

Landmark Federal Lawsuit Charges Missouri with Pervasive Failure to Monitor Prescription and Administration of Powerful Psychotropic Medications to Foster Youth

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JUNE 12, 2017 – JEFFERSON CITY, MO. – Watchdogs Children’s Rights, National Center for Youth Law (NCYL) and Saint Louis University School of Law Legal Clinics have today filed a landmark, civil rights complaint against Jennifer Tidball, Acting State Director of the Missouri Department of Social Services and Tim Decker, Director of the Children’s Division of DSS, on behalf of all minor children and youth who are or will be placed in Missouri’s foster care custody.

The first class action lawsuit to shine a federal spotlight solely on the overuse of psychotropic medications among vulnerable, at risk populations – such as Missouri’s 13,000 children in foster care – the complaint alleges longstanding, dangerous, unlawful and deliberately indifferent practices by the defendants, including:

- Failure to ensure that powerful psychotropic drugs are administered to children safely and only when necessary
- Failure to maintain complete and current medical records for children in foster care and to provide those records to foster parents and health providers to ensure effective and well-informed treatment
- Failure to maintain a secondary review system to identify and address high risk and outlier prescriptions to children when they occur
- Failure to assure and document meaningful, informed consent in relation to the administration of these drugs

“Children in Missouri foster care are routinely being placed on psychotropic drugs without adequate safeguards in place. The foster care system’s abject failure to oversee and closely monitor the use of these powerful drugs exposes Missouri’s most vulnerable citizens to serious, and even permanent injury,” explains Sara Bartosz, Deputy Director of Litigation Strategy at Children’s Rights. “It’s a systemic violation of children’s constitutional right to be free from harm while in state custody. Missouri must do far better by its children.”

According to Bill Grimm, Directing Attorney of Child Welfare at NCYL, “For foster children, psychotropic medications, especially antipsychotics, are often used as chemical restraints and not to treat the limited illnesses for which the FDA has approved their use in children. Few children, even those children and adolescents in foster care, suffer from schizophrenia or bipolar disorder – the predominant diagnoses for which antipsychotics

have FDA approval for use with children. Yet antipsychotics are some of the most frequently prescribed drugs given to foster children. This is what we're seeing in Missouri. It's an outlier, and children's lives are at risk."

Given the lack of research on the safe and appropriate use of psychotropic medications in children, it is of particular concern when children are exposed to "outlier" prescribing practices: being given medications that are not approved by the FDA for use in children, combining multiple psychotropic medications, dosages that exceed recommended amounts, or given these drugs at a very young age.

"The lack of oversight and coordination of care in Missouri is disturbing," adds co-counsel, John Ammann, professor and supervisor in the Legal Clinics at SLU LAW. "Foster youth endure incomprehensible trauma and abuse, but rather than receiving therapeutic counseling and mental health support to treat underlying issues, they are too frequently given powerful psychotropic medications to control their behavior. The foster children of Missouri deserve better."

"These children are being prescribed too many powerful and potentially dangerous drugs, at unacceptable dosages and at too young an age. The federal government has cautioned strongly against these practices. It's time that Missouri is held accountable to the children in its care it promised to protect," states Sara Bartosz.

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