

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

RUBEN FOSTER et al.,	)	
	)	
Plaintiffs,	)	CIVIL ACTION
	)	
v.	)	No. 1:99-CV-0900 (MHS)
	)	
FULTON COUNTY, GEORGIA et al.,	)	CLASS ACTION
	)	
Defendants.	)	
	)	

**FINAL SETTLEMENT AGREEMENT**

**I. Introduction**

A. Plaintiffs in this class action are all HIV-positive persons who are now or will be in the future incarcerated at the Fulton County Jail in Atlanta, Georgia (“the Jail”). They filed this action on April 8, 1999, seeking declaratory and injunctive relief for violations of their Eighth and Fourteenth Amendment rights. In their complaint, plaintiffs allege that HIV-positive inmates at the Jail have received constitutionally inadequate medical care.

B. Defendants in this case are Fulton County, Georgia; the Fulton County Board of Commissioners and its members; Fulton County Sheriff Jacquelyn Barrett; Chief Jailer of the Fulton County Jail L.L. Briggs; Medical Services Director of the Fulton County Sheriff’s Department George Herron; Correctional Healthcare Solutions, Inc. (CHS); CHS Health Services Administrator Kevin Ramos; CHS Medical Director Harold Minerve; and CHS physician Eno Ikoku. All defendants are sued in their official capacity.<sup>1</sup> The plaintiff class and all defendants are

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<sup>1</sup> Kevin Ramos, Harold Minerve, and Eno Ikoku have been replaced since the inception of

parties to this *Final Settlement Agreement* (hereinafter also referred to as “*Agreement*” and “*Settlement Agreement*”). The term “defendants” refers to all these defendants and their successors, agents, and assigns.

C. This *Final Settlement Agreement* is submitted and entered into as a settlement of all claims for declaratory and injunctive relief set forth in plaintiffs’ *First Amended Complaint*, filed on April 15, 1999. The United States District Court for the Northern District of Georgia, Atlanta Division, shall retain jurisdiction to enforce the terms of this *Settlement Agreement* and shall preside over any further proceedings, as necessary.

D. On April 8, 1999, plaintiffs filed their *Complaint, Motion for Preliminary Injunction, Motion for Class Certification*, and supporting materials. Plaintiffs filed their *First Amended Complaint* on April 15, 1999. The United States District Court, the Honorable Marvin H. Shoob presiding, scheduled a hearing on plaintiffs’ *Motion for Preliminary Injunction* for April 16, 1999. Prior to the hearing that morning, the parties reached an agreement resolving plaintiffs’ *Motion for Preliminary Injunction* and submitted it to the Court for approval.<sup>2</sup> On April 16, the Court entered the *Consent Order* resolving the plaintiffs’ motion.

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this lawsuit.

<sup>2</sup> This lawsuit also originally named as defendants the Board Members of the Fulton-DeKalb Hospital Authority and Edward J. Renford, Chief Executive Officer of Grady Health System, in their official capacities. These defendants were voluntarily dismissed on April 16, 1999, based on their representation that the Grady Health System would continue to provide

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medical appointments to HIV-positive inmates at the Fulton County Jail.

E. On April 22, 1999, the parties submitted for the Court's approval, and the Court approved and entered, a *Consent Order on Class Certification*. Pursuant to the April 16th *Consent Order*, on May 28, 1999, the Court appointed Dr. James Steinberg to oversee and report on defendants' compliance with the preliminary injunction. Discovery began on May 25, and concluded on August 27, 1999.

F. CHS shall be bound by the terms and conditions of this *Agreement* to the extent those terms and conditions do not exceed CHS's obligations under its contract with Fulton County. Obligations in excess of CHS's contractual responsibilities shall be the sole responsibility of Fulton County. Additionally, upon the termination, cancellation, or expiration of a contract to provide medical care at the Fulton County Jail between Fulton County and CHS, CHS's obligations, duties, and responsibilities under this *Settlement Agreement* shall terminate. Because they are sued only in their official capacities, upon termination of this contract, CHS and all CHS defendants will no longer be parties to this lawsuit. If at any time during this *Agreement* the contractor for medical care at the Jail changes, the County shall require the new contractor to comply with the terms and conditions of this *Agreement*.

G. During and after the discovery period, the parties engaged in settlement negotiations seeking to resolve all claims for declaratory and injunctive relief raised in plaintiffs' *First Amended Complaint*. The parties hereby agree to the following terms.

## **II. Definitions**

A. "HIV Specialist" refers to the on-site physician hired by the defendants to be responsible for the medical care of HIV-positive inmates at the Jail. The HIV Specialist shall be a medical doctor who is board certified as either an internist or an infectious disease specialist, and

who has more than three years experience in inpatient and outpatient management of HIV infection as set forth in Section XIII, below.

B. “HIV Coordinator” refers to the on-site registered nurse, nurse practitioner, or physician’s assistant hired by the defendants to be responsible for coordinating the care provided to HIV-positive inmates. This coordination includes overseeing the arrangement of appointments both within the Jail and with outside providers; ensuring that any follow-up care ordered by a medical provider (including laboratory testing, appointments, monitoring, etc.) occurs in a timely manner; monitoring the progress and treatment of all known HIV-positive inmates at the Jail; and organizing education on the transmission and treatment of HIV, sexually transmitted diseases, and tuberculosis for all inmates at the Jail.

C. “Correctional Healthcare Monitor” or “Monitor” refers to the physician appointed by the Court to monitor defendants’ compliance with this *Settlement Agreement*, as set forth in Section VIII, below.

D. “Medical Director” refers to the on-site physician hired by the defendants to be responsible for the provision of medical care at the Jail. This responsibility includes overseeing the quality and effectiveness of medical care provided at the Jail; ensuring that medical staff are sufficiently hired, scheduled, and trained to provide constitutionally adequate medical care; coordinating the Quality Management program at the Jail; and any other duties related to medical care provision and medical decision-making at the Jail.

E. “Director of Medical Services” refers to the on-site administrator hired by and reporting to the Fulton County Sheriff’s Office responsible for overseeing the administration of medical care provided at the Jail. This administration includes coordinating communication

between CHS (or any other on-site medical care contractor) and the Sheriff's Department, and any other administrative duties related to the County's oversight of the medical care provided at the Jail.

### **III. Medical Care**

A. Defendants shall implement policies and procedures to ensure that when HIV-positive persons enter the Fulton County Jail, they have timely access to medical staff and to any treatment regimen for HIV infection and the prevention of opportunistic infections consistent with the standard of care set forth by the United States Department of Health and Human Services. Defendants shall maintain conformance with the National Commission on Correctional Health Care's current *Standards for Health Services in Jails* ("NCCHC Standards"). In the event that an inmate enters the Jail on an HIV treatment plan, any change in that plan shall also be consistent with these standards. Defendants shall take reasonable measures to seek prompt confirmation of any HIV treatment plan reported by a new inmate. Adequate stocks of all FDA-approved antiretroviral medications shall be available for dispensing to inmates who come into the jail without any lapse or delay that is inconsistent with this standard of care.

i. All inmates shall receive an intake screening upon their arrival at the Jail. This screening shall include, but shall not be limited to, inquiry into any communicable diseases, including tuberculosis and sexually transmitted diseases, and urgent chronic conditions, review and continuation of any medications, and timely referral for inmates in urgent need of physician review. Information gathered during the intake screening shall be used to provide any necessary medical care. During the intake screening, the medical provider shall ask each person who identifies him/herself as HIV-positive if he or she is on medications.

ii. If during intake screening an HIV-positive person is able to identify credibly his or her medications, the intake nurse shall obtain a verbal order from a physician and continue these medications immediately. There shall be no unreasonable disruption in the continuity of medication. The intake medical provider shall ask each known HIV-positive person to sign a release of information form so that confirmation of any treatment regimen and exchange of relevant information can take place as soon as possible. Blood shall be drawn for T-cell and viral load testing of all known HIV-positive inmates within 48 hours of arrival at the Jail or 72 hours if the person arrives on a Friday.

iii. Intake screening of HIV-positive inmates shall occur no later than four hours after an inmate's arrival at the Jail except in the event of a bonafide emergency or unexpected influx of new inmates, in which case defendants shall document the duration of and reasons for the delay. In order to identify and triage HIV-positive inmates, all inmates shall be asked the following question by medical personnel upon arrival at the Jail: Are you presently taking medication for or suffering from diabetes, heart disease, seizures, arthritis, asthma, ulcers, high blood pressure, HIV/AIDS, tuberculosis, or a psychiatric disorder?

iv. Any person whose HIV medications are initiated at intake or has symptoms of active HIV-related infections shall be given a comprehensive physical exam within 48 hours of arrival at the Jail, or 72 hours if the person arrives on a Friday. All other HIV-positive inmates shall have a comprehensive physical exam when the results of their T-cell and viral load tests are received by the Jail, but no later than ten days after their arrival at the Jail. All physical exams of HIV-positive inmates shall be performed by an HIV Specialist or an appropriate medical provider in consultation with an HIV Specialist. Defendants shall test all HIV-positive inmates for syphilis

and shall test all HIV-positive women for chlamydia and gonorrhea at their first physical exam.

All HIV-positive men shall be screened for chlamydia and gonorrhea and tested for these diseases if symptoms are present.

B. When an inmate is identified as HIV-positive, either through a blood test, through credible self-identification, through confirmation with an outside health provider, through medical records from a previous incarceration at the Jail, or through any other means, the inmate shall be offered initial treatment consisting of a comprehensive health history; a physical examination; and laboratory blood testing, including but not limited to T-cell and viral load testing. The tests shall occur in time for results to be available to the HIV Specialist for an initial consultation within two weeks after the person is identified as HIV-positive. During this initial consultation, an assessment shall be conducted and a written treatment plan developed. This assessment and treatment plan shall comply with the applicable standard of care, including, to the extent dictated by the applicable standard of care, appropriate vaccinations, opportunistic infection prophylaxis if indicated, any necessary referrals to other specialists, any further laboratory or other testing, and appropriate medical diets.

i. Defendants shall inform incoming inmates that HIV testing is available at the Jail, and shall provide them with pamphlets, approved by the Fulton County Health Department, that describe the methods by which HIV can and cannot be transmitted. Defendants shall test an inmate for HIV upon his or her request or when testing is medically indicated, and the inmate has given his or her consent. Defendants shall possess adequate equipment, including at least one fax machine with a dedicated line for the medical department, for the sharing of medical information between the jail and outside health providers.

ii. A registered dietician employed by the County or its food contractor shall work closely with medical and security personnel to ensure that HIV-positive inmates receive appropriate diets, as indicated on the inmates' treatment plans. The dietician shall be responsible for menu planning and monitoring of both general and medically prescribed diets.

C. Each HIV-positive inmate for whom antiretroviral (ARV) therapy is appropriate according to the applicable standard of care and who consents to such therapy shall be provided appropriate ARV therapy individually designed for that inmate by an HIV Specialist in accordance with guidelines published by the United States Department of Health and Human Services. Where testing indicates that a regimen is failing, the regimen shall be examined by the HIV Specialist and appropriate changes and substitutions shall be made. As these guidelines are updated, an HIV Specialist shall review each patient's treatment regimen and make any appropriate changes in order to maintain compliance with the standards set forth in the guidelines. Unless the HIV Specialist is unavailable, only the HIV Specialist or a physician in consultation with an HIV Specialist may change a patient's HIV treatment regimen. In the event that someone other than the HIV Specialist changes a patient's regimen, that change shall be reviewed by the HIV Specialist as soon as practicable.

D. Defendants shall implement policies and procedures to ensure that when the HIV Specialist prescribes a medication for the treatment of HIV infection or to prevent opportunistic infections, adequate stocks of the medication are available for dispensing to the patient without any lapse or delay. These medications shall be provided in appropriate doses and at appropriate times in accordance with the standard of care. Unless patients are allowed to self-administer medications, complete and accurate medication administration records shall be kept by the

administering medical staff. These records shall specify what medications are provided; when and by whom they are provided; and if prescribed medications are not provided, these records shall specify the reason that they are not.

i. The defendants shall develop and implement systems to provide medications in a timely manner and to track problems with the dispensing and administration of medications. Defendants shall dispense HIV medication at the prescribed time intervals or within one hour of the prescribed time. The schedule for administration of medication shall accommodate the medical needs of the inmates, in accordance with the standard of care. All refusals of medication by inmates must be in-person and must be documented as in-person. If prescribed medications are not provided because of refusal or for any other reason, the written explanation for their not being provided shall be initialed by the dispensing medical staff member. All persons refusing medication shall be provided counseling regarding the consequences of incomplete adherence, and this counseling shall be documented.

ii. Medication records for inmates who are on self-medications shall include documentation of education of the patient regarding the medications, documentation of any follow-up inquiries or education, and documentation of the dispensation and compliance checks of all self-medications.

iii. Defendants shall maintain sufficient stocks of all antiretroviral medications at all times. Medications shall be maintained on chronic care units and stock carts shall be checked and refilled every day. Defendants shall ensure that any errors in medication orders or in medication administration are corrected immediately through the Medical Director or by whatever means necessary.

E. Each HIV-positive inmate shall be provided T-cell and viral load tests every three months, or more frequently if directed by an HIV Specialist, and any other appropriate follow-up tests, including tests for potential treatment toxicity. Each inmate with a T-cell count under 500, suffering from any HIV-related illness, or who is prescribed ARV medication shall be seen by an HIV Specialist at least every three months, or more often if recommended by the HIV Specialist. Blood testing shall be timed so that results of tests taken within one month are available to the HIV Specialist on each regularly scheduled visit.

i. The defendants shall inform inmates of the results of any medical tests and assessments (including their T-cell counts and viral loads) within one week of receipt of these results by defendants. Treatment guidelines for testing toxicity and HIV disease progression shall be developed by the Medical Director and approved by the Monitor. The defendants shall ensure that the results of medical tests and assessments performed at the Jail or by an off-site provider are obtained in a timely manner and that recommended follow-up care is provided in a timely manner.

F. HIV-positive inmates shall be provided emergency access to a physician or licensed nurse practitioner consistent with the applicable standard of care because acute or serious medical conditions may arise in HIV-positive persons at any time. Incarcerated persons with HIV shall also have access to routine sick call by a physician, nurse practitioner, physician's assistant, or registered nurse. Emergency and routine access shall include both physical observation and examination as the physician or nurse practitioner deems medically appropriate. All medical staff who provide sick call to HIV-positive inmates shall participate in an effective training program approved by an HIV Specialist, in order to maintain competence in current methods for

diagnosing and treating medical complications associated with HIV, including the ability to recognize when referral to an HIV Specialist is necessary. This training shall include any necessary ongoing updating of skills and knowledge, and a method of effectively ensuring medical staff's compliance shall be implemented.

i. The defendants shall ensure that security officers provide any appropriate assistance, with the approval of the medical staff, in the event of an emergency and that all security officers are appropriately trained in emergency procedures. Additionally, defendants shall take all necessary steps to ensure that appropriate and accessible equipment is available to respond to medical emergencies.

ii. The defendants shall create systems to ensure that medical request forms are available to inmates at all times. Provision shall be made for inmates to keep a duplicate copy of their request forms at the time it is submitted. In the general population units, medical requests shall be reviewed every day according to appropriate written triage protocols developed by the Medical Director and approved by the Monitor. Defendants shall ensure that inmates housed in the chronic care units have daily access to sick call administered by a registered nurse. The nurse shall refer inmates immediately to a medical provider, who will see the inmate within a reasonable period of time, according to appropriate written protocols developed by the Medical Director and approved by the Monitor.

G. HIV-positive inmates shall be referred in a timely manner to outside specialists in all cases when the Jail's own staff lacks the resources to treat in a timely manner the medical or mental conditions of HIV-positive inmates. Accordingly, defendants shall coordinate timely access to the Grady Hospital's Infectious Disease Program or other appropriate specialists for

HIV-positive inmates and implement all necessary procedures to provide specialty consultations and specialized testing on an emergency (immediate), urgent (within three days), and routine (within four weeks) basis, as directed by medical staff including the HIV Specialist. While at outpatient appointments, inmates shall be provided with weather-appropriate clothing.

i. The defendants shall establish written protocols developed by the Medical Director and Director of Medical Services, and approved by the Monitor, regarding the County's policy on referrals to outside providers.

H. All medical treatment provided to HIV-positive inmates shall be accurately documented in each inmate's medical record. Each request for medical attention and each response by medical staff shall be written, reviewed at sick call, and included in the inmate's medical record. Each visit to an outside specialist shall be documented, and copies of all resulting medical records returned with the inmate for placement in the inmate's medical records when provided. Jail medical staff shall take reasonable steps to communicate with outside specialists whenever appropriate. Fully updated in-house medical records shall be available to the in-house HIV Specialist before each scheduled appointment with an HIV-positive inmate, including a chronological log that lists demographic data and a history of T-cell counts, medications and doses prescribed, medical complaints and responses, and any other relevant information. As described in Section III. B. above, the HIV Specialist shall develop a written treatment plan consistent with the standard of care, in consultation with each HIV-positive inmate.

i. The defendants shall develop a system for ensuring that medical records at the Jail are complete, legible, and contain the necessary signatures in accordance with professional standards. All healthcare entries shall be dated and timed. Laboratory and diagnostic reports

shall be signed and dated to acknowledge timely review. Medical records maintained at the Fulton County shall contain at least the information and documents required by J-58 of the NCCHC Standards.

ii. Defendants shall ensure that all records are complete and that all forms are entered into patient records. The system shall ensure that loose paper is placed into the records in a timely manner and that medication administration reports are promptly filed in the record at the end of each month. The health record shall be available to and used for documentation by all healthcare practitioners in each clinical encounter with inmates.

I. If an HIV-positive inmate is deemed by an HIV Specialist to be in the terminal stages of the disease, the inmate shall be provided with appropriate care and treatment. This shall include appropriate pain control, adequate nutrition, and other appropriate palliative care coordinated by the HIV Specialist in accordance with the Eighth and Fourteenth Amendments of the United States Constitution.

i. The defendants shall make good faith efforts to place inmates in the terminal stages of AIDS in appropriate facilities or in the community, should the HIV Specialist determine that the Jail cannot provide appropriate care for the end-stage HIV-positive inmate.

J. Prior to discharge from the Jail to the community, all HIV-positive inmates shall have an appropriate discharge plan. A post-discharge appointment with an appropriate HIV medical care provider in the community shall be scheduled for every HIV-positive inmate, and each inmate shall be informed upon discharge of the date, time, and location of that appointment. If the inmate is on any prescribed medications, defendants shall provide sufficient medications to prevent gaps in the availability of those medications.

i. The post-discharge appointment may be with the Fulton County Health Department (“FCHD”). The FCHD has agreed to see HIV-positive inmates released from the Fulton County Jail daily (Monday-Friday). Defendants shall provide these inmates with at least a four-day supply of medication upon their release from the Jail. In the event that the FCHD changes its schedule or policy, defendants shall immediately make alternative arrangements to continue providing post-discharge appointments, notification of the appointments, and medications to prevent gaps in the availability of HIV medications. Defendants shall not be obligated to provide more than a seven-day supply of medication.

ii. Defendants shall attempt to schedule post-discharge appointments at Grady Hospital’s Infectious Disease Program (“IDP”) for those inmates who qualify for the IDP, and shall notify inmates of their individual appointments.

iii. The defendants shall allow AIDS service organizations and treatment providers to provide inmates copies of pamphlets and other materials containing information about HIV, its treatment, and related social services. The defendants shall make these materials available to inmates by placing copies in the Jail’s library.

K. If a patient is transferred to another incarcerated setting, the inmate’s updated medical records, including progress notes, laboratory testing records, HIV consultation records, and a list of prescribed medications shall accompany the inmate. If the inmate is on any prescribed medications, defendants shall provide sufficient medications to last at least through the inmate’s transfer to the next facility.

L. All HIV-related services and treatment shall be kept confidential in accordance with applicable state, local, and federal law.

M. Defendants shall screen all incoming inmates for symptoms of tuberculosis infection immediately upon admission. Defendants shall promptly isolate, diagnose, and treat any individual with a suspicion of contagious tuberculosis. Follow-up treatment and testing shall be conducted according to the recommendations and guidelines of the Centers for Disease Control (“CDC”). Any individual who has symptoms of tuberculosis and all HIV-positive persons shall have a chest x-ray within 48 hours of intake. Tuberculin skin test screening shall be performed on all inmates who do not have a documented history of a positive tuberculin skin test result. Preventive treatment for tuberculosis shall be offered to any inmate with a positive PPD whose anticipated length of stay is greater than two months. Defendants shall maintain appropriate facilities for respiratory isolation that are consistent with the recommendations of the CDC and the Occupational Safety and Health Administration (“OSHA”).

N. All HIV-positive women shall receive a pregnancy test upon admission to the Jail and shall receive pap smears at their first physical exam. Known HIV-positive women shall receive pap smears every six months thereafter.

#### **IV. Staffing**

A. Defendants shall employ a sufficient number of qualified permanent medical staff to meet the healthcare needs of HIV-positive inmates at all times.

B. Fulton County defendants shall employ a sufficient number of trained correctional staff to meet the healthcare needs of HIV-positive inmates at all times. Shortages in correctional staff shall not interfere with the provision of medical care in accordance with Section III, above. The Fulton County defendants shall ensure that shortages in correctional staff do not prevent or delay the distribution of medications or the transport of HIV-positive inmates for any medical

appointments or needed medical care, either within the facility or in the community.

C. All correctional staff members, including command staff, shall receive regular training regarding HIV and tuberculosis infection, including modes of transmission and universal precautions.

D. Defendants shall maintain an attendance log and daily staffing schedule for both correctional and medical personnel. The adequacy of staffing shall be reviewed monthly by the Sheriff, the Chief Jailer, the Director of Medical Services, the Medical Director, and the on-site health services administrator.

E. Defendants shall establish a regular monthly meeting that includes correctional line staff members and direct medical service providers to address integration of medical and correctional goals and services (i.e., conflicts among medical and correctional staff; incidents when inmate care was delayed or denied due to problems or miscommunication among staff members; staffing, staff training, or staff deployment needs; etc.). Defendants shall identify and implement solutions to address integration needs. Defendants shall keep minutes of all meetings, and shall provide the Monitor with copies of those minutes.

## **V. Sanitation and Housing**

A. Because environmental factors impact significantly on the health of inmates, particularly HIV-positive inmates whose immune systems are weakened, the chronic care units, medical observation units, and any housing unit or other area where HIV-positive inmates are or may be placed shall comply with the standards set forth in the guidelines and recommendations of the American Correctional Association, OSHA, and the CDC. In accordance with such standards, these areas shall be cleaned on a daily basis, shall be disinfected between placements of

inmates, and shall be kept in good working order and physical condition. Fulton County defendants shall conduct weekly checks on each of these areas to ensure that sanitation and physical conditions comply with these standards, and shall respond promptly to any deficiencies identified during these checks. Sanitary supplies such as hand soap, clean hand towels, bleach, and disinfectant shall be available to inmates and staff as needed. Defendants shall maintain an exposure control plan for blood-borne pathogens.

B. All housing units to which HIV-positive inmates are assigned shall be adequate to meet the needs of the HIV-positive inmates placed there. This shall include, but is not limited to, assurance that no HIV-positive inmate in a chronic care unit or with a diagnosis of AIDS shall sleep on the floor, and that all HIV-positive inmates shall have adequate access to toilet facilities, clean bedding and clothing, hot and cold running water, and drinkable water at all times.

C. HIV-positive inmates shall not remain in the intake holding cell for greater than eight hours. The intake holding cell shall provide inmates adequate access to toilet facilities and drinkable water at all times, and shall be sufficiently large to accommodate the number of inmates held in the cell.

D. The County shall identify mechanisms for accommodating current and anticipated jail population.

## **VI. Grievances**

A. Because of the importance of the grievance system in identifying both individual and systematic problems, defendants shall ensure that medical and dietary grievances by HIV-positive inmates are answered within 72 hours of their submission to medical personnel. No issue related to medical care shall be designated as “non-grievable.” Grievance forms shall be available

to inmates at all times, and defendants shall provide inmates with a duplicate copy of their medical and dietary grievances at the time of their submission.

B. The medical staff person who serves as medical Grievance Coordinator shall keep a log of all medical and dietary grievances received from HIV-positive inmates. Each month, he or she shall compile a report including the numbers of such medical grievances received during the month, the substance of the grievances by category, the time taken to reply to grievances, and the resolution reached. This report shall be provided to the Monitor, the Medical Director, the Director of Medical Services, the Sheriff, and the on-site health services administrator.

## **VII. Quality Management**

A. Defendants shall perform ongoing quality management that monitors the quality of healthcare services provided at the Jail. The quality management program shall monitor all aspects of healthcare including at least the following: access to healthcare, medication management, nursing services, physician services, access to specialty care, mental health services, pharmacy services, dental services, environmental services, infection control procedures, healthcare records, sick call services, intake screening and evaluations, chronic disease services, infirmary care, diagnostic services, discharge planning, and adverse patient occurrences including all deaths. The quality management program shall include reviews of all aspects of healthcare provision at the Jail, and shall identify any deficiencies in services to inmates as well as any staff training needs and/or deficiencies. Corrective plans to address all deficiencies and recommended improvements shall be prepared, and the quality management program shall include ongoing assessment of the effectiveness of corrective plans and actions.

B. A multi-disciplinary Quality Management Committee shall meet monthly, and shall

perform at least quarterly reviews of all aspects of healthcare. The Committee shall involve the participation of qualified healthcare professionals with appropriate specialities and representatives from all medical departments at the Jail.

C. For the first six months of this *Agreement*, the Monitor shall be provided with copies of all findings, conclusions, corrective plans, and any other reports of the Quality Management Committee and the outcome of corrective plans and shall review this information to determine whether the Quality Management program is working effectively. The Monitor shall also be provided with copies of all findings, conclusions, and any other reports resulting from the peer review process, as well as any corrective plans or actions that occur as a result of the peer review process. After the first six months of this *Agreement*, the defendants shall provide the Monitor with copies of quality management documents related to specific problems the Monitor has identified during his assessment. If at any time during this *Agreement* the contractor for medical care at the Jail changes, the Monitor shall be provided with copies of quality management documents for the first six months of the new contract.

D. The Sheriff shall be informed about problems with the healthcare delivery system as well as on-going efforts to resolve these problems.

### **VIII. Appointment of Correctional Healthcare Monitor**

A. The parties agree that the Court shall appoint a Correctional Healthcare Monitor to monitor defendants' compliance with this *Settlement Agreement*, to report to the Court with regard to defendants' progress in bringing the medical care at the Jail to the constitutionally acceptable level outlined in this *Agreement*, and to consult and work with defendants as necessary to bring the medical care at the Jail into compliance with this *Agreement*. Robert B. Greifinger,

M.D., shall serve as the Monitor (curriculum vitae attached). Dr. Greifinger is an experienced correctional healthcare professional with extensive expertise in the areas of HIV and AIDS, infection control, medical peer review and quality management, and policy and protocol development. He has served both as the chief medical authority for both Rikers Island Health Services (New York City Jails) and the New York State Department of Correctional Services. He has also served as consultant to many prison and jail systems and to the parties and judges in correctional healthcare litigation.

B. The Monitor shall be paid by the Fulton County defendants at an hourly rate of \$250 per hour, plus \$125 per hour for travel time (not to exceed five hours each way), and reasonable expenses. For the preparation of his initial report and for each subsequent quarterly report, the Monitor may spend up to 45 working hours. For each report, the 45 hours shall include at least one onsite inspection, unannounced to the defendants. If the Monitor identifies the need for additional specialists or experts to assist the Monitor in discharging his duties under the *Agreement*, he shall notify the parties of the need and the reasons. If the parties are unable to reach an agreement concerning the Monitor's request for additional assistance, the request shall be submitted to the Court.

C. The Monitor shall have access to medical, dental, and mental health records of the class members, to defendants and any members of their staffs, to class members themselves, to attorneys for any party, and to any other information (including minutes, reports, and other documents), as he deems necessary to determine compliance with this *Settlement Agreement* and to accomplish his obligations pursuant to the *Agreement*. The Monitor's access to information shall not be unreasonably withheld.

D. Within thirty days of the Court's approval of this *Settlement Agreement*, the Monitor shall conduct an initial assessment of the medical services provided to HIV-positive inmates at the Jail and shall develop recommendations addressing any deficiencies that prevent compliance with this order. The assessment and recommendations shall include a review of any changes and improvements made by defendants since the filing of this lawsuit, the reasons for those changes and improvements, and the success of those changes and improvements. The scope of the assessment and recommendations shall include any and all systems and aspects of care that the Monitor deems relevant to the provision of constitutionally adequate medical care to the plaintiff class. The assessment and recommendations shall address all aspects of this *Settlement Agreement*, including but not limited to review of the following systems:

- i. Intake screening and management
- ii. Access to routine and acute medical care, including hospitalization, surgical care, consultation, and referrals
- iii. Medication administration, management, and tracking, including pharmacy services
- iv. Emergency care and services
- v. Medical observation unit equipment and procedures
- vi. Follow-up of diagnostic testing and referral providers' treatment decisions
- vii. Complaint tracking and resolution
- viii. Health record maintenance, documentation, and transfer
- ix. Communicable disease control
- x. Credentialing
- xi. Staffing, including job descriptions and scopes of practice

- xii. Quality Management, including performance measurement, practice guidelines, and peer review
- xiii. Discharge planning
- xiv. Environmental health and sanitation
- xv. Coordination between medical, mental health, dental, and security staff
- xvi. Initial and ongoing training of medical and correctional staff

Following the initial assessment, the Monitor shall review any of these systems he deems necessary.

E. In conducting his assessment and preparing his recommendations, the Monitor shall have access to and work with medical and correctional personnel at Fulton County Jail and in the Fulton County Sheriff's office as he deems appropriate. Defendants shall have thirty days to remedy deficiencies identified and shall report to the Court, the Monitor, and plaintiffs' counsel on these improvements. The Monitor shall determine the types of information that defendants must include in their reports. If at any time following the defendants' initial report on their compliance plaintiffs believe that defendants are not in compliance with any term of this *Agreement*, plaintiffs shall bring their concerns to the attention of the defendants and make reasonable attempts to resolve these concerns informally. Plaintiffs shall seek the Court's assistance in obtaining compliance only if the parties are unable to resolve their differences informally.

F. Following the initial assessment, the Monitor shall report on defendants' compliance with this *Settlement Agreement*. These reports shall take place at least quarterly, unless the Court directs that they shall take place more frequently. The Monitor shall provide

copies of these reports to the District Court, plaintiffs' counsel, and counsel for the defendants. All parties shall have the opportunity to respond to the reports submitted by the Monitor.

G. In addition to the work of the Monitor, plaintiffs' counsel shall continue to have reasonable access to the plaintiffs; to plaintiffs' Jail and medical records (subject to relevant protective orders); and to defendants, their agents and employees in order to monitor defendants' compliance with this *Settlement Agreement*. Before speaking with any named defendant about matters related to this *Agreement*, plaintiffs' counsel shall advise defendants' counsel of their intent to do so and allow counsel a reasonable opportunity to respond and/or be present.

## **IX. Implementation**

A. Defendants shall immediately explain the terms of this *Settlement Agreement* to all of their agents, servants, representatives, and employees in any way connected with the subject matter of this suit, in order to ensure their understanding of this *Settlement Agreement* and the necessity for strict compliance with its terms. Defendants shall require strict compliance with this *Settlement Agreement* by all such persons and their successors.

B. The Fulton County defendants shall immediately provide notice of the material terms of this *Settlement Agreement* to all current and future class members by providing all HIV-positive inmates who enter the Jail with an HIV/AIDS information pamphlet. This pamphlet will include the material terms of this *Settlement Agreement*, as well as notification of the *Settlement Agreement*, and contact information for the class counsel. Prior to its distribution, this pamphlet shall be approved by plaintiffs' counsel. Any inmate later identified as HIV-positive will also be provided this pamphlet. Four (4) copies of this *Settlement Agreement* shall be maintained and available for use in the Jail's law library.

C. Defendants shall not retaliate against inmates for their participation in this lawsuit or membership in the class.

D. Fulton County shall be responsible for monitoring and enforcing compliance with all provisions of this *Settlement Agreement*. Fulton County shall also be responsible for quarterly compliance reviews of any correctional healthcare contract with the County. This shall include a review of the contractor's compliance with any required reporting.

## **X. Conclusion**

A. If defendants fail to comply with the terms and conditions of this *Settlement Agreement*, plaintiffs' counsel may apply to the Court for a finding of contempt or other appropriate relief. Prior to approaching the Court for such relief, plaintiffs' counsel will bring any deficiencies to the attention of the defendants and the Monitor and will make reasonable attempts to resolve the issues informally.

B. The parties agree and stipulate, and the Court hereby finds, that the prospective relief set forth in this *Settlement Agreement* is narrowly drawn, extends no further than necessary to correct the violations of plaintiffs' federal rights set forth in their *First Amended Complaint* and is the least intrusive means necessary to correct these violations. The parties agree and stipulate, and the Court hereby finds, that this *Settlement Agreement* will not have an adverse impact on public safety or the operation of a criminal justice system. Accordingly, the parties agree and stipulate, and the Court hereby finds, that this *Settlement Agreement* complies in all respects with the provisions of 18 U.S.C. § 3626(a). This *Settlement Agreement* is not intended to have any preclusive effect except between the parties in this action. Should the issue of the preclusive effect of this *Settlement Agreement* be raised in any proceedings other than this action, the parties

agree to certify that this *Settlement Agreement* was intended to have no such preclusive effect.

This *Settlement Agreement* does not resolve, adjudicate, or bar the damages claims of any former, present, or future class members.

C. Subsequent to an agreement or order for attorney's fees and costs in this action to date, plaintiffs will only seek fees and costs that are directly and reasonably incurred in enforcing the relief ordered for the violation of plaintiffs' rights.

D. Any party may seek modification of any part of this *Final Settlement Agreement* for good cause shown. Defendants shall continue to implement in a timely manner all parts of this *Agreement* pending decision of the Court on any motion for modification.

**SO ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

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Hon. Marvin H. Shoob  
United States District Court  
Northern District of Georgia

**Submitted, approved, and consented to by:**

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