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## Jon Lender: State's home-care program has allowed requests for 'Caucasian' visiting aides with 'no accent,' lawsuit alleges

By JON LENDER

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*Andy Tran, left, and Jeff Farmer, partners in the Center for Transitional Living, LLC, which has filed a federal discrimination lawsuit against the state and one of its contractors. (Handout)*

A new federal lawsuit claims a state contractor that coordinates home health care visits under Connecticut's Medicaid program — Advanced Behavioral Health Inc. (ABH) of Middletown — has repeatedly gone along with "discriminatory requests by Medicaid home health care recipients not to send staff of particular races and/or national origins."

Those discriminatory requests were allegedly forwarded by ABH in emailed referrals to a subcontractor that supplies aides for visits to clients' homes — the Center for Transitional Living LLC, which goes by the initials CTL.

When the minority-owned CTL refused to honor such requests, ABH refused to refer some prospective clients to it, says CTL's attorney, David A. Slossberg of Milford.

He filed suit on CTL's behalf last month in U.S. District Court, naming as defendants ABH, the state Department of Social Services and the state Department of Mental Health and Addiction Services.

Among the lawsuit's allegations are:

- In September 2017, ABH specified in an emailed referral to CTL "that its client required 'Caucasian staff' to assist with cleaning, household chores, and transportation, among other things."
- In December 2019, "ABH referred a client to CTL and specified that the client 'will not work with any staff that have strong accents, cannot speak English or are African-American.' "
- This past July, "ABH sent two referrals to CTL and specified that one client was 'seeking a Caucasian female' and the second client required a female staff member with 'no accent.' "
- "In essence, ABH requested that CTL discriminate against its employees in job assignments on the basis of race and/or national origin and,

following CTL's objections, retaliated against CTL by refusing to send referrals."

"It is hard to believe that Advanced Behavioral Health as well as state of Connecticut agencies condoned and continued to allow requests that only 'Caucasian staff' be selected to assist individuals," Slossberg said, adding that the "vast majority" of CTL's employees are "women of color."

He said the defendants' conduct is "the kind of systemic racism that just cannot be tolerated."

The suit, in which a jury trial is requested, seeks unspecified financial damages and fees, as well as a permanent injunction against discriminatory conduct "with respect to referrals for Medicaid services."

Spokespersons for the Department of Social Services (DSS) and the Department of Mental Health and Addiction Services (DMHAS) declined to comment on the lawsuit, as did the office of the state attorney general, which has assigned two of its attorneys to defend the departments.

ABH's Hartford-based attorney, Thomas Daily, also declined to comment on the specifics of the pending litigation, but added: "I will note that Advanced Behavioral Health, Inc. ... a nonprofit organization, is deeply committed to improving the quality of life of those they serve, many who struggle with mental health and substance use issues."

He said that "ABH is deeply committed to nondiscriminatory practices and providing a safe and nondiscriminatory work and service environment. ABH takes concerns or complaints of discrimination very seriously, and works with its partners, including state agencies and providers, to promptly investigate and address any concerns or complaints."

All of this involves the state's administration of a so-called waiver program under which Medicaid funds originally targeted to beneficiaries living in centralized facilities "follow" clients to their homes in local communities, thus avoiding institutional care.

Under the program, subcontractors such as CTL, which is based in Farmington and also has offices in Norwalk, provide home health services to clients referred by ABH, under ABH's contract with DHMAS. DSS, as the overall administering state agency for Medicaid, oversees DMHAS in this.

People who fall into three categories are served by CTL in their homes: the elderly; adults with mental health issues; and individuals with "acquired brain injuries," the lawsuit says.

The minority-owned firm's two partners are Andy Tran, who is of Asian descent, and Jeff Farmer, who is of African American descent.

"As sons of social workers who started a home care company, we are incredibly proud of the services provided by our care staff," Tran said." When we get discriminatory staffing referrals we lose out on business because we offer qualified staff but we refuse to honor the discriminatory parts of the referral."

Farmer said that "the practice of allowing discriminatory staffing requests by Medicaid recipients enforces structural racism and hurts the hardworking people in the home care industry."

They said they couldn't "sit idly by and permit our care staff to be discriminated against, and to lose out on jobs because of it."

“Andy and Jeff started their business in 2013 and, in seven short years, notwithstanding the obstacles they’ve faced, now employ over 250 people, ” Slossberg said. "They, along with all minority businesses, deserve to operate their business free of discrimination, without being asked to violate their own anti-discrimination policies and to deny work to their many minority employees.”

The lawsuit says that because of “ABH’s discriminatory conduct, CTL has been deprived of its rights to equal protection of the law guaranteed under the Fourteenth Amendment to the United States Constitution.” It also says, “Defendants intentionally discriminated against CTL and its employees on the basis of race.” And it charges that the defendants' actions violated the Connecticut Unfair Trade Practices Act.

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