

The Honorable MARSHA J. PECHMAN

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

CASSIE CORDELL TRUEBLOOD, next friend
of A.B., an incapacitated person, et al.,

Plaintiffs,

v.

THE WASHINGTON STATE DEPARTMENT
OF SOCIAL AND HEALTH SERVICES, et al.,

Defendants.

NO. 2:14-cv-01178-MJP

DECLARATION OF
JAMES ALAN POLO, M.D.

I, James Alan Polo, M.D., am over the age of 18 years of age, competent to testify to the matters below, and declare based upon personal knowledge:

1. I am the Chief Medical Officer of Western State Hospital (WSH), and an authorized representative of the Department of Social and Health Services (DSHS). I am licensed to practice medicine in the State of Washington, and am Board-certified in General Psychiatry and Children & Adolescent Psychiatry.

2. I received my Bachelor of Science Degree from the United States Military Academy at West Point in Chemistry and Psychology in 1982. I received my Doctor of Medicine degree from the Uniformed Services University of the Health Science in 1986. I also earned a MBA in Health Care Administration in 2005 from the University of Colorado. I am

1 a Fellow in both the American College of Healthcare Executives and the American College of
2 Physician Executives.

3 3. During my career as a medical doctor, I have served as the Medical Director
4 (Mental Health), the Chief Medical Officer and the Department Chair of Behavioral Health for
5 the Evans Army Community Hospital. I have served as the Chief Executive Officer of the
6 Soto Cano Hospital (U.S. Army) and the 47th Combat Support Hospital (U.S. Army), as well as
7 a Senior Policy Advisor to the Assistant Secretary of the Army. Before assuming my position
8 as Chief Medical Officer of Western State Hospital, I served as the Hospital Medical Director
9 of the Mary Bridge Children's Hospital & Health Center and the Medical Vice President of the
10 Mary Bridge Children's Healthcare Network.

11 4. The question has arisen regarding why the thirty additional Western State
12 Hospital forensic beds funded by the 2015 Legislature did not open as planned. The answer is
13 not that WSH lacks the physical space to support the beds; rather, the answer is that the current
14 available staffing has proven inadequate to keep patients and staff safe at the current census,
15 and increasing the census would exacerbate the problem and be clinically harmful to the
16 patients entrusted to our care.

17 5. Treatment of a psychiatric patient that is safe and provides quality care is highly
18 dependent on the entire treatment team, which includes the psychiatrist, a psychologist, a social
19 worker, nursing staff, and mental health technicians. Nonetheless, the availability of adequate
20 psychiatric coverage in a mental hospital is the most important element in both civil and
21 forensic admissions, as the psychiatrists head the treatment teams, make the diagnoses that
22 form the bases of the inpatient treatment, and prescribe and monitor medications. Moreover,
23 inpatient hospital care requires an attending physician. Finally, the Western State Hospital
24 Medical Staff Bylaws provide that only a member of the Medical Staff can admit or release a
25 patient.
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1 6. Lack of adequate medical or psychiatric coverage within all of the staffing
2 levels leads to less than optimal patient outcomes. For example, a lack of nursing staff creates
3 challenges for monitoring and safety, and a lack of social workers can prolong discharges.
4 With regard to all of the members of the treatment teams, optimal treatment outcomes rely on
5 the development and maintenance of therapeutic relationships with the patients under their
6 care. If the census is increased in a hospital that already suffers from vacancies, adding more
7 beds stretches the existing treatment staff even thinner, which in turn leads to higher caseloads,
8 a more dangerous environment for both patients and staff, and severely compromises patient
9 treatment and decreases the ability of the hospital to recruit and retain quality staff because of
10 staff burnout. Without adequate staffing, the treatment staff have less time to get to know the
11 patients, review the patients' histories, perform necessary charting and documentation, observe
12 the patients in the ward milieu, and attend to the patients' needs.

13 7. All treatment staff, including physicians, are held to a high standard in
14 providing quality care to the best of their ability, and have an ethical responsibility to do so.
15 Part of maintaining a high standard is regulating one's capability (what the treatment staff is
16 trained and competent to do) and capacity (how much work is reasonably safe). No laws,
17 statutory or otherwise, can force a physician or other treatment professionals to perform
18 beyond that professional's capability and/or capacity. Even in the military sector, the
19 Department of Defense chain-of-command does not allow for a physician's self-assessment to
20 be overridden such that the physician can be forced to provide care that he or she feels is not
21 safe.

22 8. Western State Hospital has 295 'forensic beds' on 10 different units. Of those
23 beds, 135 are reserved for forensic evaluation and restoration; the rest are reserved for those
24 committed as not guilty by reason of insanity (NGRI). If NGRI admissions outpace
25 discharges, the number of forensic evaluation and restoration beds diminish commensurate
26 with the increase of NGRI beds.

1 9. The recommended physician/patient ratio in an inpatient admission unit, such as
2 those providing competency services, is typically 1:15. Based on that ratio, the competency
3 wards should be staffed with 9 psychiatrists. Due to the more stable nature of NGRI patients,
4 the staffing for those patients are generally 1:30. The above ratios necessitate a total of 14
5 psychiatrists for all 295 beds (both competency and NGRI beds); however, we currently only
6 have 7.6 psychiatrists.

7 10. To compensate for the shortfall, several forensic physicians are working the
8 equivalent of 1.25 to 1.75 FTE. A typical psychiatrist (1.0 FTE) works 8 hours per day for 40
9 hours (Monday-Friday) to cover 15 patients. The psychiatrists cross cover for each other for
10 nights and weekends, as an attending psychiatrist must always be available on campus for
11 emergencies. If a physician is willing to work 70 hours a week (14 hours per day), he or she
12 can cover 26 patients, leaving the physician only 10 hours to eat, shower, and sleep.

13 11. Some of the psychiatrists staffing the "civil" wards at Western State Hospital
14 cross cover for the forensics wards. They, too, have standard ratios and work on full wards, so
15 they are also working beyond 1.0 FTE. If a physician agrees to manage 26 patients, he or she
16 must remain until the psychiatrist can "hand-off" the care of a patient to another physician
17 because physicians are legally prohibited from abandoning patients. .

18 12. I earlier stated that a lack of nursing staff creates challenges for monitoring and
19 for the safety of patients and staff. We are currently running a 25% vacancy rate on nurses
20 across the hospital.

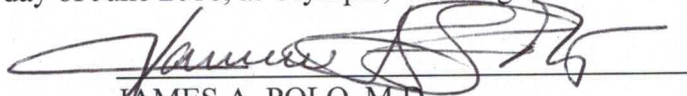
21 13. For the reasons stated above, we cannot safely or ethically extend our services
22 or add additional beds at this time. Because of the staffing shortage, we have 22 vacant
23 forensic beds that cannot be filled due to lack of psychiatric coverage. Should a current
24 psychiatrist die or quit, we will be forced to reduce beds even further.

25 14. I must note that it is very hard to hire psychiatrists and other treatment staff at a
26 state hospital that has a poor record with CMS. It is also very hard to hire psychiatrists when

1 they perceive that the legal system considers them merely as cogs in the system without
 2 recognition of the challenges that they face. We are covering the holes and gaps with the
 3 staffing of the current forensic beds with locum tenens psychiatrists from other States who
 4 typically agree to cover for a maximum of 1 to 3 months. Using the locums requires careful
 5 contractual planning concerning their arrival and departure because we cannot allow any
 6 patient to be "abandoned."

7 I declare under penalty of perjury under the laws of the United States and the State of
 8 Washington that the foregoing is true and correct to the best of my knowledge.

9 Signed this 5th day of June 2016, at Olympia, Washington.

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 11 JAMES A. POLO, M.D.
 12 Chief Medical Officer
 13 Western State Hospital
 14 Department of Social and Health Services
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CERTIFICATE OF SERVICE

Beverly Cox, states and declares as follows:

I am a citizen of the United States of America and over the age of 18 years and I am competent to testify to the matters set forth herein. I hereby certify that on this 6th day of June 2016, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

David Carlson: davidc@dr-wa.org

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Kenan Lee Isitt: kenan.isitt@cgilaw.com

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated this 6 day of June 2016, at Olympia, Washington.


Beverly Cox
Legal Assistant

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