



U.S. Department of Justice

S. Amanda Marshall

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District of Oregon

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November 9, 2012

John Dunbar
Attorney in Charge, Special Litigation Unit
Oregon Department of Justice
1515 S.W. Fifth Avenue, Suite 400
Portland, OR 97201

Re: Agreement regarding United States' Investigation of Oregon's Mental Health System, DJ#168-61-30

Dear Mr. Dunbar:

This letter will memorialize the agreement between the State of Oregon ("State") and the United States Department of Justice ("Department") to implement a process which upon full implementation as described below, will resolve the Department's investigation of the State's compliance with the integration mandate of Title II of the Americans with Disabilities Act ("ADA") and *Olmstead v. L.C.*, 527 U.S. 581 (1999) for persons with serious and persistent mental illness.

The State is currently in the midst of transforming its health care system. The transformation includes integration of the systems delivering physical and mental health care, expand coverage under the Oregon Health Plan, and ensure improved quality of services through an outcome-driven system. This health transformation process provides a unique opportunity for the State and the Department to work together to address the Department's concerns in this particular investigation by embedding reform in the design of the State's health care system. We have agreed that it is the State's intent to use this health reform process to better provide individuals with serious and persistent mental illness with the critical community services necessary to help them live in the most integrated setting appropriate to their needs and achieve positive outcomes. We agreed that these measures cannot be implemented all at once, but that the process must be staged over the next few years as outlined below.

First, in year one of this agreement, the State will collect statewide system data on the services currently being provided and the people being served as provided in the attached agreed upon matrix. This matrix contains both "System Development Measures" and "Program Outcome Measures" which outlines the information the state will collect throughout this process to identify not only what services are available throughout the state, but also to assess what gaps need to be filled during the State's healthcare transformation. Three of the terms used in the matrix – Serious and Persistent Mental Illness (SPMI), Supported Housing, and Supportive Housing -- are defined in the attachments to the matrix. The State also agreed to include community integration and data collection requirements in provider contracts, regulations

promulgated to implement Oregon's transformation process, and other guidance issued to the Community Care Organizations (CCOs) and Counties. The data collected will be shared with the Department at periodic intervals as the State collects it. More specifically, the State will provide data to the Department as shown in the attached matrix. It is anticipated that it will take about a year to collect data that covers the entire system. Therefore, the State will share final system wide data with the Department no later than October 15, 2013, except as shown in the matrix. During year one of the agreement, the State and the Department will meet periodically to discuss gaps revealed by the data. In conjunction with this investigation, the Department also has conducted an investigation of the Oregon State Hospital, which is not yet complete. The parties are hopeful that the work described in this agreement will aid Oregon in providing treatment in the setting that is most integrated and appropriate.

Second, in year two of this agreement, the State and the Department will resume discussions shortly after the system wide data has been shared with the Department. It is anticipated that these discussions will resume in early November, 2013. These discussions will focus on identifying gaps in the community service system that are impeding serving individuals in the most integrated setting appropriate to their needs. These discussions will also include whether the data collected should be broadened to include crisis services access by those with serious mental illness as well as those with SPMI as defined herein. If gaps in the system are agreed upon, the State has agreed to include further requirements in its plan documents, regulatory materials, and provider contracts with the CCOs and Counties to ensure that an adequate array of community services is available throughout the State to help individuals live successfully in the community and prevent their unnecessary institutionalization. If the State and the Department cannot agree upon gaps in the system, the Department reserves the right to continue its investigation. The State will continue to collect the data listed in the matrix, or other data that may be agreed to at that time, in order to fill the gaps and discern if gaps are being filled throughout the year.

Third, in year three of the agreement, the State and the Department will develop outcome measures that will be included in plan documents, contracts and regulatory materials. It is anticipated that these discussions will occur in early November, 2014. Throughout this year, the State will provide the data it collects on the measures in the matrix, to the Department.

Fourth, in year four of the agreement, the State and the Department will meet to discuss whether positive outcomes are being achieved on the agreed-upon outcome measures. If adjustments need to be made to the outcome measures, the State and the Department agree to engage in discussions about making those adjustments. It is anticipated that these discussions will occur in early November, 2015.

This agreement is without any admission of liability by the State, and it shall not be received or construed as an admission on any issue. Both parties reserve their rights in the event that they fail to reach agreement in the future on issues described in this agreement.

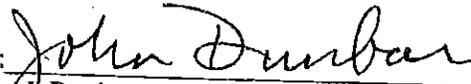
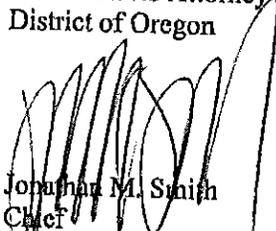
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The State and the Department are optimistic that this iterative process will improve the lives of thousands of Oregonians with severe and persistent mental illness. It is contemplated that this process will successfully resolve the Department's investigation once an array of adequate community services is in place and positive outcomes are being achieved on agreed-upon outcome measures.

Enclosure (as noted)

<p>Agreed to by the State:</p> <p>ELLEN F. ROSENBLUM Attorney General of the State of Oregon</p> <p>By:  John J. Dunbar Attorney In Charge, Special Litigation Unit Oregon Department of Justice</p>	<p>Agreed to by the United States:</p> <p> S. AMANDA MARSHALL United States Attorney District of Oregon</p> <p> Jonathan M. Smith Chief Special Litigation Section Civil Rights Division</p>
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