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HHS APPEALS SHOCK TREATMENT COURT DECISION

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STATE HOUSE, BOSTON, JULY 24, 2018....The newest chapter of a 30-year legal battle in Massachusetts started in state Attorney General Maura Healey's office late last week.

Healey's office began the process of appealing a judge's findings that allow the continued use of "aversive" therapies by the Judge Rotenberg Educational Center (JRC), a residential facility in Canton. In a statement to the News Service, the state Executive Office of Health and Human Services confirmed that it had "asked the Attorney General's office to file an appeal of the Probate Court's decision regarding the Judge Rotenberg Center."

"Aversive" therapies are meant to deter any sort of violent outburst from an intellectually or developmentally disabled student. According to the U.S. Food and Drug Administration, the JRC is currently one of the only schools in the nation that continues to put the therapies into practice. One of those therapies involves triggering electric shocks to the skin. The JRC is the only school that still applies this particular kind of method.

The practice has been a topic of debate since 1987, when the JRC was given a "consent decree" allowing it to continue the practice of shock therapy. The school has since been condemned and investigated by the U.S. Department of Justice, the United Nations' special rapporteur on torture, and currently, the FDA.

Months after video of an 18-year-old student receiving dozens of electric skin shocks surfaced in 2013, Gov. Deval Patrick tried to put a stop to the practice and asked the court to vacate the decree. In 2015 and 2016, Gov. Charlie Baker's Secretary of Health and Human Services Marylou Sudders reiterated a desire to end the therapy.

In June, Judge Katherine Field of the Bristol County Probate and Family Court ruled in the center's favor. The deliberation took years, following a 44-day evidentiary hearing that ended in October of 2016.

"(The state) failed to demonstrate that there is now a professional consensus that the Level III aversive treatment used at JRC does not conform to the accepted standard of care for treating individuals with intellectual and developmental disabilities," Field wrote in her June 20 ruling.

Now, through the Attorney General's office, Sudders has decided to appeal the decision. Healey's office declined to comment on what arguments they will advance in their brief. Given the case's long history, the appeal is likely to take shape after an extended period of time.

In 2011, lawmakers on Beacon Hill considered a proposal banning the use of skin shock therapy. Representative Jeffrey Sanchez, currently the chairman of House Ways and Means, defended the use of the therapies, speaking at a committee hearing about his nephew Brandon, who has a mental disability and lives at the JRC.

Sanchez said that at 12 years old, Brandon was moved to the Judge Rotenberg Center, where he was one of the first children to receive aversive therapy. According to Sanchez, the electric shocks have kept his nephew alive.

"When he starts to ruminate, meaning when you vomit into your mouth and then you chew and then you swallow and chew and vomit again, the application is given and it stops him from doing it, it's as simple as that," Sanchez said in 2011.

The JRC has consistently defended the shocks as part of a rewards system, getting students who are difficult to work with to stop harming themselves or others. Parents who have children at the school also hail the therapies.

In a statement this week, the JRC said, "We are confident that the Court made the correct decision based on the expert and family testimony and other evidence presented to it and we are certain the Court's decision will be affirmed."

The Massachusetts decision may not matter if the FDA acts on its 2016 proposal to ban the therapy at JRC. The FDA said it's still reviewing comments on the proposed ban.

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