissioner of the Department of Health, reported that DOH has worked with the New Jersey Civil Service Commission to enhance the criteria for employment as a social worker at State hospitals to include licensure or eligibility for licensure.

Nursing

Greystone exceeds the number of nursing staff agreed upon, which includes registered nurses and licensed practical nurses, who work under a variety of titles defined by the CSC.

Therapy Aides

Although Greystone does not meet the staffing requirement for the number of therapy aides as required in the Settlement Agreement, the ratio of therapy aides to patients exceeds the ratio agreed upon since the census is low. As of November 2022, there are thirty (30) aides while the Settlement Agreement calls for fifty-five (55). However, the ratio of therapy aides to patients is approximately 1:13, which is far better than the anticipated ratio of 1:25, based on a census of 506. Greystone is currently attempting to upgrade this position so that therapy aides will be able to co-lead groups which will provide an increase in direct services to hospital patients. Recruitment for these positions is on-going.

Other Clinical Disciplines

Greystone meets or exceeds the requirements in the Settlement Agreement for other disciplines, including art therapists, teachers, physical therapists, occupational therapists, and speech/hearing specialists.

Hospital Administration

There has been significant attrition in administration at Greystone. The Department of Health contracted with Clinical Services Management [CSM] to assist in implementing the Settlement Agreement and improving conditions and care at Greystone. DOH and CSM are working to recruit a permanent Chief Executive Officer for Greystone, which is proving challenging. The current acting CEO, Tom Rosamilia, is a project leader at CSM and has vast experience and a record of success in working at inpatient behavioral health settings in New Jersey and other states. Additional CSM staff are also working with DOH and Greystone to improve conditions at the hospital.

Moreover, CSM has performed a functional analysis of Greystone. The Settlement Agreement provides that the Oversight Committee “shall have full access to the people, places, and documents that are necessary to assess Defendants’ compliance with and/or implementation of this Agreement” (*Sec. II.7*). The Oversight Committee looks forward to receiving a copy of the functional analysis as it will help us to determine how much progress has been made at the hospital.

Code Carts, Emergency Drug Kits, and Choke Kits

There have been no substantiated complaints regarding these items. Some medical staff at Greystone continue to request that other items be added to the code carts, but any additions would need to be approved by Greystone administration.

Patient Information Centers

The Patient Information Centers [PIC] in each unit continue to be an area to which the Committee devotes attention and which Greystone must address. Incidents at the PICs had been a focus of the lawsuit and are addressed in the Settlement Agreement (*Section IX*). The PICs are staffed from 8 AM to 8 PM, allowing patients access to a staff person even when they are not engaged in formal treatment. The presence of staff has greatly reduced the number of incidents at the PICs where patients climb onto or over the PICs, either to remove ceiling tiles or perform other actions. The two categories of PIC incidents are referred to as “non-reportable incidents,” in which staff intervention results in the patient not crossing the PIC, and “reportable incidents,” in which patients are able to cross the PIC. DOH and the Committee are informed of all incidents, whether referred to as non-reportable or reportable. In October 2022, there were sixteen (16) non-reportable PIC incidents and eleven (11) reportable PIC incidents.

However, the clips which had reportedly been affixed to the ceiling tiles above the PICs still allow for the ceiling tiles to be removed. Chris Morrison, in his position as Assistant Commissioner, found that tiles used at other state hospitals are more secure. In July 2022, the Committee was advised by Tom Rosamilia that the tiles on six units had been changed and gave us a schedule for the remainder of the ceiling tiles to be changed, which was to have been completed by February 2023. This date is more than two years after the time contemplated by the Settlement Agreement. The Committee subsequently found that two of the units which were reportedly repaired had not been repaired. That the Committee was given incorrect information and that this procedure has not been completed is disheartening. The Committee was recently informed that plexiglass will be installed at each PIC, which patients will not be able to climb over.

At this time, Greystone remains out of compliance with the Settlement Agreement with regard to the PICs.

Violence Prevention

The level of violence at Greystone was one of the factors that lead OPD to bring the lawsuit against Greystone. Prior to filing the lawsuit, the New Jersey Department of Labor and Workforce Development Office of Public Employees and Occupational Safety and Health [PEOSH] issued a “serious violation” under N.J.S.A. 36:6A-33(A), following a lengthy review of conditions at the hospital. PEOSH asserted that Greystone was not a place of employment that was “free from recognized hazards, which cause serious injury, physical harm, or death to the employee.” Patient reports, complaints from families, and information from other community agencies all alleged that Greystone was a dangerous place.

The stabbing death of patient S.S. by another patient on December 31, 2019, gave an added impetus to both parties to settle the lawsuit and make necessary changes to Greystone for the safety of all patients.

The number of assaults had been decreasing, which may be a result of the decreased census, the use of Special Instruction Services Unit [SISU], and staffing at the PICs. Over the past few months, there has been a sharp increase (about 25%) in the number of assaults. In October

2022, there were 100 assaults, but only one resulting in a moderate injury and none resulting in major injuries. The previous month there were 74 assaults. Although the number of assaults increased, assaults resulting in major injuries are minimal.

Greystone has decided to utilize the services of Medical Security Officers [MSO] as a means to decrease violence. MSOs will be uniformed HST-level staff who will receive additional training in violence prevention. These are additional staff, not staff who are merely receiving a different title. It is anticipated that their presence will add a sense of protection for patients.

The Oversight Committee has discussed violence prevention and the plan put forward by Greystone, but this is an issue that members of the Committee would like to examine in a more formal manner. Some committee members have expressed an interest to attend Greystone's Violence Prevention Committee meetings, which should be accomplished in the coming months.

Civil Commitment Hearings

The Committee has not examined issues regarding civil commitment hearings. However, neither the Office of the Public Defender nor other attorneys who represent Greystone patients in civil commitment hearings have lodged complaints about doctors or other staff of Greystone.

Safety and Maintenance of Infrastructure

Other than concerns about the PICs, the Oversight Committee has not examined issues regarding safety or maintenance of infrastructure. There have been no substantiated complaints regarding this topic.

Programs and Services

Following the lifting of many Covid-19 restrictions, Greystone is in compliance with this section of the Settlement Agreement.

Ambulance Service

An ambulance and two emergency medical technicians have been stationed on the grounds of Greystone since May 2021. Greystone has a memorandum of understanding in place with the Office of Emergency Management of Morris County. According to the New Jersey Office of Emergency Management, the average wait for an ambulance in Morris County is sixteen (16) minutes. The amount of time for the ambulance and EMTs to reach patients at the hospital averages between ten (10) and twelve (12) minutes. When a physician makes a call for the ambulance, the call is routed to Morris County OEM, which then dispatches the EMTs to the area of Greystone where they are needed. While this was an onerous process, OEM procedures required that this takes place. This response time remains faster than response times prior to the Settlement Agreement being in place.

OEM and DOH have negotiated a very positive change to this system which will be taking place in January 2023. EMTs at Greystone will be permitted to respond to calls going out over the hospital loudspeaker rather than having to wait to be called by OEM dispatch. This will further decrease the amount of time spent waiting for EMTs.

Staff Qualifications and Training

New employees receive extensive training both in a classroom setting and during training and orientation on their assigned units. Ongoing training occurs as required at Greystone, and the Committee received information about the training programs offered. Staff qualifications were addressed in more detail in the section on Staffing.

Conclusion

This inaugural year of the Oversight Committee has been a year of learning about the Settlement Agreement and our role in seeing that it is implemented. There were also several changes in membership.

We presently receive fewer complaints from patients than we had received when the committee was initially formed, which indicates that some of the changes that have been implemented are recognized by the patients. There are some patients, staff, and family members who would like the Oversight Committee to intervene in areas which are not covered by the Settlement Agreement, but the Committee is now better able to recognize where to put our energies. There are fewer assaults than in previous years, and two videotapes that we have reviewed because of complaints about how staff responded to incidents demonstrated that the staff followed protocol and acted appropriately to keep the patients safe. These are positive results.

The increase in assaults among patients will obviously require further examination on the part of the hospital to determine how to remedy this situation. The Committee members are also very concerned about requests for video which are unfulfilled due to Greystone's video system being down.

Over the coming year, the Committee will have fewer administrative issues, such as promulgating by-laws, on which to spend time, allowing us to focus on other areas of the Agreement. Also, far fewer complaints are received by the Committee. The Oversight Committee will be able to take a more proactive role in examining the implementation of the Settlement Agreement.