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# Maryland Foster System Sued Over Administration Of Psychotropic Drugs In Children



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The American Civil Liberties Union of Maryland, joined by other state and national nonprofits, has filed a class action lawsuit against the state for allegedly failing to conduct adequate oversight of psychotropic drug administration in children in Maryland's foster care system, potentially harming thousands of children.

More than 34% of children in the state's foster care system are given psychotropic drugs — medications like anti-anxiety agents, antidepressants, stimulants, and mood stabilizers — that impact brain chemicals in order to regulate behavior and

emotions. According to the lawsuit, nearly 75% of those children are taking the drugs without a documented psychiatric diagnosis, “suggest[ing] that psychotropic drugs are not administered in response to a diagnosed mental health condition, but instead are administered as a form of chemical restraint.”

The suit, filed by the ACLU, Disability Rights Maryland, and Children’s Rights, alleges that over the course of a decade the state’s Department of Human Services and Social Services Administration has failed to maintain adequate medical records and has not established a policy of informed consent, where an adult responsible for the child could consult on their medications. It also alleged that the state has not built a secondary review system to ensure children’s medications are properly prescribed. The alleged failures disproportionately harm and jeopardize Black children, according to the suit, who are overrepresented in the state’s foster care system.

“The risks of harm from psychotropic medications are increased for children in government systems because they do not have a consistent interested party to coordinate their treatment,” reads a press release announcing the suit. “The fact that multiple people are involved in their care can result in poor record-keeping and miscommunication, leading to children being prescribed too many drugs, at too high a dosage, at too young an age. Children pay the price, which is unacceptable.”

Filed in a U.S. District Court for Maryland, the lawsuit is seeking damages for three anonymous plaintiffs in the suit, as well as several changes to the state’s monitoring system, including improved medical record-keeping, a clear consent policy for all psychotropic drugs, and a review system that would require a second opinion from a child psychiatrist if a treatment plan has an elevated risk, such as multiple medications at one time.

The lawsuit focuses on three anonymous children in Maryland’s foster care system, all who have “been harmed and put further at risk of harm” by the state’s alleged failure to properly oversee their medications. One child, a Black 16-year-old identified as Y.A., was placed on at least four different drugs at one time, according to the lawsuit, with “little continuity in the oversight of his psychotropic medications.” Y.A., whose case is based in Prince George’s County, reported significant weight gain, difficulty walking, fatigue, dizziness, and headaches. When staying in a motel for a temporarily between placements, Y.A. overdosed on his medications, according to the suit. It added that no adult with authority to consent to his prescriptions attends his psychiatry appointments, and his mother is only informed of any changes after the fact.

A second plaintiff, Y.B., who entered the foster system in 2013, has at times been prescribed five different drugs at once, with little continuity over his care as he moved through 12 different placements. Despite his court-appointed special advocate expressing concerns that he is overmedicated, there has been no secondary review of his medications, according to the lawsuit. The third plaintiff, B.F. has been placed on seven different medications at the same time, and experienced “increasingly emotional outbursts and aggression.” (Mood swings and significant agitation are known side effects of some of his medications, per the suit.) After several moves, B.F. returned to his mother in October 2022, and his mother was not provided adequate information about his medications as he again was forced to change psychiatrists. With such little record-keeping, a physician at one point had to “piece together B.F.’s prescription history based on available pill bottles,” the suit says.

Spokespeople for Maryland’s DHS and SSA did not immediately return DCist/WAMU’s request for comment on the allegations contained in the lawsuit.

Nationwide, about 35% of children in foster care are prescribed psychotropic medications, and often more than one at a time. In Maryland, roughly 54% of children in foster care who were receiving psychotropic drugs were taking multiple drugs, according to DHS’ Child Welfare System Report. Numerous [studies](#) have shown that in children, these drugs can come with serious risks and side effects, including heart problems, respiratory issues, and suicidal thinking and behavior. According to Dr. Christopher Bellonci, a senior policy advisor for the Baker Center for Children, associate professor at Harvard University, and long-time child psychiatrist, the drugs can be helpful when dosed properly and with conscientious monitoring. But without adequate medical records, continuous care, or secondary review, prescribing can become “problematic.”

“You need to be able to ensure that someone is affirming that the young person is developing greater benefit than risk, which really requires a case by case kind of review,” he said Tuesday during a press briefing on the lawsuit. “It really starts with

informed consent, meaning that the person who's consenting for these young people in foster care, which is usually a state entity, has sufficient knowledge to be able to give that informed consent, and the ability to ask questions of the prescriber about the rationale for why the medication is being used for specific diagnoses."

He added that research is sorely lacking in the safety and efficacy of prescribing multiple drugs, and drugs in different classes, to children, only further underscoring the need for scrutiny.

"When you get to three or more [drugs] there is an absolute dearth of any studies that have shown that the combination of using three medications — three different classes of medications of psychotropic agents — simultaneously is safe or effective for young people," Bellonci said.

The issue of overprescription or poor oversight in the foster system is not a new issue to the state, or the federal Department of Human Services. In 2012 the Administration for Children and Families published an information memorandum to child welfare agencies across the country with recommendations about how psychotropic drugs should be administered within foster care systems. Also that year, the federal government held the [Because Minds Matter conference](#) in order strengthen the oversight of drug use in children under the state's care. But in the decade since, advocates say the necessary improvements haven't been made, leaving children behind.

"That's why we've brought this action, over those 10 plus years since the Because Minds Matter conference. The state's been aware of the need to shore up its practices in these areas, and unfortunately, it hasn't made it on the priority list and the necessary reforms and change have not occurred," said Samantha Bartosz, Deputy Director of Litigation at Children's Rights, adding that the case is a call to action, not an indictment against the use of psychotropic drugs, nor the individual physicians that have prescribed them. "We do not mean to make psychotropic medications as a term a dirty word. These drugs are capable of doing some very good things for individuals who are appropriately diagnosed and administered the drug. But like any tool, when you use the wrong tool for the wrong job, bad things can happen."

The announcement of the suit comes just a day before Gov.-elect Wes Moore takes office, and Brotz and others representing the plaintiffs said they're hopeful his administration will make way for change.

"The new governor Wes Moore and his team have a unique opportunity to right the past wrongs and ensure that foster children in the state's custody receive safe and appropriate mental health care," said Megan Berger, the assistant managing attorney at Disability Rights Maryland. "And the children in Maryland deserve nothing less."

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