

Judge upholds ruling on mentally ill, hospitals

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The rights of people with mental illness collided Monday with the state's struggling mental health system. The state lost a round, but the fight is far from over.

In a ruling that followed weeks of legal briefing, Pierce County Superior Court Judge Kathryn Nelson declared that parking the mentally ill in hospital emergency rooms without treatment violates state and federal law.

"This is true no matter how widespread, economical or convenient it may be to proceed otherwise," Nelson said. "It is simply not acceptable to violate the civil rights of those that the state detains for mental health issues by detaining them without evaluation and treatment."

The decision upheld an earlier ruling by county Court Commissioner Craig Adams, who reached a similar conclusion in March.

On the ground, the ruling creates a sticky scenario: People with mental illness who face potential involuntary commitment could be released into the community without any treatment at all.

Parking the mentally ill in emergency rooms is not new. In narrow circumstances, it's legal.

Known formally as "single-bed certification," it's a legal procedure intended to provide stopgap treatment to the mentally ill while they wait for evaluation, treatment and possible detention at county mental health facilities or Western State Hospital.

Under state law, such patients are supposed to receive mental health evaluations and treatment within 72 hours. The trouble is they're not getting it. Instead, the single-bed certifications stack up for days on end while patients wait without treatment.

While the practice is legal, it's exploded in recent years as the state has cut beds and funding for mental health services. Like a clogged drain, the system is backed up.

During a 10-month period in 2012, 189 Pierce County mental patients languished in hospital rooms for a total of 910 days. The numbers in King County over the same period were greater: 653 patients spent 2,200 days waiting for mental health beds.

The parade of waiting patients — as many as 14 in one day, rolling into the courtroom on hospital gurneys — prompted Adams to issue his ruling in March.

Backed by state attorneys, county prosecutors appealed the ruling to Superior Court. They argued that hospital rooms were better than nothing and contended that staying in a hospital room didn't mean "no treatment." Rather, they contended a hospital bed was "not optimal."

Defense attorneys who represent mentally ill patients facing involuntary commitment argued the opposite: Detaining people in hospitals without state-mandated mental health treatment violated state law and the civil rights of the individuals.

Attorneys for the MultiCare and Franciscan health systems reinforced that view, arguing that the hospitals lack the proper facilities to treat the mentally ill.

Nelson's ruling gives defense attorneys potential legal ammunition. In cases in which patients have been waiting more than 72 hours for a mental health evaluation, defense attorneys could argue for immediate release.

That's the outcome county and state attorneys fear and is the reason they plan to appeal Nelson's ruling. On Monday, they requested a three-day stay of the decision while they draft a legal argument. It's a paper process; Nelson will formalize the proceedings and her ruling at a hearing Thursday afternoon.

Deputy prosecutor Ken Nichols, who represents the county in involuntary commitment cases, said the argument for allowing hospital parking will be straightforward.

“I think having a place to be that’s not causing anybody else harm or themselves harm, that’s a step in the right direction,” he said.

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