

WA-ACEP Psychiatric Boarding Amicus Brief Timeline

Sept. 5, 2014: Supreme Court granted a 120-day stay. The court's decision means that the process used for Single Bed Certifications will remain in effect until Dec. 26. Between now and Dec. 26, the state will be bringing online and providing ongoing payment for 145 new treatment beds for involuntarily detained patients. Many of these beds are located at freestanding psychiatric hospitals.

Aug. 26, 2014: The Supreme Court announced that it would not issue its mandate on the psychiatric boarding case until the Department of Social and Health Services' motion for a 120-day stay has been reviewed on Sept. 4. The notice by the Court to delay issuing its mandate means that Supreme Court's decision is not currently in effect. Therefore, the use of Single Bed Certifications should continue until the court renders a decision to accept or decline the motion for a 120-day stay.

Aug. 22, 2014: WA-ACEP joins other healthcare groups in support of a motion by the Department of Social and Health Services asking the state Supreme Court to grant a temporary 120-day stay of the court's decision that ends the practice of psychiatric boarding. The motion says that if the decision takes effect Wednesday as planned, it could pose a serious public-safety risk. The decision also places hospital staff in an impossible position: If health-care providers continue to board patients, they would be in violation of the decision. But if they knowingly discharge dangerous or unstable patients, they would be violating EMTALA.

Aug. 22, 2014: Gov. Inslee approved \$30 million to ease psychiatric boarding.

Aug. 8, 2014: Gov. Inslee offers a 20-day stay on the ruling. Inslee's message comes as mental-health professionals scrambled to find immediate treatment alternatives for patients instead of just turning them away. After the court's decision, officials believed they had to act immediately.

Aug. 6, 2014: The Washington State Supreme Court determined that psychiatric boarding is unconstitutional and violates the state's Involuntary Treatment Act. The state offered no remedy for the current situation or any guidance on how the ruling is impacted by EMTALA.

June 26, 2014: The Washington State Supreme Court heard oral arguments in regard to the amicus brief. During argument, the court referenced the brief submitted by eight provider groups (including WA-ACEP) representing hospitals, doctors, and nurses. The justices noted that while the groups are not always known for getting along, they presented a united front in the case against psychiatric boarding. The amicus group supported the position of the plaintiff patients who argued it is a violation of their constitutional rights to be detained by the state for days at a time without receiving evaluation and treatment services. The defendants in the case (Department of Social and Health Services and Pierce County) made a procedural argument, arguing that rather than the case originating from a commitment hearing, the case should have been brought under the Administrative Procedures Act and therefore should be invalid. The court is expected to issue a decision in the next few months.

May 23, 2014: The amicus brief was filed with the Supreme Court to review *In re the Detention of: D.W., G.K., S.P., E.S., M.H., S.P., L.W., J.P., D.C. and M.P.*

The brief describes how the long years of underfunded services have resulted in a significant drop in services available at evaluation and treatment facilities. The number of available beds dropped by 36 percent, while the population of the state grew 14 percent. At the same time, the community mental health system, which was designed to help keep people out of crisis and out of the inpatient system, was cut by more than \$90 million in just three years.

As a result, more patients are in crisis than there should be, and hospitals have become the entry point for many of these patients. This practice occurs even in hospitals not equipped to provide psychiatric services. EMTALA requires hospitals with emergency services to provide treatment and stabilizing care to all patients who come into the emergency room.

When there are no psychiatric services available at the hospital or at a psychiatric hospital, the hospital is both entry way and end point. Patients cannot leave safely, nor can they receive the care and treatment they need. This hurts the detained patients, as well as other patients, physicians, nurses and hospitals.

April 30, 2014: The WA-ACEP Board of Directors voted to join other healthcare organizations in an amicus curiae brief asking the state Supreme Court to uphold a Pierce County Superior Court ruling that psychiatric boarding is unconstitutional and the state must do more to adequately provide mental health services.

Other organizations joining WA-ACEP are:

- Washington State Hospital Association
- Washington State Medical Association
- Association of Washington Public Hospital Districts
- Northwest Organization of Nurse Executives
- Washington State Nurses Association
- SEIU Healthcare 1199 NW
- Washington Council of Emergency Nurse Association