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Federal Opinion Confirms States Are Not Required to Eliminate Hospital-Level Mental Health Care

Alexandria, VA — June 19, 2026 — Treatment Advocacy Center (TAC) recognizes the recent [opinion from the Office of Legal Counsel](#) (OLC) clarifying that neither the Americans with Disabilities Act (ADA) nor the Rehabilitation Act requires states to eliminate or avoid higher-acuity mental health treatment settings. The opinion confirms that the Supreme Court’s *Olmstead* decision has been widely misinterpreted for decades, often to the detriment of individuals with the most severe mental illnesses.

For years, states have been pressured to shift nearly all treatment into community-based settings, even when individuals were too ill to engage in outpatient care due to the severity of their symptoms and the neurological condition that prevents them from recognizing they are ill (anosognosia). This has contributed to a national crisis in which people with untreated psychosis are increasingly funneled into homelessness, emergency rooms, and the criminal legal system.

The OLC opinion states that “*Olmstead did not hold that Title II requires maximal integration for patients with mental disabilities*” and that it prohibits only “*unjustified institutional isolation.*” It further notes that the Court did not require states to eliminate hospital-level care or treat all patients in community settings.

TAC Strongly Supports Community-Based Care — But It Must Be Paired With Higher-Acuity Options

TAC affirms that community-based care is the best and most appropriate option for the majority of people with mental health needs. However, the population TAC advocates for, individuals with severe psychosis disorders, often cannot safely or effectively engage in outpatient services until they are stabilized. Hallucinations, delusions, and lack of insight (anosognosia) can make voluntary participation in treatment impossible.

“For most people, community care is absolutely the right answer,” said Nina Richtman, Interim Executive Director. “But for individuals in the depths of psychosis, denying access to hospital-level treatment is not integration — it’s abandonment. These levels of care must exist, and they must be accessible.”

The OLC opinion echoes this concern, citing Justice Kennedy’s warning in *Olmstead* about the “dark side” of premature deinstitutionalization, which has led to homelessness and incarceration for thousands of people with severe mental illness.

Court-Ordered Treatment Can Prevent Criminalization and Support Recovery

For some individuals, court-ordered inpatient or outpatient treatment is a necessary medical intervention that prevents repeated crises, victimization, and criminal legal involvement. TAC emphasizes that such treatment is never intended to be punitive but to instead serve as a lifeline that allows people to stabilize and transition safely back into the community.

States Must Rebuild the Full Continuum of Care

The OLC opinion underscores that states retain broad authority to maintain and invest in hospital beds, residential programs, and step-down services. TAC urges policymakers to use this opportunity to rebuild the continuum of care that has eroded over decades of misapplied deinstitutionalization policies. While this opinion is an important step toward restoring access to the full continuum of care, additional federal action is still needed to ensure that people with the most severe mental illnesses can receive appropriate treatment. Repealing the Institutions for Mental Diseases (IMD) Exclusion and fully funding Medicaid services for psychiatric care would allow states to build and sustain the hospital-level and step-down treatment options that this population urgently needs.

“Don’t eliminate levels of care,” said Richtman. “Ensure they exist for the people who need them most, especially those with severe psychosis who cannot access community care without first receiving stabilization.”

About Treatment Advocacy Center (TAC)

TAC is a national nonprofit dedicated to eliminating barriers to treatment for people with severe mental illness. TAC promotes laws, policies, and practices that ensure access to timely, compassionate, individualized care across the full continuum of services needed to prevent homelessness, incarceration, and needless suffering.

For media inquiries, please contact: press@tac.org