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Supreme Court strikes down “psychiatric boarding”

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Psychiatric boarding - the practice of warehousing mentally ill patients in hospital emergency rooms due to lack of available treatment space - is unlawful, according to the Washington state Supreme Court.

“(State law) does not authorize psychiatric boarding as a method to avoid overcrowding certified evaluation and treatment facilities,” states the court’s decision, authored by Justice Steven Gonzalez.

The unanimous ruling, issued Thursday, throws a wrench into the state mental health system, and forces state leaders to confront a longstanding dilemma: a shortage of mental-health treatment beds created by a series of budget cuts. The consequence: Washington ranks last or close to last in the nation for psychiatric beds, depending on the measure.

The high court court upheld a series of earlier rulings that originated in Pierce County, first [reported](#) by The News Tribune [last year](#). A group of 10 patients detained under Washington’s civil commitment law petitioned the court for relief, arguing that they were being held in hospital emergency departments without the individual treatment guaranteed by state and federal law.

Testimony in those initial hearings, referenced in the Supreme Court’s decision, noted that psychiatric boarding has “pretty much exploded” across the state in the past seven years. According to state numbers, a total of 3,421 mental patients were parked in emergency departments in 2013.

The high court’s decision came in short order, only 43 days after the justices heard oral [arguments](#) on the issue. The ruling noted that the state’s civil commitment system has been “regularly overwhelmed” since the state Legislature enacted the Involuntary Treatment Act in 1979. The law governs commitment procedures for people with mental illness.

Under state law, people with mental illness who present imminent risk of harm to themselves or others can be committed and held by the state against their will. Patients are entitled to a mental-health evaluation by a licensed professional within 72 hours. If the evaluation concludes that the individual should be detained, a court hearing follows. A patient can be detained for up to 14 days in a certified mental-health evaluation and treatment center. Longer commitments can last 90 or 180 days, and patients must be detained at Western State Hospital in Lakewood, or Eastern State Hospital near Spokane.

When no room is available at the state hospitals or evaluation and treatment centers, patients are typically transferred to hospital emergency wards, where they wait weeks or months for a certified bed. The practice, known as psychiatric boarding, was the key issue considered by the court. Patients argued that they do not receive individual treatment in emergency departments.

Attorneys for hospitals around the state concurred in briefs filed with the court, saying that they lack the facilities and staff to provide treatment. Attorneys for the state argued that hospitals were better than nothing, and warned that the alternative would be to release patients immediately, even if they present a risk of harm to themselves or others.

The court sided with patients and hospitals, and against the state Department of Social and Health Services, which oversees the state’s \$500 million mental-health system. The central idea: no vacancy is no excuse. In the

absence of a specific medical need, the state cannot detain people against their will without providing treatment, solely to ease overcrowding.

“By its plain terms, this rule does not authorize a single bed certification merely because there is no room at certified facilities with which the county already has a contractual relationship,” the court’s decision states.

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