

NOV 26 1994

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

INMATES OF THREE LORTON)
FACILITIES, et al.,)
)
Plaintiffs,)
)
v.)
)
DISTRICT OF COLUMBIA, et al.,)
)
Defendants.)
_____)

Civil Action
No. 92-1208 JLG

FILED

NOV 22 1994

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

CONSENT DECREE

The parties to this class action agree, and the Court hereby orders, that the action shall be settled as follows:

I. PURPOSE OF THIS CONSENT DECREE

A. This Consent Decree is intended to be a resolution of the essential elements of this class action and is not intended to be a complete settlement of all issues raised in the Complaint. The parties agree to this resolution in the broader context of ongoing negotiations to consolidate all issues concerning health care provided to inmates of all District of Columbia Department of Corrections' facilities under the terms of a single court order. The specific purpose of this Consent Decree is to provide immediate relief to the plaintiffs in this action with regard to the most serious conditions affecting the health care that is provided to them pending the outcome of these ongoing negotiations. In the event the parties cannot agree to a full settlement of all issues in this action, this Consent Decree shall terminate as set forth

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below. This Consent Decree shall supersede the Consent Decree signed by the Court on November 7, 1994, which is hereby vacated.

II. MEDICAL, DENTAL AND PSYCHOLOGICAL CARE

A. Medical Staffing

1. The defendants shall, within sixty (60) days, include the following staff on the below-referenced shifts at the health services units at the Medium Security Facility ("Medium"), Minimum Security Facility ("Minimum") and Youth Center Facility ("Youth Center"):

WEEKDAY:

6:00am - 2:30pm	9:00am - 5:30pm	2:00pm - 10:00pm	10:00pm - 6:30am
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Minimum

Med. Off. Lic. P.A. 2 Nurses	Charge Med. Off. Pharmacist Med. Rec. Tech.	Med. Off. Lic. P.A.	Licensed P.A. or Registered Nurse
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Medium

Med. Off. Nurse	Charge Med. Off. Pharmacist Med. Rec. Tech.	Med. Off. Nurse	Licensed P.A. or Registered Nurse
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Youth Center

Charge Med. Off. Lic. P.A. Nurse	Dentist Dental Asst. Med. Rec. Tech.	Med. Off. Lic. P.A. Nurse	Licensed P.A. or Registered Nurse
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WEEKEND:

Minimum, Medium and Youth Center

6:00am - 2:30pm	2:00pm - 10:30pm	10:00pm - 6:30am
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Licensed P.A. or Registered Nurse	Licensed P.A. or Registered Nurse	Licensed P.A. or Registered Nurse
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2. The purpose of this staffing plan is to ensure that inmates at Medium, Minimum and the Youth Center are provided adequate medical care, including, but not limited to access to sick call, chronic care, access to specialty clinics, and emergency care. The defendants assure the plaintiffs that the

staffing plan contained in this Consent Decree is adequate to comply with all the terms of this Consent Decree. The defendants agree, however, that the plaintiffs' experts shall be permitted to evaluate the sufficiency of the staffing plan, at defendants' expense, one hundred twenty (120) days after the date of entry of this Order. If the plaintiffs upon motion can demonstrate that the staffing plan is inadequate to provide necessary medical care, or to otherwise comply with this Consent Decree, the Court may modify the staffing plan as appropriate.

3. Defendants shall ensure that staffing of at least one health care provider on the evening, night and weekend shifts shall be maintained at all times regardless of annual, administrative or sick leave or any other planned or unplanned occurrence.

4. Defendants shall develop and implement a system, within thirty (30) days of the date of entry of this Consent Decree, to ensure that all prescriptions are filled within twenty-four (24) hours of the prescription date and that inmates receive all medications that have been prescribed for them seven days per week.

5. If defendants choose to staff the night and weekend shifts at Medium, Minimum and the Youth Center with appropriately qualified registered nurses, such nurses shall work under the supervision of a physician stationed at the Lorton Reservation. The physician at the Lorton Reservation shall be on call at all times during the shift of any registered nurse

working the night or weekend shift. Inmates being treated by such nurses shall be capable of being transported promptly and in a clinically appropriate period of time to the Central Facility when appropriate. With respect to each inmate transported to the Central Facility, defendants shall maintain, and make available to plaintiffs as reasonably required, records containing the time of the call to the physician at the Central Facility and the time that the inmate arrives at the clinic at the Central Facility. Within sixty (60) days of the date of entry of this Consent Decree, the defendants shall adopt and implement medically-appropriate policies and procedures to govern the physician's medical supervision of any such registered nurses. These procedures shall provide that the registered nurses immediately contact the physician if confronted with any of the following circumstances: blunt or penetrating trauma to the head, chest or abdomen; abnormal vital signs, including temperature, pulse, respiratory rate, or blood pressure; and loss of consciousness or dizziness with a documented or reported history of loss of consciousness. Defendants shall develop and implement policies and procedures to ensure that such registered nurses are able to establish prompt and unobstructed telephone, or some other form of voice, contact with the physician, as necessary. Defendants also shall develop and implement procedures to ensure that Department of Corrections' ingress and egress procedures at Medium, Minimum and the Youth Center do not unduly delay emergency medical services ("EMS") being provided to inmates.

All registered nurses working night and weekend shifts at Medium, Minimum and the Youth Center shall be required to be capable of administering advanced cardiac life support ("ACLS") without a physician present, including but not limited to intubation and administration of ACLS medications. ACLS medications and equipment shall be made available at Medium, Minimum and the Youth Center.

B. Sick Call

1. Sick call shall be conducted five times per week for each housing unit at Minimum, Medium and the Youth Center, except in urgent and unforeseen circumstances. Urgent and unforeseen circumstances shall not include position vacancies or annual, administrative or sick leave. Sick call shall be conducted by a physician or a licensed physician assistant. Each inmate, including but not limited to inmates confined to the control cells at Medium and the maximum security unit lock down, protective custody and control cells at the Youth Center, who requests to be seen at sick call, whether by signing a sick call list or otherwise notifying the medical or corrections staff, shall be seen at the next available sick call session for his or her facility. Sick call for inmates confined to the control cells at Medium and the maximum security unit, lock down, protective custody and control cells at the Youth Center shall be accomplished by a physician or licensed physician assistant making rounds, or by a comparable method. Within ninety days of the date of entry of their Consent Decree, defendants shall

provide a precipitation barrier to ensure that inmates are not exposed to rain or other forms of precipitation while waiting to be seen at sick call, and further, defendants shall develop and implement a system to ensure that inmates are not required to wait outside, exposed to extremes of heat or cold for unreasonable periods of time in order to be seen at sick call. Defendants shall ensure that the necessary equipment and medication is maintained at Medium, Minimum and the Youth Center so that a health care provider is able to diagnose and treat suspected cardiac and asthma problems during sick call or during an emergency, as appropriate. Nothing in this paragraph shall be construed to allow the defendants to refrain from administering appropriate evening, night or weekend medical treatment, as set forth herein, until the next available sick call.

2. The defendants shall establish and follow suitable triage procedures in order to ensure that those inmates most in need of medical care receive priority treatment during sick call.

C. All medical services shall be provided in a manner that preserves inmate confidentiality.

D. Access to Specialty Clinics

1. Inmates at Medium, Minimum and the Youth Center shall be provided with access to necessary specialty clinics, including those at D.C. General Hospital, within four weeks of referral, at the latest, or sooner in the case of a medical emergency. If a physician makes an explicit written determination that an inmate will not suffer any adverse medical

consequences from a wait of longer than four weeks, access to specialty clinics may be delayed, provided that the physician specifies the maximum period of time for which access to the specialty clinic may be delayed without adverse medical consequences to the inmate and provided further that the inmate receives specialty clinic care on or before expiration of that period of time.

2. The defendants shall develop and implement an appropriate tracking and tickler system with respect to specialty clinic appointments.

3. The defendants shall maintain a log identifying inmates who have been referred to a specialty clinic, the date of referral, the date of the specialty clinic appointment, or appointments if more than one, and the date upon which the inmate was actually seen by the specialty clinic.

E. Medical Record Review

1. Within sixty (60) days of the date of entry of this Consent Decree, the defendants' qualified medical personnel shall review the medical records of newly-arrived inmates within 12 hours for medication requirements and within 24 hours for chronic conditions, pending specialty clinic appointments, follow-up care, pending laboratory tests and other medical matters.

2. The defendants shall maintain logs demonstrating the extent of their compliance or non-compliance with the two foregoing record review requirements.

F. Quality Assurance

1. The defendants shall develop and implement a suitable medical quality assurance program by no later than October 30, 1994. The defendants shall implement a quality assurance program that contains at least the same elements that are required to be implemented pursuant to court order at the Central Facility.

2. The defendants shall maintain records of all quality assurance activities. These records shall be made available to the plaintiffs' counsel upon reasonable request.

G. Chronic Care/Tuberculosis Tracking And Treatment

1. The defendants shall establish and implement an appropriate system for the tracking and treatment of inmates at Medium, Minimum and the Youth Center with chronic illnesses, including but not limited to: diabetes, hypertension, cardiac illnesses, HIV, asthma, seizures and, as set forth below, tuberculosis. This system shall include a means whereby the pharmacy tracks all inmates on medication for chronic illnesses. This system shall permit the pharmacy to retrieve inmate identity, all medication being used, date of prescription and date of renewal. The system also shall identify any allergies and potential adverse drug interactions.

2. The defendants shall establish and implement a program for the treatment and prevention of TB. The program shall include:

a. development and implementation of a system for annual screening by means of PPD and x-ray of all inmates within sixty (60) days of entry of this order;

b. isolation of infectious or suspected cases according to the TB protocol implemented pursuant to court order at the D.C. Detention Facility;

c. appropriate prophylaxis therapy in accordance with the TB protocol implemented pursuant to court order at the D.C. Detention Facility;

d. contact investigation for all active cases in accordance with the TB protocol implemented pursuant to court order at the D.C. Detention Facility;

e. implementation of an appropriate system for the tracking of all inmates on medications for the treatment of TB or who are on TB prophylaxis in accordance with the TB protocol implemented pursuant to court order at the D.C. Detention Facility;

f. referrals for the continuation of therapy for prisoners being released who are on medications for the treatment of TB or who are on TB prophylaxis in accordance with the TB protocol implemented pursuant to court order at the D.C. Detention Facility; and

g. availability of TB education materials to prisoners.

H. Special Medical Diets

1. The defendants shall ensure that inmates at Medium, Minimum and the Youth Center who are placed on special diets for medical or dental reasons receive such diets on a daily basis.

2. For each inmate at Medium, Minimum and the Youth Center who is placed on a special diet for medical or dental reasons, the defendants shall maintain records showing the prescribed special diet and the inmate's receipt of such diet. These records shall be made available to the plaintiffs' counsel upon request.

I. Dental Care

1. The defendants shall adopt and implement a system to ensure prompt dental triage and to ensure that inmates who require the treatment of painful dental conditions are treated promptly. Defendants shall ensure that inmates shall be seen by an appropriately-licensed health care provider for the purposes of dental triage within one working day of making a request for dental care. Inmates experiencing painful dental conditions shall be seen within twenty-four (24) hours, or at the latest by the next weekday (excluding legal holidays), except in urgent and unforeseen circumstances. Urgent and unforeseen circumstances shall not include position vacancies or annual, administrative or sick leave. Dental emergencies shall be treated as medical emergencies. The defendants shall commence treatment of dental conditions as quickly as practical, and shall ensure that

treatment commences no more than twenty-one (21) days following an inmate's request for treatment.

2. Within forty-five days of entry of this Consent Decree, the defendants shall adopt and implement procedures for ensuring that an inmate in need of a dental prosthesis receives it within an appropriate period of time.

3. The defendants shall maintain written inmate dental records that contain sufficient information to determine the extent of their compliance or noncompliance with these dental care provisions.

J. Mental Health Care

1. The defendants shall provide adequate mental health treatment by licensed mental health providers to inmates at Medium, Minimum and the Youth Center. Such licensed mental health providers shall be either a psychiatrist, psychologist, licensed social worker or licensed psychiatric nurse. No inmate who is stabilized on psychotropic medications shall be denied access to work details, work release, community release or other programs solely on the basis that she or he is taking psychotropic medication. Nothing in this paragraph shall prevent the Department of Corrections from denying a prisoner participation in any program where the denial is based on appropriate classification criteria.

2. All inmates who have been prescribed psychotropic medications shall be seen by a psychiatrist at least once every two weeks unless a psychiatrist records in the inmate's medical

record that in his or her clinical judgment, the inmate may be seen less frequently, but in no event less than every four weeks.

3. There shall be one psychiatrist, psychologist, or licensed social worker who will provide treatment for prisoners at Medium, Minimum and the Youth Center at least three-fourths time. Evaluations for classification or the Parole Board, participation in classification or adjustment proceedings and administrative responsibilities shall not constitute such treatment.

K. Basic Life Support And Emergency Response

1. The defendants shall provide basic life support and emergency response services at Medium, Minimum and Youth Center facilities twenty-four hours per day seven days per week. To this end, within five (5) months of entry of this Consent Decree 1/3 of the correctional staff at Medium, Minimum and the Youth Center shall be trained in cardiopulmonary resuscitation ("CPR") and basic first aid, within ten (10) months of entry of the Consent Decree 2/3 of the correctional staff shall be so-trained, and within fourteen (14) months all correctional staff shall be so-trained. Ambubags shall be purchased and stored in each housing unit and correctional staff shall be trained in their proper use on the same schedule applicable to CPR and basic first aid training.

III. REPORTING, MONITORING, MODIFICATION AND TERMINATION

A. Monthly Reports

1. The plaintiffs' counsel shall have the right to receive from the defendants reasonable information on a monthly basis concerning compliance with the requirements of this Consent Decree. The type and form of reports to be provided shall be negotiated by counsel for the plaintiffs and defendants with due regard for the burdens caused by the reporting process and the need to ensure accountability for compliance with this Consent Decree.

B. Facilities Access

1. The defendants shall permit the plaintiffs' counsel and experts to have access to Medium, Minimum, the Youth Center and to those areas of D.C. General Hospital providing services to members of the plaintiff class, at reasonable times and upon reasonable notice, so that plaintiffs' counsel can monitor the defendants' compliance with the terms of this Consent Decree.

C. Modification

1. The plaintiffs and defendants shall retain all of their rights under applicable law to modify or to seek relief from any or all provisions of this Consent Decree.

D. Termination

1. This Consent Decree shall remain in effect until:
a. a successor decree is entered effecting a complete resolution of the medical care issues affecting the

entire Department of Corrections, including Medium, Minimum and the Youth Center; or

b. six months after a party to this Consent Decree informs the Court that the negotiations for a successor decree have terminated unsuccessfully, or upon the entry of an order following the trial of this matter, whichever occurs first. Such party must provide the opposing party reasonable advance notice of at least sixty (60) days of its intention to file such notice with the Court.

IV. RETENTION OF JURISDICTION AND FURTHER PROCEEDINGS

A. The Court shall retain jurisdiction of this action during the life of this Consent Decree and through any trial in the event of the termination of this Consent Decree as set forth above.

B. Upon entry of this Consent Decree, all discovery in this action shall be stayed and the trial scheduled for November 14, 1994, shall be continued indefinitely. Upon notice from either plaintiffs or defendants that negotiations concerning a comprehensive resolution of all prison health care litigation aimed at agreement to a successor decree have broken down, the stay shall be lifted automatically. The Court shall schedule trial as soon as possible after receiving such notice from either plaintiffs or defendants.

V. CONSENT DECREE TO BE POSTED

A. The defendants shall ensure that a copy of this Consent Decree is posted in each the medical unit and law library at Medium, Minimum and the Youth Center.

SEEN AND AGREED TO:



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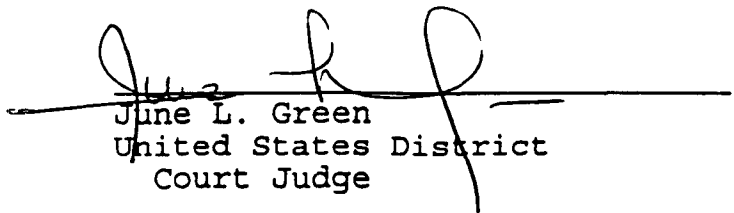
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SO ORDERED:

November 22, 1994
DATE



June L. Green
United States District
Court Judge