

**ATTORNEYS FILE CLASS ACTION LAWSUIT AGAINST
STATE OF NEW HAMPSHIRE FOR ITS FAILURE TO
PROVIDE ADEQUATE MENTAL HEALTH SERVICES
TO CITIZENS WITH MENTAL ILLNESS**

CONCORD, NH – FEB. 9 – Six state residents with psychiatric disabilities whose lives have been interrupted, disrupted, and even destroyed by prolonged or needless stays at state institutions today sued New Hampshire for its failure to provide adequate community-based mental health services. A class action lawsuit, filed this morning in U.S. District Court in Concord, charges Gov. John H. Lynch and other state officials with violating the Americans with Disabilities Act (ADA), the Rehabilitation Act, and the Nursing Home Reform Act (NHRA) for their failure to provide clinically necessary and cost-effective community services to avoid the needless institutionalization of individuals with disabilities.

The named plaintiffs are or have been institutionalized at New Hampshire Hospital (NHH), a state-operated psychiatric institution in Concord, or at the Glencliff Home in Benton, a state-operated nursing facility primarily for individuals with mental illness.

The plaintiffs include a 22-year-old Newport woman whose 20 psychiatric hospitalizations at NHH over the past 10 years robbed her of the normal educational and social experiences of adolescence; a 65-year-old man who went to Glencliff as a ‘temporary residence’ in 2005 and remains stuck there seven years later; a 30-year-old Manchester woman who lost custody of her daughter while she cycled in and out of NHH; a 55-year-old woman from Dover who has spent much of the last five years at NHH or Glencliff, where she is so isolated that she rarely sees her mother, children, grandchildren, or siblings; a 45-year-old Rochester man whose wife was forced to sell their home while he languished at NHH; and a 54-year-old wife and mother from Danville who wants to be with her family and return to work, but without Assertive Community Treatment and supported employment services, has remained at NHH since April.

At a press conference this morning, attorneys for the plaintiffs called upon the state to fix its broken system and expand community services, as required by federal law.

“For many individuals, these prolonged institutional admissions and hospitalizations result from the inability of New Hampshire’s existing community programs to meet their basic treatment needs and to prevent their unnecessary institutionalization,” said Amy Messer of the Disabilities Rights Center, which is representing the plaintiffs along with Devine Millimet & Branch, the Judge David L. Bazelon Center for Mental Health Law, and the Center for Public Representation.

Elaine Michaud of Devine Millimet pointed out that the needless institutionalization of the plaintiffs at NHH and Glencliff “is not only a human tragedy, but it is also a violation of their rights under federal law.” The ADA and the Rehabilitation Act mandate an end to discrimination against persons with disabilities, which includes unnecessary segregation in institutions. The NHRA requires the state to determine whether the needs of an individual with mental illness could be met in an alternative community setting before admitting him or her to a nursing facility such as Glencliff.

The lawsuit, *Lynn E. vs. Lynch*, echoes the findings issued last April by the U.S. Department of Justice following its investigation of New Hampshire's mental health system. The DOJ found that the state is violating the ADA by failing to provide services to individuals with serious mental illness in the most integrated setting appropriate to their needs, and added, "Systemic failures in the state's system place qualified individuals with disabilities at risk of unnecessary institutionalization now and going forward."

Named plaintiff Mandy D., 22, receives limited case management, counseling and medication monitoring, but not the services she needs to address her ongoing risk of unnecessary institutionalization: supportive housing, mobile crisis intervention, assertive community treatment, and supported employment. "There are a lot of people like me that aren't getting the basic services they need," she said. Her mother and guardian, Louise D., added, "I watch my daughter missing life because she can't participate. Right now her life is her mental illness, but she has a lot to offer."

Without community services, Mandy and hundreds like her end up back at NHH or at other state-supported psychiatric units across New Hampshire, where they get little more than custodial care in an environment that violates their privacy and dignity, and robs them of their independence. Their lives – homes, jobs, relationships, community activities – are disrupted or destroyed by long hospital stays. "Community-based services are far better for people like Mandy, and they are far less costly than institutional care," said Messer.

Yet New Hampshire, as the DOJ found, "has continued to fund costly institutional care at NHH and the Glencliff Home, even though less expensive and more therapeutic alternatives could be developed in community settings." On average, community services cost a fraction of institutional services.

State officials have long known the system is broken. Reports issued by the Department of Health and Human Services (DHHS) in 2008 and 2009 acknowledged that the systemic failings impact individuals, families and communities by contributing to homelessness, and placing undue stress on law enforcement, emergency departments, the court system and county jails. The reports recommended many of the same remedies the plaintiffs are seeking today.

At any given time, approximately 125 adults are confined at NHH and 120 adults are at Glencliff. Most of them could be served and would prefer to be served in their own community. Hundreds, if not thousands, of individuals risk institutionalization at NHH because they lack access to needed community services, as evidenced by the large number of needless, and often repeated, hospitalizations.

There were over 1,800 adult admissions to NHH in 2010, nearly 800 of which were readmissions of individuals who had been at NHH within the previous 180 days. More than 17% of adults discharged from NHH in 2010 were readmitted within 30 days, and 35% were readmitted within 180 days of discharge. Several of the named plaintiffs have struggled to remain in the community with little to no support services, only to be forced into NHH's revolving door for repeated and unnecessary admissions.

Prolonged institutionalization is also a severe problem at Glencliff, where individuals not only experience the same deprivations, and rights restrictions as class members at NHH, but also are far from family and friends due to the facility's remote location in northern New Hampshire.

Moreover, few individuals ever return to the community from Glencliff. Between 2005 and 2010, there were only 13 discharges from Glencliff, and 11 of them were to NHH or other facilities; only two people

returned to their homes. In recent years, more people have died at Glencliff than have returned to the community. And now, even younger people are being placed in this remote nursing facility. In 2010, 28% percent of the individuals at Glencliff, like one of the named plaintiffs, were in their 40s or 50s.

But they need not remain there, according to advocates for the plaintiffs. “People with serious mental illnesses, including those who have been institutionalized for years or have suffered repeated hospitalizations, can have successful and fulfilling lives,” said Steven Schwartz of the Center for Public Representation. “But living in one’s own home, maintaining relationships with family and friends, or finding and keeping a job can be challenging or even impossible without access to appropriate services.”

Other states have proven that individuals with serious mental illness can recover and live productive lives in the community with services that include mobile crisis intervention, assertive community treatment, supportive housing, and supported employment. Other states also have demonstrated that these clinically-effective services are cost-effective as well, and reduce the need for expensive institutions. With these services, individuals can access a coordinated array of psychiatric, rehabilitation, and medical supports in the community, and are able to live at home, obtain employment, and contribute to their communities.

Ironically, New Hampshire was once a leader in the delivery of community services to individuals with disabilities, and in the late 1980s, was recognized by the National Institute of Mental Health for its leadership in providing services in community settings. However, the state’s commitment to community-based services was short-lived, and the rates of institutionalization rose as community services declined. New Hampshire reneged on its commitment to develop a system of community-based services, ignored the findings and recommendations of its own officials, and violated federal and state law. As a result, from 1989 to 2010, annual admissions to NHH increased by 150% from about 900 to about 2,300.

In addition to Gov. Lynch, the other named defendants are DHHS Commissioner Nicholas A. Toumpas; DHHS Asst. Commissioner Nancy L. Rollins; DHHS Deputy Commissioner Mary Ann Cooney; and Erik G. Riera, the administrator of the New Hampshire Bureau of Behavioral Health.