

NAMI New Hampshire Welcomes ACLU-NH Filing of Federal Class Action Suit

Focus of suit is on due process rights for people held
involuntarily in NH Emergency Departments

(CONCORD, NH) NAMI New Hampshire (National Alliance On Mental Illness) welcomes the [filing of a class action suit over the weekend in the Federal District Court in Concord, NH by ACLU of New Hampshire](#) (American Civil Liberties Union) as a necessary step to ending the systemic discrimination against people with mental illness in regards to their constitutional right to due process as provided by the New Hampshire and US Constitutions.

NAMI NH Executive Director Ken Norton stated, "Neither NAMI NH, nor anyone involved, want to see individuals in a mental health crisis who are being involuntarily detained released on a legal technicality. However, the failure to provide them with their constitutional right to due process is a striking example of the discrimination which our state and society perpetuate against people with serious mental illness. It is our sincere hope that this federal class action suit will immediately bring together all involved parties to identify a sustainable solution to remedy this injustice."

NAMI NH, joined by fifteen organizations, convened a press conference in January 2013 to address the rapidly escalating crisis of Granite Staters in mental health crisis being "boarded" in emergency departments, waiting for access to inpatient psychiatric treatment. During that press conference and continuously since then, **NAMI NH Executive Director Ken Norton has maintained, "this practice is wrong medically, legally, ethically, morally and economically."**

Medically wrong because individuals don't receive timely treatment to reduce their suffering and promote speedy recovery. Like other medical conditions, delaying treatment results in much less effective long-term outcomes. **Ethically wrong** because the practice places medical providers in the untenable position of failing to uphold the standard of care to "do no harm," and forces them to detain individuals without any legal authority to do so. **Morally wrong** because we don't categorically deny treatment to patients with heart disease, diabetes or any other medical condition. **Economically wrong** because emergency departments are one of the most costly hospital services. These people could receive more effective and less costly treatment in other settings.

Finally, **legally wrong** because NH law establishes due process and other legal protections such as a probable cause hearing within 72 hours as required by RSA 135:c. Since that press conference in January 2013, this crisis has continued to worsen with the numbers of people being

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held more than quadrupling, and the length of "boarding" time for some individuals growing from days to weeks. On the morning of November 11, 2018, there were 46 adults and 12 children being boarded in NH Emergency Departments, waiting for an inpatient psychiatric bed.

Efforts to restore due process through NH Circuit (District), Superior, and Supreme Courts have all been rebuffed for technical issues without ever fully addressing the legal and human aspects of the failure to provide due process. A good faith attempt by Governor Sununu, the Legislature and the Department of Health and Human Services in 2016 via HB 400 to address due process issues failed when hospitals refused to participate in a proposed pilot involving conducting hearings by video/teleconference.

It is the sincere hope of NAMI New Hampshire that the federal class action suit brought by ACLU-NH will immediately bring together all involved parties to identify a sustainable solution that restores the rights of Granite Staters experiencing a mental health crisis.

NAMI New Hampshire is a grassroots organization working to improve the lives of all people affected by mental illness and suicide through support, education and advocacy.

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