



Depression and Bipolar  
Support Alliance

## Position / Policy Overview and Recommendation

### **Position Title:**

Personal and Civil Rights: Right to Live in the Community

### **Position Policy** (provide brief description of the recommended position / policy)

DBSA advocates for the right of peers to choose their own paths to mental, emotional and physical wellness while promoting structures and practices that advance whole health and accessible care for everyone. Advancing this DBSA value includes a vision for a society where peers not only have the same freedoms enjoyed by other Americans under the U.S. Constitution, either explicitly or adjudicated by the United States Supreme Court, but also have the autonomy to make their own decisions about how to use and apply those civil and human rights. This paper is one in a series about positions of particular relevance to peers that focus on Supreme Court decisions and federal legislation protecting the rights to:

- live in the community,
- privacy of personal health information, and
- safe gun ownership.

**Justification** (Explain the need for and the urgency of the position / policy. Attach supporting pages as necessary)

### *Executive summary of issue*

Basic human and civil rights for people living with mood disorders can often conflict with larger societal attitudes. These attitudes can find their genesis in discrimination, often grounded in fear, as a result of being uninformed. As the leading peer-focused organization for people living with mood disorders, DBSA has a responsibility to champion the rights of peers through legislative advocacy and thoughtful education and dialogue with those who hold opposing views.

In 1999 United States Supreme Court Justice Ruth Bader Ginsberg, writing for the majority in *Olmstead v L.C. & E.W.* stated: “Unjustified isolation, we hold, is properly regarded as discrimination based on disability.”

The significance of this U.S. Supreme Court ruling is that the states must assist people living with a mental health condition in obtaining access to community-based services, so long as the person does not object to living in the community, and the provision of services in the community would be a reasonable accommodation when balanced with other people living with mood disorders. While many states have implemented the decision by rebalancing their Medicaid funding to prioritize community-based services over institutions, reforms have been slow, and budget shortfalls are often cited as reasons for lack of community-based services.

### *Existing policy around issue*

The civil liberty to live where one wants to live is embedded in the American identity, as well as the DBSA stated Values and Core Beliefs. Among them is the belief that: *All individuals have the right to direct their own care.* Pivotal to directing one's own care is where one receives that care (community or institution).

DBSA has a long-standing tradition of working toward ending discrimination for people living with mood disorders. In the context of civil rights, unlawful discrimination refers to unfair or unequal treatment of an individual (or group) based on certain characteristics, including disabilities.

The DBSA Position Paper, *Stigma and Discrimination*, provides the following call to action regarding discrimination: *“Devoting resources to reduce and eliminate stigma and discrimination for people living with mood disorders is central to the DBSA mission. DBSA calls upon society to examine how it can more sensitively address these issues through its various institutions and media outlets.”*

### *Relevant legislative or regulatory concerns*

Enforcement and implementation of the Olmstead decision primarily lies with two federal agencies: Department of Justice (Civil Rights Division) and the Department of Health and Human Services (Center for Medicare and Medicaid Services). Enforcement and implementation have been broad and ongoing over the past 20 years.

### *Recommended position / policy and call to action*

When issuing the Olmstead decision, the Supreme Court left wide latitude for interpretation around integration back into the community. DBSA advocates for full integration (for those who wish it). SAMHSA cites best practices from Pennsylvania in a 2012 report that serves as a blueprint for DBSA advocacy.

- Use the recovery model network of certified peer support specialists to help people transitioning to the community explore their possibilities and decide what type of environment they want to live in.

- Ask family members how much support they could offer and what they think the person needs in the community.
- Take into account clinical assessments that identify personal strengths that would make individuals successful in the community<sup>1</sup>

When issuing the decision, the court provided no requirement for urgency of implementation. The net effect is that many states have lagged in rebalancing their state Medicaid programs to include more community-based services. DBSA should support rebalancing initiatives at the state level, encouraging DBSA state organizations and chapters to stay informed on Medicaid Waivers submitted by their states and submit comment as applicable. Local DBSA advocates are encouraged to stay abreast of discriminatory practices to block community-based housing or block location of DBSA support group meetings.

Citation<sup>1</sup>

A Report of the 2012 Olmstead Implementation Best Strategies and Practice Academies. U.S. Department of Health and Human Services, Substance Use and Mental Health Services Administration