

United States Senate

WASHINGTON, DC 20510

July 21, 2022

John F. Ripley
Chief Executive Officer
Vivant Behavioral Healthcare
2 North Jackson St, Suite 605
Montgomery, AL 36104

Dear Mr. Ripley:

Over the past several years, a series of reports have raised concerns about the conditions that children and youth experience in residential treatment facilities (RTFs).¹ While estimates vary, thousands of children and youth in the United States are placed in these facilities for therapeutic services such as mental health and substance use treatment or behavioral or emotional health treatment.² While there is a role for RTFs in the continuum of treatment, we are concerned by numerous stories of exploitation, mistreatment and maltreatment, abuse and neglect, and fatalities in these facilities. We therefore request information from Vivant Behavioral Healthcare to better understand your policies and practices in providing treatment to children and youth being served in your facilities.

Recent national reporting has detailed a number of instances of abuse and neglect in RTFs, including inappropriate use of and lack of reporting of restraint and seclusion, staffing shortages, a lack of appropriate and advertised mental health and substance use disorder services, and concerns about the education services being provided to children and youth.³ These concerns are not new. In 2007, the Government Accountability Office (GAO) released a report that found “thousands of allegations of abuse, some of which involved death” at RTFs across the country.⁴ This study found “untrained staff, lack of adequate nourishment, and reckless or negligent operating practices” among facilities.⁵ In January 2022, GAO released a subsequent report finding RTFs have failed to prevent instances of abuse and neglect.⁶ Children and youth who have been in RTFs have reported harm and abuse – either at the hands of staff or other children and youth in the facility – and that their time in the RTFs “negatively impacted their well-being, from being served meals that lacked proper nutrition and promoted undesired weight gain or

¹ For the purposes of this letter, residential treatment facilities are defined as psychiatric residential treatment facilities (42 CFR § 483.352), qualified residential treatment programs (42 USC § 672(k)(4)), therapeutic boarding schools, therapeutic residential treatment centers, non-medical residential centers, congregate care facilities for youth, wilderness camps or therapy programs, boot camps, and behavior modification facilities—that are intended to address youth’s behavioral, emotional, mental health, or substance use needs.

² <https://www.childwelfare.gov/pubPDFs/foster.pdf>

³ https://www.ndrn.org/wp-content/uploads/2021/10/NDRN_Desperation_without_Dignity_October_2021.pdf

⁴ <https://www.gao.gov/assets/gao-08-146t.pdf>

⁵ Ibid.

⁶ <https://www.gao.gov/products/gao-22-104670>

loss, feeling over medicated or coerced into taking medication, being unable to feel a sense of normalcy or socialize with peers, lacking access to on-grade level school work which diminished their educational outcomes, being deterred from performing acts of freedom and self-expression, practicing their religion, or speaking their native language.”⁷

Families and states place children and youth with the most intensive needs in the care of RTFs with the expectation that these children and youth will be given the supports and services they need. To ensure that children and youth placed in your care are safe and provided the care and treatment they need to be able to return to their homes and communities, we write to learn more about the policies and procedures at your facilities. We request that you provide answers to the following no later than August 4, 2022.

1. Please provide the following information pertaining to each RTF that you operate:
 - a. Facility location
 - b. Licensing body or bodies
 - c. Accreditation(s), if any
 - d. Patient population(s) served, including: age, primary state of residence, reason for placement, and types of mental or behavioral health conditions
 - e. Size of the facility, including the number of residential treatment beds
 - f. Services offered, including treatment and educational services
 - g. For each of the past five years, minimum, maximum, and average patient length of stay at the facility

2. Please provide the following information pertaining to restraint and seclusion practices:⁸
 - a. Any policies and procedures on the use of restraint and seclusion for children receiving treatment at your facilities.
 - b. The training on restraint and seclusion that you require for staff. Please provide the percentage of your staff who has completed such training.
 - c. Aggregate number of incidents of restraint and seclusion for each of the past five years.
 - d. An explanation of the process of collecting and reporting restraint and seclusion use data, including who that data is reported to and how often.

⁷ https://assets.website-files.com/60a6942819ce8053cefd0947/60f6b1eba474362514093f96_Away%20From%20Home%20-%20Report.pdf

⁸ For the purposes of this letter, the term restraint is defined as, (A) any physical restraint that is a mechanical or personal restriction that immobilizes or reduces the ability of an individual to move his or her arms, legs, or head freely, not including devices, such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or any other methods that involves the physical holding of a resident for the purpose of conducting routine physical examinations or tests or to protect the resident from falling out of bed or to permit the resident to participate in activities without the risk of physical harm to the resident (such term does not include a physical escort); and (B) a drug or medication that is used as a restraint to control behavior or restrict the resident's freedom of movement that is not a standard treatment for the resident's medical or psychiatric condition.” (42 U.S.C. 290ii et seq) For the purposes of this letter, the term seclusion means, “a behavior control technique involving locked isolation. Such term does not include a time out.” (42 U.S.C. 290ii et seq.)

- e. Any policies and procedures on administering medication in your RTFs, including who prescribes and distributes medication.
3. Please provide the following information pertaining to preventing and responding to allegations of mistreatment, maltreatment, abuse, or neglect:
 - a. Please provide any related policies and procedures.
 - b. Aggregate number of incidents of mistreatment, maltreatment, abuse, or neglect for each of the past five years.
 - c. What is the process for reporting an allegation of abuse or neglect to the relevant state agency and other entities as required under state and federal law? What are your policies to protect and support children and youth while there is an ongoing investigation of such allegation?
 - d. What training on child abuse and neglect prevention do you require for staff? Please provide percentage of staff who have completed such training.
 - e. What policies and procedures are in place for a youth to safely report an allegation of mistreatment, maltreatment, abuse, or neglect?
 - f. What supports and services are in place for children who experience mistreatment, maltreatment, abuse, or neglect?
4. What federal, state, local, and private funding (including, but not limited to private equity funding) does your company receive? Please provide a full breakdown of funding sources from the past five years as well as the following information:
 - a. Which states do your facilities hold contracts with? Out of these contracts, how many are with state departments of human services, including state child welfare agencies?
 - b. Provide documentation that shows the fulfillment of requirements for receipt of such funds.
 - c. Provide policies and procedures concerning the interstate transfer of children and youth.
5. Please provide information pertaining to any complaints, inspections, and investigations from the past five years including but not limited to:
 - a. Record of any inspection or investigation pertaining to federal civil rights laws including the *Americans with Disabilities Act*, *Individuals with Disabilities Education Act*, and *Section 504 of the Rehabilitation Act*.
 - b. Records of any inspection or investigation by any state or local entity, including findings and the status of any corrective actions.
 - c. Records of any complaint received pertaining to services provided as well as the results of any related investigation or inspection and any corrective actions taken.
6. Please provide information specific to the foster care population you serve:
 - a. For each RTF, documentation showing compliance with Qualified Residential Treatment Program requirements detailed in the *Family First Prevention Services Act*.

7. How do you ensure all children and youth, including LGBTQ youth, in your facilities receive clinically appropriate care?
 - a. For each RTF, please provide the total number of staff broken down by specialty, including licensure, over the past five years.
 - b. For each RTF, what is the ratio of staff to youth?
 - c. What assessments are used to determine treatment needs and treatment course? Please provide copies of any such assessments and related policies and procedures.

8. How do you ensure children and youth in your facilities receive appropriate education?
 - a. For students who receive education while receiving treatment at your facilities, do those facilities use curriculum approved by a state or local educational agency?
 - b. How many of your facilities which provide education services are licensed by local or state education agencies?
 - c. How do your facilities share data with state and local educational agencies on requirements to curriculum and assessment standards?
 - d. How do your facilities share educational records with state and local educational agencies to support immediate enrollment in school when students return home?

Please direct any questions and response to this letter to Amanda Lowe at Amanda_Lowe@help.senate.gov and Rebecca Nathanson at Rebecca_Nathanson@wyden.senate.gov. We appreciate your timely attention to this issue.

Sincerely,



Patty Murray
United States Senator



Ron Wyden
United States Senator