

1 **BILL LOCKYER**, Attorney General
 of the State of California
 2 **ROBERT R. ANDERSON**
 Chief Assistant Attorney General
 3 **FRANCES T. GRUNDER**
 Senior Assistant Attorney General
 4 **JAMES E. FLYNN**
 Supervising Deputy Attorney General
 5 **TAMI M. WARWICK (SBN 183925)**
 Deputy Attorney General
 6 1300 I Street, Suite 125
 P.O. Box 944255
 7 Sacramento, CA 94244-2550
 Telephone: (916) 445-2394
 8 Facsimile: (916) 324-5205

RECEIVED
 04 SEP 13 AM 11:11
 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

FILED
 SEP 17 2004
 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
PROCLAW
 SAC-CLS
 SEP 21 2004
 By SANDOVAL
 No. _____

9 Attorneys for Defendants
 CA2001CS0001

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA

13 **MARCIANO PLATA, et al.,**

14 Plaintiffs,

15 v.

16 **ARNOLD SCHWARZENEGGER, et al.,**

17 Defendants.

No. C-01-1351 T.E.H.

**PROPOSED STIPULATED
 ORDER RE QUALITY OF
 PATIENT CARE AND
 STAFFING**

19 Based on the expert reports dated July 9 and July 16, 2004, the parties
 20 propose the following order to address the issues raised by the experts relating to quality of
 21 patient care and staffing.

22 **A. EVALUATION OF PHYSICIANS**

23 1. Defendants shall, within sixty (60) days of this order, engage an
 24 independent entity approved by the parties and the Court experts to evaluate and train
 25 physicians employed by the California Department of Corrections (CDC). Any agreement
 26 regarding the independent entity shall be reviewed by the Court experts and plaintiffs'
 27 counsel before it is entered into by defendants.

28 ///

[Proposed] Stipulated Order re Quality of Patient Care and Staffing

1 2. Defendants shall work with the Court experts to develop a plan to
2 assess and train nurse practitioners and physician assistants and shall provide the plan to the
3 Court and plaintiffs by November 1, 2005.

4 3. Defendants shall complete the evaluation and, if appropriate, training
5 of all physicians with clinical responsibilities, excluding psychiatrists, at the calendar year
6 2003-2005 roll-out institutions by December 31, 2005. Defendants shall complete the
7 evaluation and, if appropriate, training of all such physicians at the remaining institutions by
8 December 31, 2006. Defendants will develop a schedule with the independent entity and
9 provide it to the plaintiffs and the Court experts. The schedule shall provide that physicians
10 identified by defendants as most in need of evaluation and training be given priority.
11 Defendants will provide plaintiffs and the Court experts with monthly progress reports
12 beginning January 15, 2005.

13 4. Defendants shall complete the evaluation and, if appropriate, training
14 of all other CDC physicians with clinical responsibilities, including but not limited to,
15 QMAT physicians, the Chief Deputy of Clinical Services, and any Assistant Deputy
16 Director with a medical degree by June 30, 2005.

17 5. After the evaluation, the independent entity shall classify each person
18 evaluated according to the following categories:

- 19 A. Category 1: competent to provide care to class members
20 without remedial training;
- 21 B. Category 2: competent to provide care to class members
22 pending successful completion of remedial training by the
23 independent entity;
- 24 C. Category 3: not competent to provide care to class members,
25 or failed to successfully complete remedial training required
26 by the independent entity.

27 6. The independent entity will determine the physicians competent to
28 treat high-risk patients (see paragraph 13).

1 7. Defendants shall ensure that those providers who are in Category 2 are
2 promptly provided remedial training by the independent entity, and shall assign them to
3 positions in a manner consistent with the evaluation.

4 8. Defendants shall provide plaintiffs' counsel and the Court experts with
5 the evaluations of the physicians in the monthly document production that follows the
6 receipt of the written evaluations.

7 9. Upon notification by the independent entity, physicians in Category 3
8 shall not engage in direct patient care, direct the activities of persons engaged in patient
9 care, prepare or supervise the preparation of case histories, supervise persons engaged in
10 patient care, or participate in any oversight or management of patient care.

11 10. Every physician hired after January 1, 2005, through December 31,
12 2008, must, as a condition of probation, successfully complete the evaluation and remedial
13 training process within the first four months of employment. Defendants shall not continue
14 to employ physicians who do not successfully complete the program. By June 30, 2008,
15 the Court experts shall report to the Court as to whether the successful completion of the
16 evaluation and training program should continue to be a necessary condition of probation.

17 11. If there are vacant physician and surgeon positions that cannot be
18 filled with Category 1 or 2 primary care physicians, the vacant positions can be reclassified
19 and filled with nurse practitioners or physician assistants in ratios developed in
20 consultation with the Court experts.

21 12. As of January 15, 2005, defendants shall not hire as independent
22 contractors primary care physicians who are not board-eligible or board-certified in
23 internal medicine or family practice.

24 **B. TREATMENT OF HIGH-RISK PATIENTS**

25 13. Defendants and the Court experts shall jointly develop criteria and a
26 method to identify high-risk patients by September 30, 2004. Defendants shall identify all
27 patients who meet the criteria, beginning with the 2003 roll-out institutions.

28

1 14. The parties and the Court experts shall develop a plan for completing
2 the identification and treatment of high-risk patients at all the institutions and submit it to
3 the Court.

4 15. Defendants shall take all necessary steps to ensure that high-risk
5 patients are treated by primary care providers that are designated to treat such patients.

6 16. By November 1, 2004, independent physicians approved by the Court
7 experts shall evaluate and treat high-risk patients housed at California State
8 Prison - Sacramento (CSP-SAC), California State Prison - Corcoran (COR), Central
9 California Women's Facility (CCWF), and Salinas Valley State Prison (SVSP). Defendants
10 shall ensure that adequate nursing and administrative support is provided at each institution
11 to assist the independent physicians with scheduling and follow-up of patient care. If the
12 Court experts determine that additional independent physicians are needed at other
13 institutions, the experts shall submit a report to the Court and parties. The independent
14 physicians at the four designated institutions shall continue until the experts report that
15 those prisons have sufficient qualified providers caring for high-risk patients or that
16 defendants have some other program to provide adequate care to those patients.

17 **C. PHYSICIAN AND NURSING CLASSIFICATIONS AND SUPERVISION**

18 17. By November 1, 2005, defendants shall submit a proposal to the
19 appropriate control agencies to reclassify all physician categories and include a
20 classification for regional medical directors. A market survey and reclassification study
21 shall be completed prior to submission of the proposal. The proposal shall also include a
22 recommendation that each institution have a qualified health administrator and a qualified
23 medical director. The proposal shall also address the need for salary adjustments. In the
24 interim, and until defendants' proposal is implemented, defendants shall hire additional
25 central office and regional medical directors, of a type and number agreed to by the Court
26 experts. By December 1, 2004, defendants shall submit to the
27 Court a plan to hire and retain central office and regional medical directors.

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

18. By November 1, 2005, defendants shall also submit a proposal to the appropriate control agencies for a director of nursing and a classification for regional directors of nursing. The proposal shall also address the need for salary adjustments. In the interim, and until defendants' proposal is funded, defendants shall hire a Director of Nursing and regional directors of nursing, of a type and number agreed to by the Court experts. By December 1, 2004, defendants shall submit to the Court a plan to hire and retain central office and regional directors of nursing.

19. Defendants shall change the hiring process from a local process to a regional or central process for all physician, nurse practitioner, and physician assistant categories. By January 15, 2005, defendants shall submit to the Court a plan to modify the hiring process.

20. By March 1, 2005, defendants shall develop a plan to expand the agreement, referenced in paragraph 1, to include a program approved by the parties and the experts for on-site clinics through a residency program affiliation, which will provide medical care for inmate patients with complex medical conditions. Defendants' plan shall provide that the on-site clinics be established for the calendar year 2003-2005 roll-out institutions as practicable by March 1, 2006.

21. By March 1, 2005, defendants shall work with the Court experts to complete statewide health care bylaws and credentialing policy and submit to the Court a scheduled plan for implementation of the process after training is completed. The credentialing policy shall include provisions requiring advanced qualifications for those providers caring for high-risk patients.

22. By December 1, 2005, defendants shall work with the Court experts to complete peer review policy and submit to the Court a scheduled plan for implementation of the process after training is completed.

D. QMAT AND OTHER SUPPORT POSITIONS

23. By March 1, 2005, defendants shall fund, establish, and begin to fill one position at each of the roll-out institutions to support the implementation of the

1 inmate Medical Scheduling and Tracking System (SATS-LITE). Defendants will begin
2 recruiting for the positions no later than January 1, 2005, with the intention of filling
3 positions as soon as they are established.

4 24. By March 1, 2005, defendants shall fund, establish, and begin to fill
5 not less than nine positions to expand the Quality Management Assistant Teams
6 (QMAT). Defendants will begin recruiting for the positions no later than January 1,
7 2005, with the intention of filling positions as soon as they are established.

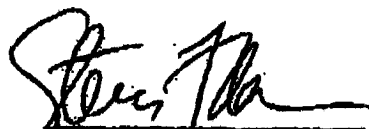
8 **E. MISCELLANEOUS**

9 25. In the event that defendants fail to meet or believe they will be
10 unable to meet any deadline in this Stipulation and Order, the parties and the Court
11 experts shall meet and confer and submit a joint report to the Court identifying any
12 problem and the appropriate action to be taken.


13 26. This order is necessary to correct a current and ongoing violation of
14 a federal right, extends no further than necessary to correction the violation of the federal
15 right, and is narrowly drawn and the least intrusive means to correct the violation.

16 **IT IS SO STIPULATED.**

17 Date: September 10, 2004


18 Steven Fama
19 Attorney for Plaintiffs

20 Date: September 10, 2004


21 Tami M. Warwick
22 Deputy Attorney General
23 Attorney for Defendants

24 **PURSUANT TO THE STIPULATION, IT IS SO ORDERED.**

25 Date: 9/17/04


26 Honorable Thelton E. Henderson
27 United States District Court Judge

28 TMW:tc
10072204.wpd