



**FIRST SEMI-ANNUAL REPORT OF THE
INDEPENDENT MONITOR OF THE
MEMORANDUM OF AGREEMENT
BETWEEN THE UNITED STATES
DEPARTMENT OF JUSTICE AND THE
STATE OF DELAWARE REGARDING THE
DELORES J. BAYLOR WOMEN'S
CORRECTIONAL INSTITUTION, THE
DELAWARE CORRECTIONAL CENTER,
THE HOWARD R. YOUNG CORRECTIONAL
INSTITUTION AND THE SUSSEX
CORRECTIONAL INSTITUTION**

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EXECUTIVE SUMMARY

This report is submitted pursuant to the Memorandum of Agreement between the United States Department of Justice (“DOJ”) and the State of Delaware (the “State”) regarding the Delores J. Baylor Women’s Correctional Institution, the Delaware Correctional Center, the Howard R. Young Correctional Institution, and the Sussex Correctional Institution, which was entered into on December 29, 2006 (the “MOA”), and the Agreement between Joshua W. Martin III (the “Monitor”) Individually and on Behalf of Potter Anderson & Corroon LLP and the State of Delaware, which was entered into on May 14, 2007 (the “Monitor Agreement”).¹ The Monitoring Team’s performance of its duties has commenced very recently. Therefore, the format of this report departs from the format of future reports, in that this report primarily summarizes the obligations of the State under the MOA, the preliminary observations and recommendations the Monitoring Team has regarding the State’s compliance with the MOA, and the Monitoring Team’s plan of action for the coming months.

The Monitoring Team has had the opportunity to make an initial visit to the Delores J. Baylor Women’s Correctional Institution (“Baylor”), the Delaware Correctional Center (“DCC”), the Howard R. Young Correctional Institution (“Young”), and the Sussex Correctional Institution (“SCI,” and together with Baylor, DCC and Young, the “Facilities”) during the week of May 21, 2007. During those initial visits, the Monitoring Team toured the Facilities, with a particular focus on the facets of the Facilities that relate to the provision of medical and mental health services. These initial visits allowed the Monitoring Team to identify some of the challenges that the State will face in

¹ The Monitor has retained a team of medical and mental health experts, all of whom are identified in Appendix I. The Monitor, together with the individuals listed on Appendix I, are hereinafter referred to as the “Monitor Team.”

complying with the MOA, and to provide some technical assistance to the medical staff on site. In addition to making the visits to the Facilities, the Monitoring Team has provided (and will continue to provide) technical assistance to the State in drafting its policies and procedures, which are to be presented to the DOJ for review and approval on or before July 5, 2007.

Future semi-annual reports by the Monitoring Team will include a more detailed description of the technical assistance provided by the Monitoring Team, and the State's progress with respect to achieving compliance with the MOA. At present, there are a few areas of concern that the Monitoring Team believes are appropriate to raise even at this preliminary stage.

First, the Monitoring Team is concerned with the clinic space and equipment available at each of the Facilities. It appears that the State is attempting to work within the structural and budgetary limits to the best of its ability. While the overall sanitation at the Facilities is good, the Monitoring Team found that the spaces that are used for the provision of medical and mental health services were the least sanitary spaces within the Facilities. There are various reasons for the disparity in sanitation, not the least of which is the security concern with regard to inmate workers taking advantage of the access to medical supplies. The Monitoring Team strongly recommends that the State take immediate action to improve the sanitation within all of the spaces within the Facilities that are used for providing medical and mental health services, even if the result is a greater burden for security staff in the supervision of inmate workers, or hiring an outside vendor.

Second, as is discussed at various points throughout the report, staffing by the State's medical vendor, Correctional Medical Services ("CMS"), of its leadership positions is a serious concern. Without adequate and consistent

leadership, it is very difficult for the State to implement and maintain the changes necessary to comply with the MOA. The Monitoring Team will be providing a more comprehensive staffing analysis in future reports that will address vacant leadership positions and vacant nursing positions; however, it is appropriate even at this preliminary stage to make a recommendation regarding staffing. It is the Monitoring Team's understanding that CMS has had difficulty finding appropriate individuals to fill leadership positions. The Monitoring Team also has received information that tends to indicate that CMS' regional or national management has not been willing to take such measures as offering relatively small increases in pay in order to attract and retain individuals that would be qualified to fill the vacant positions, nor has CMS' regional or national management been particularly supportive of facility-level CMS management regarding staffing concerns. CMS' national and regional management must commit to hiring and retaining appropriately qualified individuals for leadership positions, as well as supporting the efforts of its facility-level management in that regard.

Third, the Monitoring Team encourages the State to ensure that the Facilities are maintaining appropriate documentation of its administration of medical and mental healthcare services, so that there is a base line against which to measure the State's progress, and to assist with the identification of areas for improvement. The Monitoring Team's review of the State's Action Plan and initial visits to the Facilities revealed that the State had already taken steps to improve the Facilities' medical and mental health services prior to retaining the Monitor. For example, as noted within the text of the report, the Facilities have implemented some improvements with regard to the treatment of inmates with chronic illnesses.

There are several deadlines that occur in the very near future. Specifically, the State has indicated that its complete proposed policies and procedures will be submitted to the Monitoring Team on June 29, 2007, and then the policies and procedures containing additional input from the Monitoring Team will be submitted to the DOJ for approval on or before July 5, 2007. Also, the State must prepare and submit a compliance report to the DOJ by July 30, 2007. Finally, the State has already begun to implement changes to the design of the Delaware Automated Correction System (“DACCS”), which should be final on October 30, 2007. The Monitoring Team looks forward to these deadlines, as each milestone that the State reaches provides an opportunity for the Monitoring Team to identify areas that require improvement, review the State’s progress, and offer technical assistance as necessary.

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I. INTRODUCTION

On March 7, 2006, the DOJ notified the State of the DOJ's intent to investigate the adequacy of medical and mental health care services in five facilities operated by the State's Department of Correction (the "DOC") pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997, to determine whether those services violated inmates' constitutional rights. The DOJ toured the John L. Webb Correctional Facility ("Webb"), and the Facilities on June 22, 2006, July 17-19, 2006 and August 14-16, 2006. In addition, DOJ staff, accompanied by consultants in medical care, mental health care and suicide prevention, toured Young on October 4-6, 2006, Baylor and Webb on October 23-25, 2006 and Baylor again on November 15-17, 2006. Then, on December 29, 2006, the DOJ issued a findings letter pursuant to 42 U.S.C. § 1997b(a)(1) which alleged that certain conditions at Baylor, DCC, Young, and Sussex violated the constitutional rights of Delaware inmates. It is the position of the DOJ that deficiencies in medical care, mental health care and suicide prevention at the Facilities were inconsistent with constitutional standards of care. The DOJ made no findings with respect to Webb.

Prior to the DOJ's investigation, the State already had initiated its own efforts to improve conditions at the Facilities. Also, during the DOJ investigation, the State commissioned an extensive internal review of the Facilities with the assistance of medical, mental health, and legal consultants, the detailed results of which they subsequently shared with the DOJ and the DOJ's consultants. Throughout the course of the investigation, the State and the staff at each of the Facilities cooperated thoroughly and indicated a willingness to proactively and voluntarily undertake measures to improve conditions throughout the system. Therefore, in an effort to utilize their resources in support of improving medical and mental health care at the

Facilities, on December 29, 2006, the DOJ and the State entered into the MOA. See Appendix II.

Pursuant to the MOA, the State and the DOJ agreed to work together to select an independent monitor of the State's compliance with the MOA. MOA, ¶ 67. The State and the DOJ jointly selected Joshua W. Martin III to serve as the monitor, and the Monitor and the State entered into the Monitor Agreement. The Monitor then retained a team of medical and mental health professionals to assist with the Monitor's duties. The medical and mental health professionals were also approved by the State and the DOJ. As provided in the MOA, the Monitor is responsible for reviewing and reporting on the State's implementation of, and assist with the State's compliance with, the MOA. MOA, ¶ 71. Further, the Monitor is required to offer the State technical assistance regarding compliance with the MOA. MOA, ¶ 72.

Although the period of time elapsing between the retention of the Monitor, the formation of the Monitoring Team, and timing of the requirement for this semi-annual report has been brief, the Monitoring Team, with the State's cooperation, has had the opportunity to commence its duties. Specifically, the Monitoring Team has had the opportunity to become oriented to the DOC,² and the Facilities. Additionally, the Monitoring Team has provided technical assistance to the State in developing its proposed policies and procedures as required by the MOA. See MOA, ¶ 54.

Summary of Orientation:

During the week of May 21, 2007, the Monitoring Team visited the Facilities. The purpose of the visits was to tour the Facilities, meet staff, and become familiar with current health care operations. Various employees of the

² For the purpose of this report, the term "State" is synonymous with "DOC."

DOC, the DOC's Office of Health Services (the "OHS"), and CMS accompanied the Monitoring Team during the tours of the Facilities, and provided assistance and information to the Monitoring Team during the visits.

Baylor:

During the visit to Baylor, the Monitoring Team received information regarding the facility in general, and the medical services provided by that facility. Baylor opened in 1991, and was designed for a capacity of 200 adult female inmates, and has seven housing units. At the time of the Monitoring Team's visit, Baylor housed 413 female inmates in seven housing units. At any given time, Baylor averages approximately 9 pregnant inmates within its population, and one birth per month. Approximately one-third of the inmate population are pretrial detainees and the remaining two thirds of the inmates have been sentenced. The pretrial and sentenced inmates are not separated. Baylor has one infirmary, which serves all of the facility's inmates.

Young:

During the visit to Young, the Monitoring Team received information regarding the facility in general, and the medical services provided by that facility. Young first opened in 1982. At the time of the Monitoring Team's visit, Young had approximately 1,750 inmates, including both pretrial detainees and sentenced inmates. Young processes approximately 60% of all intakes to the State's correctional system, which causes a great deal of added burden to the facility, and to the medical staff. Overall, Young houses a greater number of inmates than its original design capacity, which creates the potential for problems with clinic space and equipment, and other resources that would be helpful in providing mental and medical health services.

Structurally, the facility is divided into two buildings, the East Wing, and the West Wing. The facility also has a 40-bed juvenile unit. The

East Wing is newer, and was opened in 1992. The East Wing was designed for a capacity of 480 inmates but, at the time of the Monitoring Team's visit, housed approximately 680 inmates. The East Wing primarily contains sentenced inmates, although there is not a strict separation of pretrial detainees and sentenced inmates at Young. Inmates housed in East Wing have greater freedom of movement and privileges than those housed in the West Wing. With respect to the availability of medical and mental health services in the East Wing, the East Wing has a small satellite clinic where only selected health care activities can take place. Otherwise, inmates housed in the East Wing are taken to the West Wing for medical or mental health services.

The West Wing is the original structure, and was designed for a capacity of 360 pretrial detainees. The West Wing now has more than 1,000 inmates, most of whom are pretrial detainees. In the West Wing, all inmates must be escorted by a correctional officer. The main medical unit is located in this building.

DCC:

During the visit to DCC, the Monitoring Team received information regarding the facility in general, and the medical services provided by that facility. The original DCC facility was built in 1971, and new buildings were added from 2000 to 2002. DCC houses both pretrial detainees, and sentenced inmates. DCC's population at the time of the Monitoring Team's visit was approximately 2,500. There are distinct security levels in the different areas of DCC, which range from pretrial detainee status to maximum security, which includes 17 inmates in the State who have been sentenced to death. DCC has an infirmary, which provides medical and mental health screening and treatment. DCC also has a 50-bed unit for inmates with limited mobility, a

mental health special needs unit, and the Greentree substance abuse treatment program, which is facilitated by the DOC.

SCI:

SCI has a capacity of 1,200 inmates with a count of 1,180 at the time of the Monitoring Team's visit. Of this number, approximately 300 inmates are pretrial detainees, and 880 of the inmates are sentenced. SCI also has a boot camp with 90 males and 10 females,³ a therapeutic community substance abuse program administered by an outside agency, and a substance abuse program administered by the DOC for inmates who are within 6 months of the end of their sentences.

Areas that will be of Particular Focus in Future Reports:

During the visits to the Facilities, the Monitoring Team was able to make some assessments regarding areas that will be of particular focus in the future, as well as offer some technical assistance. For instance, the chronic care programs at each of the Facilities is an area of particular concern. As revealed by the visits to the Facilities, it appears that the Facilities have developed more organized chronic care programs than were previously in place. Although the Monitoring Team did not review records due to the introductory nature of these visits, in discussions with staff and through a review of databases that the Facilities have developed, it appears that patients with chronic diseases may, in fact, now be seen on a much more regular basis. In addition, the Monitoring Team has learned that the Facilities each have organized their chronic care programs such that there is at least one dedicated nurse working with the clinicians to ensure that the necessary chronic care is

³ Any female not admitted to the boot camp program is sent to Baylor within 24 hours of arrival.

provided. The Monitoring Team also has learned that at each of the Facilities, patients returning from off-site doctor visits, including visits for specialty consultations, emergency room trips, and hospitalizations, are now brought back to the medical area in each of the Facilities prior to being returned to his or her cell, so that a nurse can begin the process of facilitating continuity of care. This area will be the focus of future record audits by the Monitoring Team.

Another specific area of concern relates to staffing. In addition to the Monitoring Team's concern that CMS is not staffing leadership positions adequately, the Monitoring Team observed that many activities such as the comprehensive intake screening and nursing sick call for inmates are frequently performed by licensed practical nurses ("LPNs"), whose training and skills are substantially less than that of registered nurses ("RNs"). The Monitoring Team will examine this staffing issue in relation to the requirements contained in the MOA, and make appropriate staffing recommendations in future reports.

The Monitoring Team will continue to provide technical assistance to the DOC, as well as monitoring the State's compliance with the MOA. The Monitoring Team will continue to work with DOC leadership in developing a set of policies and procedures for the DOC that will address all of the areas of concern listed in the MOA. The areas that will be addressed first will include access to care, sick call, chronic care, infirmary care, emergency care, specialty care, communicable diseases, reception processing, interfacility processing, medication management, mental health services (including suicide prevention planning), as well as other areas listed in the MOA.

In addition, the Monitoring Team will develop a standard for substantial compliance by the State with each of the requirements contained in

the MOA. As the State's policies are approved, implemented, and the State reaches substantial compliance with respect to individual requirements contained in the MOA, the Monitoring Team will monitor the State's compliance as well as continue to provide technical assistance as needed. In addition, a major area of responsibility will be to develop a comprehensive Quality Improvement Program so that a system of self-monitoring, both on-site by staff at each of the Facilities and by DOC health care team, will continually identify opportunities for improvement and successfully implement strategies resulting in improved performance.

II. COMPLIANCE ASSESSMENT

A. Definition of Substantial Compliance

Pursuant to paragraphs 71 and 72 of the MOA, the Monitor is required to review and report on the State's implementation of, and assist with the State's compliance with, the MOA. In order to complete this task, the Monitor must work with the State to determine whether the State has successfully complied with each requirement contained in the MOA. In order to meet these requirements, the Monitoring Team will, in consultation with the DOJ, develop a definition for "substantial compliance" for each requirement of the MOA.

B. Quality Assurance

1. Policies and Procedures

Pursuant to paragraph 54 of the MOA, the State is required to develop and implement written quality assurance policies and procedures to regularly assess and ensure compliance with the terms of the MOA. Those policies and procedures are to include provisions requiring an annual quality management plan and annual evaluation, quantitative performance measurement with tools to be approved in advance by DOJ, tracking and trending of data, creation of a multidisciplinary team, morbidity and mortality reviews with self-critical analysis, and periodic review of emergency room visits and hospitalizations for ambulatory-sensitive conditions.

2. Comprehensive Action Plan

Pursuant to paragraph 65 of the MOA, the State submitted to the DOJ a comprehensive action plan (the "Action Plan") on April 30, 2007, identifying the specific measures the State intends to take in order to bring the Facilities into compliance with the requirements of the MOA. See Appendix III. The State is required to prepare and submit the first of its reports regarding

compliance with the MOA (“Compliance Reports”) on July 30, 2007, and then every six months thereafter.

III. MEDICAL AND MENTAL HEALTH CARE

A. Standard

Pursuant to paragraph 1 of the MOA, the State is required to ensure that the services offered to address the serious medical and mental health needs of all inmates meet generally accepted professional standards. According to section II., paragraph C. of the MOA, “generally accepted professional standards” means:

[T]hose industry standards accepted by a significant majority of professionals in the relevant field, and reflected in the standards of care such as those published by the National Commission on Correctional Health Care (NCCHC). DOJ acknowledges that NCCHC has established different standards for jail and prison populations, and that the relevant standard that applies under this Agreement may differ for pretrial and sentenced inmates. As used in [the MOA], the terms “adequate,” “appropriate,” and “sufficient” refer to standards established by clinical guidelines in the relevant field. The Parties shall consider clinical guidelines promulgated by professional organizations in assessing whether generally accepted professional standards have been met.

In addition to carrying out its monitoring duties, the Monitoring Team is offering the State technical assistance, including such technical assistance as is necessary to assist the State in ensuring that the standard of the medical and mental health services offered in the Facilities conforms to generally accepted professional standards.

B. Policies and Procedures

Pursuant to paragraph 2 of the MOA, the State is required to develop and revise its policies and procedures including those involving intake, communicable disease screening, sick call, chronic disease management, acute care, infection control, infirmary care, and dental care to ensure that staff

provide adequate ongoing care to inmates that have been determined to need such care. Once such policies and procedures are approved by the DOJ, the State is required to ensure that the medical and mental health policies and procedures are readily available to relevant staff. At present, the Action Plan indicates that the DOC has planned specific actions with respect to each of these topics. As a part of the process to determine the definition of “substantial compliance” with the requirements of the MOA with regard to these topics (see Section II.A. above), the Monitoring Team will review the DOC’s planned actions. In addition, the Monitoring Team has assisted the DOC with drafting appropriate policies and procedures that conform with NCCHC standards, and other generally accepted professional standards.

C. Record-Keeping

Pursuant to paragraph 3 of the MOA, the State is required to develop and implement a unitary record-keeping system to ensure adequate and timely documentation of health assessments and treatment, and adequate and timely access by medical and mental health care staff to documents that are relevant to the care and treatment of the inmates. According to the MOA, a unitary record-keeping system consists of a system in which all clinically appropriate documents for the inmate’s treatment are readily available to each clinician. The State is required to maintain a unified medical and mental health file for each inmate, and all medical records, including laboratory reports, are required to be timely filed in an inmate’s medical file. The medical records unit at each of the Facilities shall be adequately staffed to prevent significant delays in filing records in an inmate’s medical file. The State is further required to maintain inmates’ medical records such that persons providing medical or mental health treatment may gain access to the record as

needed. The MOA mandates that an inmate's medical record should be complete, and should include information from prior incarcerations.

At present, the Action Plan indicates that the DOC has planned specific actions with respect to record-keeping requirements. As a part of the process to determine the definition of "substantial compliance" with the requirements of the MOA with regard to these topics (see Section II.A. above), the Monitoring Team will review the DOC's planned actions. The Monitoring Team has had the opportunity to make a cursory review of each of the Facilities' record-keeping systems, and will provide technical assistance to the State with regard to improving the current record-keeping system. Additionally, the DOC has provided the Monitoring Team with a document containing the DOC's planned changes to DACS.

D. Medication and Laboratory Orders

Pursuant to paragraph 4 of the MOA, the State is required to develop and implement policies, procedures, and practices consistent with generally accepted professional standards to ensure timely responses to orders for medications and laboratory tests. The MOA requires that such policies, procedures, and practices shall be periodically evaluated to ensure that delays in inmates' timely receipt of medications and laboratory tests are prevented. At present, the Action Plan indicates that the DOC has planned specific actions with respect to each of these requirements. As a part of the process to determine the definition of "substantial compliance" with the requirements of the MOA with regard to avoiding medication and laboratory testing delays (see Section II.A. above), the Monitoring Team will review the DOC's planned actions.

E. Staffing and Training

Pursuant to paragraphs 5 through 9 of the MOA, the State is required to take action regarding the following areas of concern: (i) job descriptions and licensure; (ii) staffing; (iii) medical and mental health staff management; (iv) medical and mental health staff training; and (v) security staff training. At present, the Action Plan indicates that the DOC has planned specific actions with respect to each of these topics. As a part of the process to determine the definition of “substantial compliance” with the requirements of the MOA with regard to these topics (see Section II.A. above), the Monitoring Team will review the DOC’s planned actions.

During the Monitoring Team’s initial visits to the Facilities, it became clear that a major area of concern is the absence of experienced leadership, especially at the Young facility. At the time of the Monitoring Team’s visit, CMS had only a part-time state contract manager, who was in the process of completing a transition from another system to Delaware. In addition, the State Director of Nursing position was and remains vacant. With respect to Young, the significant vacancies in CMS’ leadership positions, coupled with the presence of a new Health Care Administrator who does not have experience within a correctional setting and a facility-level Director of Nursing position that is soon to be vacated, raise the concern about the ability of the State to bring Young into compliance with the MOA.

Anecdotally, the Warden at Young informed the Monitoring Team that the turnover of CMS leadership positions has been almost constant over the last few years. As a result, he has had difficulty with keeping up the security training of medical staff, and he has observed that there has not been the opportunity to implement, let alone sustain, any consistent changes. Given the nature of correctional medicine, it is vital that medical staff learn proper

security protocols, and medical and correctional staff work cooperatively. A lack of cooperation between medical and correctional security staff can cause difficulty in rendering adequate medical reception, and obtaining security escorts for outside doctor's appointments and hospital visits.

CMS not only must fill the vacant leadership positions, but also must fill these positions with people who have experience within a correctional setting, and CMS must avoid high turnover in these positions to the extent possible. A Health Service Administrator new to correctional medicine will be able to learn much more quickly if the facility's Director of Nursing position is filled by a person with correctional medicine experience. This is also true, of course, of filling the State Director of Nursing position and providing on-site a full-time state contract administrator.

F. Screening and Treatment

1. Medical Screening

Pursuant to paragraph 10 of the MOA, the State is required to ensure that all inmates receive an appropriate and timely medical screening by a medical staff member upon arrival at a facility. The State is also required to ensure that such screening enables staff to identify individuals with serious medical or mental health conditions, including acute medical needs, infectious diseases, chronic conditions, physical disabilities, mental illness, suicide risk, and drug and/or alcohol withdrawal. At present, the Action Plan indicates that the DOC has planned specific actions with respect to each of these topics. As a part of the process to determine the definition of "substantial compliance" with the requirements of the MOA with regard to medical screening (*see* Section II.A. above), the Monitoring Team will review the DOC's planned actions.

During the Monitoring Team's initial visits to the Facilities, the Monitoring Team was able to make some preliminary observations regarding

medical screening at the Facilities. At Baylor, the Monitoring Team reviewed that facility's policies regarding receiving health screening, health assessment and periodic physical examinations.⁴ With respect to the medical screening policy, the Monitoring Team observed several items of note. First, the operative policy document has both a policy section and a procedural section, but the procedural information is contained in both sections. Also, the policy document does not specify the minimum staffing levels to perform this function or provide any timelines for completion of actions. For example, the policy does not specify the timelines for obtaining chest x-rays for detainees who are newly or previously tuberculosis ("TB") skin test positive or have TB symptoms. The policy states only that the health administrator is to be notified if the chest x-ray is not obtained within a two-week period. Ideally, chest x-rays should be obtained within 72 hours of identification of a positive TB skin test so that patients with active disease are promptly identified. Finally, the Monitoring Team observed that the Intake Screening Report, which is the form upon which medical screening information is recorded in DACS, combines medical screening and the medical history and is repetitive in some areas. The Monitoring Team has agreed to provide technical assistance regarding that form.

By way of background, Baylor receives approximately 70 inmates per week, and accepts inmates 24 hours per day, seven days per week. Baylor also receives female detainees transferred from SCI. Upon arrival, pretrial detainees are booked into the facility and subsequently undergo medical screening, usually by an LPN. The nurse provides a verbal and written

⁴ The policies reviewed by the Monitoring Team were CMS policies. As mentioned throughout this report, the State is proposing its own policies and procedures, which will be implemented after the DOJ has approved them.

orientation, obtains vital signs, and performs TB skin testing. The nurse also asks the detainee a series of medical, mental health and dental questions and enters the results onto a computerized screen in DACS.

Baylor's medical screening process includes not only medical screening questions, but also a more comprehensive medical and mental health history. If the nurse identifies positive responses to the questions, further exploration is to be performed and documented. However, LPNs typically do not have appropriate education and training to perform the exploration of medical symptoms, and it is the Monitoring Team's opinion that an RN or clinician would be more appropriate in this role. Aside from TB skin testing, the medical evaluation process does not include any other infectious disease testing such as gonorrhea, chlamydia, HIV or syphilis, unless the detainee is symptomatic. Because this population is at high risk for these infectious diseases and some patients may be asymptomatic, this represents a missed opportunity for the State to identify and treat detainees with infectious diseases. Implementing infectious disease testing provides a benefit not only to the inmates, but also to public health as well. Although the State is not necessarily out of compliance with the MOA by not conducting this type of proactive testing, the Monitoring Team suggests exploring this opportunity for testing further, and considering the implementation of a pilot program to determine the prevalence of these infections among the detainees.

In addition, Baylor's current policy on health assessment states that registered nurses may perform the physical examination, and although this is consistent with NCCHC standards, it is not the actual practice at the facility. Baylor actually exceeds the NCCHC standards by using clinicians for the physical examination. The Monitoring Team understands that the State is in the process of developing its own policies and procedures, and the

Monitoring Team recommends that such policies and procedures should reflect the intended practices at each facility.

Baylor's policy has a deficiency in that it does not include a requirement that, at the conclusion of the history and physical examination, the clinician develop a medical problem list, and develop a diagnostic and treatment plan for each active problem. The Monitoring Team recommends that the DOC include such a policy at Baylor. Further, Baylor's policy on periodic health assessment is somewhat limited and general, and does not identify what standards are used as the basis for conducting periodic examinations (e.g., U.S. Preventive Services Task Force, etc.) or examinations that are recommended based upon age or other risk factors (e.g., breast, cervical and colon cancer screening, cholesterol screening, etc.).

2. Privacy

Pursuant to paragraph 11 of the MOA, the DOC is required to take action with respect to inmate privacy. Specifically, the MOA requires that the DOC make reasonable efforts to ensure inmate privacy when conducting medical and mental health screening, assessments, and treatment. The MOA mandates, however, that inmate privacy be subject to legitimate security concerns and emergency situations. This topic is addressed in Section III.F.9. (clinic space and equipment) below, because, based upon the review conducted to date, the Monitoring Team believes that the availability of clinic space and equipment has the greatest impact on the State's ability to comply with this requirement.

3. Health Assessments

Pursuant to paragraph 12 of the MOA, the State is required to ensure that all inmates receive timely medical and mental health assessments. Upon intake to a facility, the State is required to ensure that a medical

professional identifies those persons with a chronic illness. The MOA further requires that any inmate identified as having a chronic illness must receive a full health assessment between one and seven days of intake, depending upon the inmate's physical condition. The State is required to track inmates with a chronic illness in a standardized fashion.

With regard to those inmates who do not have a chronic illness, the State is required to ensure that those inmates receive a full health assessment within fourteen days of intake to a facility. Also, with respect to inmates who have been re-admitted or transferred from another facility, have received a documented, full health assessment within the previous twelve months, and whose medical screening during the new intake shows no change in health status, the State is not required to provide a new full medical and mental health assessment. The State is only required to review such an inmate's prior records and update tests and examinations as needed in that situation.

During the initial visits to the Facilities, the Monitoring Team had the opportunity to learn about the steps that the DOC is taking to comply with those requirements. The Monitoring Team's observations at Baylor in that regard are contained in section III.F.1., and will be reviewed in greater detail in future reports. At present, the Action Plan indicates that the DOC has planned specific actions with respect to health assessments. As a part of the process to determine the definition of "substantial compliance" with the requirements of the MOA with regard to these health assessments (see Section II.A. above), the Monitoring Team will review the DOC's planned actions.

4. Referrals for Specialty Care

Pursuant to paragraph 13 of the MOA, the State is required to ensure that inmates whose serious medical or mental health needs exceed the

services available at a facility are referred in a timely manner to appropriate outside medical or mental health care professionals, the findings and recommendations of such outside professionals are tracked and documented in inmates' medical files, and the treatment recommendations of such outside professionals are followed as indicated. At present, the Action Plan indicates that the DOC has planned specific actions with respect to referrals for specialty care. As a part of the process to determine the definition of "substantial compliance" with the requirements of the MOA with regard to referrals for specialty care (see Section II.A. above), the Monitoring Team will review the DOC's planned actions.

5. Treatment or Accommodation Plans

Pursuant to paragraph 14 of the MOA, the State is required to create special needs plans for inmates with special needs (as that term is defined within the MOA), including appropriate discharge planning if the inmate has been at a facility for at least thirty days. At present, the Action Plan indicates that the DOC has planned specific actions with respect to treatment or accommodation plans. As a part of the process to determine the definition of "substantial compliance" with the requirements of the MOA with regard to treatment or accommodation plans (see Section II.A. above), the Monitoring Team will review the DOC's planned actions.

6. Drug and Alcohol Withdrawal

Pursuant to paragraph 15 of the MOA, the State is required to develop and implement appropriate written policies, protocols, and practices, consistent with standards of appropriate medical care, to identify, monitor, and treat inmates at risk for, or who are experiencing, drug or alcohol withdrawal. The State is also required to implement appropriate withdrawal and detoxification programs. The State is required to offer methadone maintenance

programs for pregnant inmates who were addicted to opiates and/or participating in a legitimate methadone maintenance program when they entered a facility. At present, the Action Plan indicates that the DOC has planned specific actions with respect to this requirement. As a part of the process to determine the definition of “substantial compliance” with the requirements of the MOA with regard to drug and alcohol withdrawal (see Section II.A. above), the Monitoring Team will review the DOC’s planned actions.

7. Pregnant Inmates

Pursuant to paragraph 16 of the MOA, the State is required to develop and implement appropriate written policies and protocols for the treatment of pregnant inmates, including appropriate screening, treatment, and management of high risk pregnancies. At present, the Action Plan indicates that the DOC has planned specific actions with respect to this requirement. As a part of the process to determine the definition of “substantial compliance” with the requirements of the MOA with regard to pregnant inmates (see Section II.A. above), the Monitoring Team will review the DOC’s planned actions.

8. Communicable and Infectious Disease Management

Pursuant to paragraph 17 of the MOA, the State is required to adequately maintain statistical information regarding contagious disease screening programs and other relevant statistical data necessary to adequately identify, treat, and control infectious diseases. At present, the Action Plan indicates that the DOC has planned specific actions with respect to this requirement. As a part of the process to determine the definition of “substantial compliance” with the requirements of the MOA with regard to

communicable and infectious disease management (see Section II.A. above), the Monitoring Team will review the DOC's planned actions.

9. Clinic Space and Equipment

Pursuant to paragraph 18 of the MOA, the State is required to ensure that all face-to-face nursing and physician examinations occur in settings that provide appropriate privacy and permit a proper clinical evaluation including an adequately-sized examination room that contains an examination table, an operable sink for hand-washing, adequate lighting, and adequate equipment, including an adequate microscope for diagnostic evaluations. At present, the Action Plan indicates that the DOC has planned specific actions with respect to this requirement. As a part of the process to determine the definition of "substantial compliance" with the requirements of the MOA with regard to clinic space and equipment (see Section II.A. above), the Monitoring Team will review the DOC's planned actions.

During the initial visits, the Monitoring Team had the opportunity to make some preliminary observations regarding clinic space and equipment.

a. Preliminary Observations Regarding Clinic Space and Equipment at Young

At Young, the Monitoring Team toured the booking area where medical reception is conducted. There is a room located in a somewhat noisy area where an LPN conducts medical screening. During the medical screening process, the inmate stands outside the room at a half-door where the nurse takes vital signs and plants a TB skin test. The nurse then sits at a desk approximately 6 to 8 feet away, asking medical questions of the inmate who is standing outside the door. This arrangement does not permit medical privacy and is not conducive to obtaining an adequate medical history.

The main medical clinic is in the West Wing. This area contains an inmate waiting area, infirmary/medical observation unit, treatment rooms and offices. Sanitation throughout this area is poor. The treatment room is located in the inmate waiting area where nurses triage patients and labs are drawn. Often there are two inmates in this area; this arrangement can affect inmates' privacy. In the back area there is a hallway with work stations and a few offices and treatment rooms. It is cramped and has inadequate space for health care staff. Outside the main medical clinic there are offices for the health administrator, infection control nurse and mental health staff. The facility's Director of Nurses had an office at one time, but, at CMS' request, the office is no longer designated for that purpose. This is a serious obstacle to recruitment and filling the responsibilities of the position. The office designated for the infection control nurse is filled with medical record files such that there is room only for a small desk in this area. The Monitoring Team strongly recommends that the Warden at Young provide support to store these medical records in another location and commit to re-establishing an office for the facility Director of Nurses.

In the East Wing there is a satellite clinic where nurses administer medications and conduct nursing sick call. In this area there are two rooms that could be used to conduct patient examinations. The back room is filled with boxes of medical files and medical equipment and currently is not being used. The front room has an examination table, but no medical equipment or supplies were in view.

b. Preliminary Observations Regarding Clinic Space and Equipment at DCC

At DCC, the Monitoring Team observed that, upon entry into the medical clinic, there is an inmate waiting room of adequate size. Through a

doorway into the main clinic area, two medical assistants are posted and assigned to take vital signs of inmates brought into the clinic. There are three examination areas that have no doorway. Only one privacy screen is available; this arrangement raises concerns about privacy.

The infirmary has 43 infirmary beds. Ten of the beds are designated for mental health patients, four of the beds are located in respiratory isolation rooms, and there is a three-bed room for end-of-life patients. There is also a room with three dialysis machines for the seven patients housed at the facility who require dialysis. Sanitation throughout the infirmary was poor.

c. Preliminary Observations Regarding Clinic Space and Equipment at SCI

At SCI, the Monitoring Team toured the booking area, which has a room designated for medical screening. The room was spacious and appeared to have adequate equipment and supplies. The sanitation in the room was poor.

SCI has two areas devoted to medical treatment. One of the areas is in the pretrial detention area and the other area is located in the main infirmary in the older part of the facility. In both areas space is limited, particularly in the main infirmary. The area is cramped and cluttered and sanitation is poor. The infirmary has six beds, which are contained in three single-bed rooms, and one three-bed room.

The Monitoring Team will provide technical assistance to the State to gain compliance with paragraph 18 of the MOA, keeping in mind the limited space available in the Facilities for the provision of medical and mental health care.

G. Access to Care

1. Access to Medical and Mental Health Services

Pursuant to paragraph 19 of the MOA, the State is required to ensure that all inmates have an adequate opportunity to request and receive medical and mental health care. The MOA requires that appropriate medical staff shall screen all written requests within twenty-four hours of submission, and see patients within the next 72 hours, or sooner if medically appropriate. The State is required to maintain sufficient security staff to ensure that inmates requiring treatment are escorted in a timely manner to treatment areas. The State is required to develop and implement a sick call policy and procedure which includes an explanation of the order in which to schedule patients, a procedure for scheduling patients, where patients should be treated, the requirements for clinical evaluations, and the maintenance of a sick call log. At present, the Action Plan indicates that the DOC has planned specific actions with respect to each of these requirements. As a part of the process to determine the definition of “substantial compliance” with the requirements of the MOA with regard to access to care (see Section II.A. above), the Monitoring Team will review the DOC’s planned actions.

During the Monitoring Team’s initial visits to the Facilities, the Monitoring Team had the opportunity to learn about each of the Facilities’ procedures for nursing sick call. For instance, at Young, the Monitoring Team observed that the security staff brings inmates to the medical unit by housing location rather than by the type of service requested. The Monitoring Team believes that this method of transport results in inefficiency and decreased productivity for health care staff.

Also, at SCI, nursing sick call is conducted by an RN or an LPN. The nurses utilize nursing protocols and assessment forms. Staff reported that

they receive approximately 16 to 30 request forms per day, of which 50% are from inmates with symptoms (as opposed to requests for information, lab tests, etc.). Staff reported that inmates are generally seen one day following submission of their request. The Monitoring Team was informed that all intake screenings and sick call performed by an LPN are reviewed promptly by an RN.

2. Isolation Rounds

Pursuant to paragraph 20 of the MOA, the State is required to ensure that nursing staff make rounds at least three times a week, to give inmates in isolation adequate opportunities to contact and discuss medical and mental health concerns with medical staff and mental health professionals in a setting that affords as much privacy as security will allow. At present, the Action Plan indicates that the DOC has planned specific actions with respect to this requirement. As a part of the process to determine the definition of “substantial compliance” with the requirements of the MOA with regard to isolation rounds (see Section II.A. above), the Monitoring Team will review the DOC’s planned actions.

3. Grievances

Pursuant to paragraph 21 of the MOA, the State is required to develop and implement a system to ensure that medical grievances are processed and addressed in a timely manner. The State shall ensure that medical grievances and written responses thereto are included in inmates’ medical files, and that grievances and their outcomes are logged, reviewed, and analyzed on a regular basis to identify systemic issues in need of redress. The State also is required to develop and implement procedures for discovering and addressing all systemic problems raised through the grievance system. At present, the Action Plan indicates that the DOC has planned specific actions with respect to grievances. As a part of the process to determine the definition

of “substantial compliance” with the requirements of the MOA with regard to grievances (see Section II.A. above), the Monitoring Team will review the DOC’s planned actions.

During the initial visits to the Facilities, the Monitoring Team was able to learn about each of the Facilities’ grievance systems. Each of the Facilities has a grievance procedure in place. Some of the Facilities have a higher rate of grievances than others. For instance, at SCI, staff reported a multitude of grievances, primarily related to co-pay and medications. Medication grievances relate to the type of medication ordered and not receiving the medication as ordered.

H. Chronic Disease Care

1. Chronic Disease Management Program

Pursuant to paragraph 22 of the MOA, the DOC is required to take action with respect to chronic disease care at the Facilities. The MOA requires that the DOC develop and implement a written chronic care disease management program, consistent with generally accepted professional standards, which provides inmates suffering from chronic illnesses with appropriate diagnosis, treatment, monitoring, and continuity of care. At present, the Action Plan indicates that the DOC has planned specific actions with respect to this topic. As a part of the process to determine the definition of “substantial compliance” with the requirements of the MOA with regard to chronic disease management programs (see Section II.A. above), the Monitoring Team will review the DOC’s planned actions.

As noted in the Introduction, each of the Facilities already has taken steps to comply with the MOA with regard to the chronic disease management program. For instance, at DCC, staff reported there are approximately 650 inmates at the facility enrolled in the program. With respect

to consultation services, staff reported that there are no issues with transport of inmates to outside appointments, although transport requires a significant use of correctional officer overtime. At SCI, staff reported that there were approximately 460 to 480 inmates in the chronic disease management program. Of that number, 22 were HIV-infected patients. SCI plans to assign a nurse to manage this clinic.

2. Immunizations

Pursuant to paragraph 23 of the MOA, the State is required to take action to ensure that the Facilities are making reasonable efforts to obtain immunization records for all juveniles who are detained at the Facilities for more than one month, and that medical staff updates the immunizations for such juveniles in accordance with nationally recognized guidelines and state school admission requirements. Further, if a physician determines that such immunization is medically inappropriate, he or she shall properly record such determination in the inmate's medical record. Finally, the State is required to develop policies and procedures to ensure that inmates for whom influenza, pneumonia, and Hepatitis A and B vaccines are medically indicated are offered these vaccines. At present, the Action Plan indicates that the DOC has planned specific actions with respect to each of these topics. As a part of the process to determine the definition of "substantial compliance" with the requirements of the MOA with regard to these topics (*see* Section II.A. above), the Monitoring Team will review the DOC's planned actions.

I. Medication

1. Medication Administration

Pursuant to paragraph 24 of the MOA, the State is required to ensure that all medications, including psychotropic medications, are prescribed appropriately and administered in a timely manner to adequately address the

serious medical and mental health needs of inmates. The State is required to ensure that inmates who are prescribed medications for chronic illnesses that are not used on a routine schedule, including inhalers for the treatment of asthma, have access to those medications as medically appropriate. The State must develop and implement adequate policies and procedures for the medication administration and adherence. Further, the State is required to ensure that the prescribing practitioner is notified if a patient misses a medication dose on three consecutive days, and shall document that notice. The MOA requires that the State's formulary not unduly restrict medications. The State is required to revise its medication administration policies and procedures and make any appropriate revisions. Finally, the State is required to ensure that medication administration records ("MARs") are appropriately completed and maintained in each inmate's medical record. At present, the Action Plan indicates that the DOC has planned specific actions with respect to each of these requirements. As a part of the process to determine the definition of "substantial compliance" with the requirements of the MOA with regard to medication administration (see Section II.A. above), the Monitoring Team will review the DOC's planned actions.

During the initial visits to the Facilities, the Monitoring Team learned about each of the Facilities' current methods for medication administration. Each of the Facilities has a separate system for administering medication to inmates, depending upon the level of security needed at each facility and the physical limitations of each structure. Each of the Facilities has a medication window. Inmates form a line outside of the window at set times each day, provide identification to the nurse inside of the "pharmacy," and the nurse administers a pre-measured medication to each inmate. Depending upon the circumstances, a physical examination of the inmate's

mouth may be required in order to ensure that a patient has actually taken the medication. Additionally, each of the Facilities has a method for taking medication directly to the inmates in order to administer medication. Most of the Facilities use a medication cart, which a nurse walks around the facility, administering medication to the inmates. Finally, each of the Facilities administers medication directly to the inmates housed in the infirmaries.

a. Preliminary Observations Regarding Medication Administration at Young

At Young, the Monitoring Team identified a potential problem due to a significant gap in time between administration of morning insulin to diabetic inmates, and the diabetic inmates' access to meals. The Monitoring Team raised that issue, and the medical staff at Young agreed to work with the Warden to ensure that diabetic inmates are fed within an appropriate time period after receiving insulin.

b. Preliminary Observations Regarding Medication Administration at DCC

At DCC, the Monitoring Team learned that medications are administered four times daily both by directly observed therapy and self-administration. Nurses administer medications mostly by going out to the housing units. An Inmate Activity Schedule showed that medication administration begins at 0300 or 0400 hours, and meals are served from 0430 to 0600 hours. This is an unusual arrangement to have medications and meals served this early. The Monitoring Team raised the concern that the early time of the inmate medication administration and feeding may have an impact on medication adherence, and recommends further exploration of this issue.

c. Preliminary Observations Regarding Medication Administration at SCI

At SCI, medications are administered four times daily. For two of the medication administration passes, nurses take the medication to the housing units. Inmates come to the medical clinic at other times to pick up medications. The Monitoring Team learned that during the medical screening portion of the inmate intake process, if the detainee has any medications on his or her person, the medications are destroyed regardless of whether they are in a properly labeled container or not. Staff reported that inmates are provided prescription medication adequate for 30 days of use upon release to afford the inmates an adequate time to obtain health care and medication refills upon release.

2. Continuity of Medication

Pursuant to paragraph 25 of the MOA, the State is required to ensure that arriving inmates who report that they have been prescribed medications shall receive the same or comparable medication as soon as is reasonably possible, unless a medical professional determines such medication is inconsistent with generally accepted professional standards. If the inmates' reported medication is ordered discontinued or changed by a medical professional, a medical professional must conduct a face-to-face evaluation of the inmate as medically appropriate. At present, the Action Plan indicates that the DOC has planned specific actions with respect to each of these requirements. As a part of the process to determine the definition of "substantial compliance" with the requirements of the MOA with regard to continuity of medication (*see* Section II.A. above), the Monitoring Team will review the DOC's planned actions.

3. Medication Management

Pursuant to paragraph 26 of the MOA, the State is required to develop and implement guidelines and controls regarding the access to, and storage of, medication as well as the safe and appropriate disposal of medication and medical waste. At present, the Action Plan indicates that the DOC has planned specific actions with respect to this requirement. As a part of the process to determine the definition of “substantial compliance” with the requirements of the MOA with regard to medication management (*see* Section II.A. above), the Monitoring Team will review the DOC’s planned actions.

J. Emergency Care

Pursuant to paragraphs 27 and 28 of the MOA, the State is required to take action with respect to access to emergency care and first responder assistance. At present, the Action Plan indicates that the DOC has planned specific actions with respect to this requirement. As a part of the process to determine the definition of “substantial compliance” with the requirements of the MOA with regard to emergency care (*see* Section II.A. above), the Monitoring Team will review the DOC’s planned actions.

K. Mental Health Care

Pursuant to paragraphs 29 through 40 of the MOA, the following mental health care topics require action by the State: (i) treatment; (ii) psychiatrist staffing; (iii) administration of mental health medications; (iv) mental illness training; (v) mental health screening; (vi) mental health assessment and referral; (vii) mental health treatment plans; (viii) crisis services; (ix) treatment for seriously mentally ill inmates; (x) review of disciplinary charges for mental illness symptoms; (xi) procedures for mentally ill inmates in isolation or observation status; and (xii) mental health services logs and documentation. At present, the Action Plan indicates that the DOC

has planned specific actions with respect to each of these topics. As a part of the process to determine the definition of “substantial compliance” with the requirements of the MOA with regard to these topics (see Section II.A. above), the Monitoring Team will review the DOC’s planned actions.

The Monitoring Team will provide technical assistance in order to ensure compliance with these goals. The Monitoring Team is offering assistance with regard to drafting the DOC’s policies regarding the above topics, and Drs. Roberta Stellman and Jeffrey Metzner, psychiatrists who are members of the Monitoring Team, will be visiting the Facilities in July 2007, in order to make a more comprehensive review of each of these topics.

IV. SUICIDE PREVENTION

Pursuant to paragraphs 41 through 53 of the MOA, the following suicide prevention topics require action by the State: (i) suicide prevention policy; (ii) suicide prevention training curriculum; (iii) staff training; (iv) intake screening/assessment; (v) mental health records; (vi) identification of inmates at risk of suicide; (vii) suicide risk assessment; (viii) communication; (ix) housing; (x) observation; (xi) “step-down observation;” (xii) intervention; and (xiii) mortality and morbidity reviews. At present, the Action Plan indicates that the DOC has planned specific actions with respect to each of these topics. As a part of the process to determine the definition of “substantial compliance” with the requirements of the MOA with regard to these topics (see Section II.A. above), the Monitoring Team will review the DOC’s planned actions.

The Monitoring Team will provide technical assistance to the DOC in order to assist the DOC in reaching compliance with the MOA regarding the above areas of concern. The Monitoring Team currently is offering assistance with regard to drafting the DOC’s policies and procedures in general, and Drs. Roberta Stellman and Jeffrey Metzner, psychiatrists who are members of the

Monitoring Team, will be visiting the Facilities in July 2007, in order to make a more comprehensive review of each of these topics.

APPENDIX I
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APPENDIX II

**MEMORANDUM OF AGREEMENT BETWEEN THE UNITED STATES
DEPARTMENT OF JUSTICE AND THE STATE OF DELAWARE REGARDING
THE DELORES J. BAYLOR WOMEN'S CORRECTIONAL INSTITUTION, THE
DELAWARE CORRECTIONAL CENTER, THE HOWARD R. YOUNG
CORRECTIONAL INSTITUTION, AND THE SUSSEX CORRECTIONAL
INSTITUTION IS ATTACHED**

**MEMORANDUM OF AGREEMENT BETWEEN THE UNITED STATES
DEPARTMENT OF JUSTICE AND THE STATE OF DELAWARE REGARDING THE
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I. INTRODUCTION

- A. On March 7, 2006, the United States Department of Justice (“DOJ”), notified the State of Delaware (“the State”) of DOJ’s intent to investigate the adequacy of medical and mental health care services in five facilities operated by the State’s Department of Correction pursuant to the Civil Rights of Institutionalized Persons Act (“CRIPA”), 42 U.S.C. § 1997 to determine whether those services violated inmates’ constitutional rights. The facilities investigated were:
1. Delores J. Baylor Women’s Correctional Institution (“Baylor”);
 2. Howard R. Young Correctional Institution, (“Howard Young”);
 3. John L. Webb Correctional Facility (“Webb”);
 4. Delaware Correctional Center (“DCC”); and
 5. Sussex Correctional Institution (“Sussex”).
- B. DOJ staff toured the five facilities on June 22, 2006, July 17-19, 2006 and August 14-16, 2006. In addition, DOJ staff, accompanied by consultants in medical care, mental health care and suicide prevention, toured Howard Young on October 4-6, 2006, Baylor and Webb on October 23-25, 2006 and Baylor again on November 15-17, 2006.
- C. On December 29, 2006, the DOJ issued a findings letter pursuant to 42 U.S.C. § 1997b(a)(1) which alleged that certain conditions at Baylor, DCC, Howard Young, and Sussex violated the constitutional rights of Delaware inmates. It is the position of the DOJ that deficiencies in medical care, mental health care and suicide prevention at these four facilities [collectively referred to herein as “the Facilities”; see Definitions, paragraph A] were inconsistent with constitutional standards of care. The DOJ made no findings with respect to Webb.
- D. Before the investigation began, the State had initiated its own efforts to improve conditions at the Facilities. During the investigation, the State also commissioned an extensive internal review of the Facilities with the assistance of medical, mental health, and legal consultants, the detailed results of which they subsequently shared with DOJ and DOJ’s consultants. Throughout the course of the investigation, the State of Delaware and the staff at each Facility cooperated thoroughly and indicated a willingness to proactively and voluntarily undertake measures to improve conditions throughout the system. Consequently, the Parties enter into this Memorandum of Agreement (“Agreement”) for the purpose of utilizing their resources in support of improving medical and mental health care at the Facilities, rather than allocating such resources to the risks and burdens of litigation.

- E. The Parties to this Agreement do not intend to create in any non-party the status of third party beneficiary. This Agreement shall not be construed so as to create a private right of action to any non-party against the State or the United States. The rights, duties and obligations contained in this Agreement shall bind only the Parties to this Agreement.
- F. In entering into this Agreement, the State does not admit any violations of the constitutional rights of inmates confined at the Facilities nor does it admit any violation of state or federal law. This Agreement may not be used as evidence of liability in any other legal proceeding. However, the State remains firmly committed to improving medical and mental health care at the Facilities.
- G. The Parties acknowledge that Correctional Medical Services (“CMS”) currently provides medical and mental health care to inmates at the Facilities and that such care is provided pursuant to a contract with CMS that sets forth the terms and conditions of the relationship between the State and CMS. The State shall be responsible for ensuring that CMS (or any successor contractor) complies with the terms of this Agreement. Nothing in this paragraph shall abrogate the State's responsibility to comply fully with the terms of this Agreement.
- H. It is expressly understood and acknowledged that, while this Agreement makes no distinctions between those issues concerning inmate medical and mental health care that were previously modified and improved prior to the issuance of the findings letter and those that shall be modified and/or improved by virtue of the terms of this Agreement, the Parties acknowledge that a number of the policies and/or procedures which this Agreement addresses were implemented or in the process of being implemented prior to the issuance of the findings letter.

II. DEFINITIONS

In this Agreement, the following definitions apply:

- A. “The Facilities” means Baylor, DCC, Howard Young, and Sussex, collectively, as well as any facility that is built to replace or supplement any one of them.
- B. “Effective date” means the date the Agreement is executed by the Parties.
- C. “Generally accepted professional standards” means those industry standards accepted by a significant majority of professionals in the relevant field, and reflected in the standards of care such as those published by the National Commission on Correctional Health Care (NCCHC) . DOJ acknowledges that NCCHC has established different standards for jail and prison populations, and that the relevant standard that applies under this Agreement may differ for pre-trial and sentenced inmates. As used in this Agreement, the terms “adequate,” “appropriate,” and “sufficient” refer to standards established by clinical

guidelines in the relevant field. The Parties shall consider clinical guidelines promulgated by professional organizations in assessing whether generally accepted professional standards have been met.

- D. “Include” or “including” means “include, but not be limited to” or “including, but not limited to.”
- E. “Inmates” means individuals sentenced to, incarcerated in, detained at, or otherwise confined at any of the Facilities.
- F. “Inmates with special needs” means inmates who are identified as suicidal, mentally ill, developmentally disabled, seriously or chronically ill, who are physically disabled, who have trouble performing activities of daily living, or who are a danger to themselves.
- G. “Isolation” means the placement of an inmate alone in a locked room or cell, except that it does not refer to adults single celled in general population.
- H. “Juveniles” means individuals detained at a facility who are under the age of eighteen (18).
- I. “Medical staff” means medical professionals, nursing staff, and certified medical assistants.
- J. “Medical professional” means a licensed physician, licensed physician assistant, or a licensed nurse practitioner providing services at a facility and currently licensed to the extent required by the State of Delaware to deliver those health services he or she has undertaken to provide.
- K. “Mental health professional” means an individual with a minimum of masters-level education and training in psychiatry, psychology, counseling, psychiatric social work, activity therapy, recreational therapy or psychiatric nursing, currently licensed to the extent required by the State of Delaware to deliver those mental health services he or she has undertaken to provide.
- L. “Monitor” as used in this Agreement means the Monitor established by Section VII of this Agreement, and all persons or entities associated by the Monitor to assist in performing the monitoring tasks.
- M. “Nursing staff” means registered nurses, licensed practical nurses, and licensed vocational nurses providing services at a facility and currently licensed to the extent required by the State of Delaware to deliver those health services they have undertaken to provide.

- N. “The Parties” means the State and the DOJ.
- O. “Security staff” means all employees, irrespective of job title, whose regular duties include the supervision of inmates at the Facilities.
- P. “The State” means officials of the State of Delaware, including officials of the Department of Correction and its Bureau of Prisons, and their successors, contractors and agents.
- Q. “Train,” when the term is used in remedial provisions of this Agreement, means to adequately instruct in the skills addressed, including assessment of mastery of instructional material.

III. MEDICAL AND MENTAL HEALTH CARE

GENERAL PROVISIONS

- (1) Standard The State shall ensure that services to address the serious medical and mental health needs of all inmates meet generally accepted professional standards.
- (2) Policies and Procedures The State shall develop and revise its policies and procedures including those involving intake, communicable disease screening, sick call, chronic disease management, acute care, infection control, infirmary care, and dental care to ensure that staff provide adequate ongoing care to inmates determined to need such care. Medical and mental health policies and procedures shall be readily available to relevant staff.
- (3) Record keeping The State shall develop and implement a unitary record-keeping system to ensure adequate and timely documentation of assessments and treatment and adequate and timely access by medical and mental health care staff to documents that are relevant to the care and treatment of inmates. A unitary-record-keeping system consists of a system in which all clinically appropriate documents for the inmate’s treatment are readily available to each clinician. The State shall maintain a unified medical and mental health file for each inmate and all medical records, including laboratory reports, shall be timely filed in the medical file. The medical records unit shall be adequately staffed to prevent significant lags in filing records in an inmate’s medical record. The State shall maintain the medical records such that persons providing medical or mental health treatment may gain access to the record as needed. The medical record should be complete, and should include information from prior incarcerations. The State shall implement an adequate system for medical records management.
- (4) Medication and Laboratory Orders The State shall develop and implement policies, procedures, and practices consistent with generally accepted professional standards to ensure timely responses to orders for medications and laboratory tests. Such policies,

procedures, and practices shall be periodically evaluated to ensure that delays in inmates' timely receipt of medications and laboratory tests are prevented.

Staffing and Training

- (5) **Job Descriptions and Licensure** The State shall ensure that all persons providing medical or mental health treatment meet applicable state licensure and/or certification requirements, and practice only within the scope of their training and licensure. The State shall establish a credentialing program that meets generally accepted professional standards, such as those required for accreditation by the National Committee for Quality Assurance.
- (6) **Staffing** The State shall maintain sufficient staffing levels of qualified medical staff and mental health professionals to provide care for inmates' serious medical and mental health needs that meets generally accepted professional standards.
- (7) **Medical and Mental Health Staff Management** The State shall ensure that a full-time medical director is responsible for the management of the medical program. The State shall also provide a director of nursing and adequate administrative medical and mental health management. In addition, the State shall ensure that a designated clinical director shall supervise inmates' mental health treatment at the Facilities. These positions may be filled either by State employees, by independent contractors retained by the State, or pursuant to the State's contract with a correctional health care vendor.
- (8) **Medical and Mental Health Staff Training** The State shall continue to ensure that all medical staff and mental health professionals are adequately trained to meet the serious medical and mental health needs of inmates. All such staff shall continue to receive documented orientation and in-service training in accordance with their job classifications, and training topics shall include suicide prevention and the identification and care of inmates with mental disorders.
- (9) **Security Staff Training** The State shall ensure that security staff are adequately trained in the identification, timely referral, and proper supervision of inmates with serious medical or mental health needs. The State shall ensure that security staff assigned to mental health units receive additional training related to the proper supervision of inmates suffering from mental illness.

Screening and Treatment

- (10) **Medical Screening** The State shall ensure that all inmates receive an appropriate and timely medical screening by a medical staff member upon arrival at a facility. The State shall ensure that such screening enables staff to identify individuals with serious medical or mental health conditions, including acute medical needs, infectious diseases, chronic conditions, physical disabilities, mental illness, suicide risk, and drug and/or alcohol

withdrawal. Separate mental health screening shall be provided as described in Paragraph 34.

- (11) Privacy The State shall make reasonable efforts to ensure inmate privacy when conducting medical and mental health screening, assessments, and treatment. However, maintaining inmate privacy shall be subject to legitimate security concerns and emergency situations.
- (12) Health Assessments The State shall ensure that all inmates receive timely medical and mental health assessments. Upon intake, the State shall ensure that a medical professional identifies those persons who have chronic illness. Those persons with chronic illness shall receive a full health assessment between one (1) and seven (7) days of intake, depending on their physical condition. Persons without chronic illness should receive full health assessment within fourteen (14) days of intake. The State will ensure that inmates with chronic illnesses will be tracked in a standardized fashion. A re-admitted inmate or an inmate transferred from another facility who has received a documented full health assessment within the previous twelve (12) months, and whose receiving screening shows no change in health status, need not receive a new full medical and mental health assessment. For such inmates, medical staff and mental health professionals shall review prior records and update tests and examinations as needed.
- (13) Referrals for Specialty Care The State shall ensure that: a) inmates whose serious medical or mental health needs exceed the services available at their facility shall be referred in a timely manner to appropriate medical or mental health care professionals; b) the findings and recommendations of such professionals are tracked and documented in inmates' medical files; and c) treatment recommendations are followed as clinically indicated.
- (14) Treatment or Accommodation Plans Inmates with special needs shall have special needs plans. For inmates with special needs who have been at the facility for thirty (30) days, this shall include appropriate discharge planning. The DOJ acknowledges that for sentenced inmates with special needs, such discharge planning shall be developed in relation to the anticipated date of release.
- (15) Drug and Alcohol Withdrawal The State shall develop and implement appropriate written policies, protocols, and practices, consistent with standards of appropriate medical care, to identify, monitor, and treat inmates at risk for, or who are experiencing, drug or alcohol withdrawal. The State shall implement appropriate withdrawal and detoxification programs. Methadone maintenance programs shall be offered for pregnant inmates who were addicted to opiates and/or participating in a legitimate methadone maintenance program when they entered the Facilities.

- (16) Pregnant Inmates The State shall develop and implement appropriate written policies and protocols for the treatment of pregnant inmates, including appropriate screening, treatment, and management of high risk pregnancies.
- (17) Communicable and Infectious Disease Management The State shall adequately maintain statistical information regarding contagious disease screening programs and other relevant statistical data necessary to adequately identify, treat, and control infectious diseases.
- (18) Clinic Space and Equipment The State shall ensure that all face-to-face nursing and physician examinations occur in settings that provide appropriate privacy and permit a proper clinical evaluation including an adequately-sized examination room that contains an examination table, an operable sink for hand-washing, adequate lighting, and adequate equipment, including an adequate microscope for diagnostic evaluations. The State shall submit a comprehensive action plan as described in Paragraph 65 of this Agreement identifying the specific measures the State intends to take in order to bring the Facilities into compliance with this paragraph.

Access to Care

- (19) Access to Medical and Mental Health Services The State shall ensure that all inmates have adequate opportunity to request and receive medical and mental health care. Appropriate medical staff shall screen all written requests for medical and/or mental health care within twenty-four (24) hours of submission, and see patients within the next 72 hours, or sooner if medically appropriate. The State shall maintain sufficient security staff to ensure that inmates requiring treatment are escorted in a timely manner to treatment areas. The State shall develop and implement a sick call policy and procedure which includes an explanation of the order in which to schedule patients, a procedure for scheduling patients, where patients should be treated, the requirements for clinical evaluations, and the maintenance of a sick call log. Treatment of inmates in response to a sick call slip should occur in a clinical setting.
- (20) Isolation Rounds The State shall ensure that medical staff make daily sick call rounds in the isolation areas, and that nursing staff make rounds at least three times a week, to give inmates in isolation adequate opportunities to contact and discuss health and mental health concerns with medical staff and mental health professionals in a setting that affords as much privacy as security will allow.
- (21) Grievances The State shall develop and implement a system to ensure that medical grievances are processed and addressed in a timely manner. The State shall ensure that medical grievances and written responses thereto are included in inmates' files, and that grievances and their outcomes are logged, reviewed, and analyzed on a regular basis to identify systemic issues in need of redress. The State shall develop and implement a

procedure for discovering and addressing all systemic problems raised through the grievance system.

Chronic Disease Care

- (22) **Chronic Disease Management Program** The State shall develop and implement a written chronic care disease management program, consistent with generally accepted professional standards, which provides inmates suffering from chronic illnesses with appropriate diagnosis, treatment, monitoring, and continuity of care. As part of this program, the State shall maintain a registry of inmates with chronic diseases.
- (23) **Immunizations** The State shall make reasonable efforts to obtain immunization records for all juveniles who are detained at the Facilities for more than one (1) month. The State shall ensure that medical staff update immunizations for such juveniles in accordance with nationally recognized guidelines and state school admission requirements. The physicians who determine that the vaccination of a juvenile or adult inmate is medically inappropriate shall properly record such determination in the inmate's medical record. The State shall develop policies and procedures to ensure that inmates for whom influenza, pneumonia and Hepatitis A and B vaccines are medically indicated are offered these vaccines.

Medication

- (24) **Medication Administration** The State shall ensure that all medications, including psychotropic medications, are prescribed appropriately and administered in a timely manner to adequately address the serious medical and mental health needs of inmates. The State shall ensure that inmates who are prescribed medications for chronic illnesses that are not used on a routine schedule, including inhalers for the treatment of asthma, have access to those medications as medically appropriate. The State shall develop and implement adequate policies and procedures for medication administration and adherence. The State shall ensure that the prescribing practitioner is notified if a patient misses a medication dose on three consecutive days, and shall document that notice. The State's formulary shall not unduly restrict medications. The State shall review its medication administration policies and procedures and make any appropriate revisions. The State shall ensure that medication administration records ("MARs") are appropriately completed and maintained in each inmate's medical record.
- (25) **Continuity of Medication** The State shall ensure that arriving inmates who report that they have been prescribed medications shall receive the same or comparable medication as soon as is reasonably possible, unless a medical professional determines such medication is inconsistent with generally accepted professional standards. If the inmate's reported medication is ordered discontinued or changed by a medical professional, a medical professional shall conduct a face-to-face evaluation of the inmate as medically appropriate.

- (26) Medication Management The State shall develop and implement guidelines and controls regarding the access to, and storage of, medication as well as the safe and appropriate disposal of medication and medical waste.

Emergency Care

- (27) Access to Emergency Care The State shall train medical, mental health and security staff to recognize and respond appropriately to medical and mental health emergencies. Furthermore, the State shall ensure that inmates with emergency medical or mental health needs receive timely and appropriate care, including prompt referrals and transports for outside care when medically necessary.
- (28) First Responder Assistance The State shall train all security staff to provide first responder assistance (including cardiopulmonary resuscitation (“CPR”) and addressing serious bleeding) in an emergency situation. The State shall provide all security staff with the necessary protective gear, including masks and gloves, to provide first line emergency response.

Mental Health Care

- (29) Treatment The State shall ensure that qualified mental health professionals provide timely, adequate, and appropriate screening, assessment, evaluation, treatment and structured therapeutic activities to inmates requesting mental health services, inmates who become suicidal, and inmates who enter with serious mental health needs or develop serious mental health needs while incarcerated.
- (30) Psychiatrist Staffing The State shall retain sufficient psychiatrists to enable the Facilities to address the serious mental health needs of all inmates with timely and appropriate mental health care consistent with generally accepted professional standards. This shall include retaining appropriately licensed and qualified psychiatrists for a sufficient number of hours per week to see patients, prescribe and adequately monitor psychotropic medications, participate in the development of individualized treatment plans for inmates with serious mental health needs, review charts in the context of rendering appropriate mental health care, review and respond to the results of diagnostic and laboratory tests, and be familiar with and follow policies, procedures, and protocols. The psychiatrist shall collaborate with the chief psychologist in mental health services management as well as clinical treatment, shall communicate problems and resource needs to the Warden and chief psychologist, and shall have medically appropriate autonomy for clinical decisions at the facility. The psychiatrist shall supervise and oversee the treatment team.
- (31) Administration of Mental Health Medications The State shall develop and implement policies, procedures, and practices consistent with generally accepted professional standards to ensure that psychotropic medications are prescribed, distributed, and

monitored properly and safely and consistent with generally accepted professional standards. The State shall ensure that all psychotropic medications are administered by qualified medical professionals or other health care personnel qualified under Delaware state law to administer medications, who consistently implement adequate policies and procedures to monitor for adverse reactions and potential side effects and to adequately document the administration of such medications in the MARs. Documentation in the MARs shall include a clear and consistent indication of whether the inmate refused or otherwise missed any doses of medication, as well as doses consumed. As part of the quality assurance program set forth in Section V of this Agreement, a qualified medical professional or registered nurse supervisor shall review MARs on a regular and periodic basis to determine whether policies and procedures are being followed.

- (32) Mental Illness Training The State shall conduct initial and periodic training for all security staff on how to recognize symptoms of mental illness and respond appropriately. Such training shall be conducted by a qualified mental health professional, registered psychiatric nurse, or other appropriately trained and qualified individual, and shall include instruction on how to recognize and respond to mental health emergencies.
- (33) Mental Health Screening The State shall develop and implement adequate policies, procedures, and practices consistent with generally accepted correctional mental health care standards to ensure that all inmates receive an adequate initial mental health screening by appropriately trained staff within twenty-four (24) hours after intake. Such screening shall include an individual private (consistent with security limitations) interview of each incoming inmate, including whether the inmate has a history of mental illness, is currently receiving or has received psychotropic medications, has attempted suicide, or has suicidal propensities. Documentation of the screening shall be maintained in the appropriate medical record. Inmates who have been on psychotropic medications prior to intake will be assessed by a psychiatrist as to the need to continue those medications, in a timely manner, no later than 7-10 days after intake or sooner if clinically appropriate. These inmates shall remain on previously prescribed psychotropic medications pending psychiatrist assessment. Incoming inmates who are in need of emergency mental health services shall receive such care immediately after intake. Incoming inmates who require resumption of psychotropic medications shall be seen by a psychiatrist as soon as clinically appropriate.
- (34) Mental Health Assessment and Referral The State shall develop and implement adequate policies, procedures, and practices consistent with generally accepted professional standards to ensure timely and appropriate mental health assessments by qualified mental health professionals for those inmates whose mental health histories, or whose responses to initial screening questions, indicate a need for such an assessment. Such assessments shall occur within seventy-two (72) hours of the inmate's mental health screening or the identification of the need for such assessment, whichever is later. The State shall also ensure that inmates have access to a confidential self-referral system by which they may request mental health care without revealing the substance of their request to security

staff. Written requests for mental health services shall be forwarded to a qualified mental health professional and timely evaluated by him or her. The State shall ensure adequate and timely treatment for inmates whose assessments reveal serious mental illness, including timely and appropriate referrals for specialty care and regularly scheduled visits with qualified mental health professionals.

- (35) Mental Health Treatment Plans The State shall ensure that a qualified mental health professional prepares in a timely manner and regularly updates an individual mental health treatment plan for each inmate who requires mental health services. The State shall also ensure that the plan is timely and consistently implemented. Implementation of and any changes to the plan shall be documented in the inmate's medical/mental health record.
- (36) Crisis Services The State shall ensure an adequate array of crisis services to appropriately manage psychiatric emergencies. Crisis services shall not be limited to administrative/disciplinary isolation or observation status. Inmates shall have access to appropriate in-patient psychiatric care when clinically appropriate.
- (37) Treatment for Seriously Mentally Ill Inmates The State shall ensure timely and appropriate therapy, counseling, and other mental health programs for all inmates with serious mental illness. This includes adequate space for treatment, adequate staff to provide treatment, and an adequate array of therapeutic programming. The State shall ensure that inmates who are being treated with psychotropic medications are seen regularly by a physician to monitor responses and potential reactions to those medications, in accordance with generally accepted correctional mental health care standards.
- (38) Review of Disciplinary Charges for Mental Illness Symptoms The State shall ensure that disciplinary charges against inmates with serious mental illness who are placed in Isolation are reviewed by a qualified mental health professional to determine the extent to which the charge may have been related to serious mental illness, and to determine whether an inmate's serious mental illness should be considered by the State as a mitigating factor when punishment is imposed on inmates with a serious mental illness.
- (39) Procedures for Mentally Ill Inmates in Isolation or Observation Status The State shall implement policies, procedures, and practices consistent with generally accepted professional standards to ensure that all mentally ill inmates on the facility's mental health caseload and who are housed in Isolation receive timely and appropriate treatment, including completion and documentation of regular rounds in the Isolation units at least once per week by qualified mental health professionals in order to assess the serious mental health needs of those inmates. Inmates with serious mental illness who are placed in Isolation shall be evaluated by a qualified mental health professional within twenty-four hours and regularly thereafter to determine the inmate's mental health status, which shall include an assessment of the potential effect of the Isolation on the inmate's mental

health. During these regular evaluations, the State shall evaluate whether continued Isolation is appropriate for that inmate, considering the assessment of the qualified mental health professional, or whether the inmate would be appropriate for graduated alternatives. The State shall adequately document all admissions to, and discharges from, Isolation, including a review of treatment by a psychiatrist. The State shall provide adequate facilities for observation, with no more than two inmates per room.

- (40) Mental Health Services Logs and Documentation The State shall ensure that the State maintains an updated log of inmates receiving mental health services, which shall include both those inmates who receive counseling and those who receive medication. The log shall include each inmate's name, diagnosis or complaint, and next scheduled appointment. Each clinician shall have ready access to a current log listing any prescribed medication(s) and dosages for inmates on psychotropic medications. In addition, inmate's files shall contain current and accurate information regarding any medication changes ordered in at least the past year.

IV. SUICIDE PREVENTION

- (41) Suicide Prevention Policy The State shall review and, to the extent necessary, revise its suicide prevention policy to ensure that it includes the following provisions: 1) training; 2) intake screening/assessment; 3) communication; 4) housing; 5) observation; 6) intervention; and 7) mortality and morbidity review.
- (42) Suicide Prevention Training Curriculum The State shall review and, to the extent necessary, revise its suicide prevention training curriculum, which shall include the following topics: 1) the suicide prevention policy as revised consistent with this Agreement; 2) why facility environments may contribute to suicidal behavior; 3) potential predisposing factors to suicide; 4) high risk suicide periods; 5) warning signs and symptoms of suicidal behavior; 6) case studies of recent suicides and serious suicide attempts; 7) mock demonstrations regarding the proper response to a suicide attempt; and 8) the proper use of emergency equipment.
- (43) Staff Training Within twelve months of the effective date of this Agreement, the State shall ensure that all existing and newly hired correctional, medical, and mental health staff receive an initial eight-hour training on suicide prevention curriculum described above. Following completion of the initial training, the State shall ensure that a minimum of two hours of refresher training on the curriculum are completed by all correctional care, medical, and mental health staff each year.
- (44) Intake Screening/Assessment The State shall develop and implement policies and procedures pertaining to intake screening in order to identify newly arrived inmates who may be at risk for suicide. The screening process shall include inquiry regarding: 1) past suicidal ideation and/or attempts; 2) current ideation, threat, plan; 3) prior mental health treatment/hospitalization; 4) recent significant loss (job, relationship, death of family

member/close friend, etc.); 5) history of suicidal behavior by family member/close friend; 6) suicide risk during prior confinement in a state facility; and 7) arresting/transporting officer(s) belief that the inmate is currently at risk.

- (45) Mental Health Records Upon admission, the State shall immediately request all pertinent mental health records regarding the inmate's prior hospitalization, court-ordered evaluations, medication, and other treatment. DOJ acknowledges that the State's ability to obtain such records depends on the inmate's consent to the release of such records.
- (46) Identification of Inmates at Risk of Suicide Inmates at risk for suicide shall be placed on suicide precautions until they can be assessed by qualified mental health personnel. Inmates at risk of suicide include those who are actively suicidal, either threatening or engaging in self-injurious behavior; inmates who are not actively suicidal, but express suicidal ideation (e.g., expressing a wish to die without a specific threat or plan) and/or have a recent prior history of self-destructive behavior; and inmates who deny suicidal ideation or do not threaten suicide, but demonstrate other concerning behavior (through actions, current circumstances, or recent history) indicating the potential for self-injury.
- (47) Suicide Risk Assessment The State shall ensure that a formalized suicide risk assessment by a qualified mental health professional is performed within an appropriate time not to exceed 24 hours of the initiation of suicide precautions. The assessment of suicide risk by qualified mental health professionals shall include, but not be limited to, the following: description of the antecedent events and precipitating factors; suicidal indicators; mental status examination; previous psychiatric and suicide risk history, level of lethality; current medication and diagnosis; and recommendations/treatment plan. Findings from the assessment shall be documented on both the assessment form and health care record.
- (48) Communication The State shall ensure that any staff member who places an inmate on suicide precautions shall document the initiation of the precautions, level of observation, housing location, and conditions of the precautions. The State shall develop and implement policies and procedures to ensure that the documentation described above is provided to mental health staff and that in-person contact is made with mental health staff to alert them of the placement of an inmate on suicide precautions. The State shall ensure that mental health staff thoroughly review an inmate's health care record for documentation of any prior suicidal behavior. The State shall promulgate a policy requiring mental health to utilize progress notes to document each interaction and/or assessment of a suicidal inmate. The decision to upgrade, downgrade, discharge, or maintain an inmate on suicide precautions shall be fully justified in each progress note. An inmate shall not be downgraded or discharged from suicide precautions until the responsible mental health staff has thoroughly reviewed the inmate's health care record, as well as conferred with correctional personnel regarding the inmate's stability. Multidisciplinary case management team meetings (to include facility officials and

available medical and mental health personnel) shall occur on a weekly basis to discuss the status of inmates on suicide precautions.

- (49) Housing The State shall ensure that all inmates placed on suicide precautions are housed in suicide-resistant cells (i.e., cells without protrusions that would enable inmates to hang themselves). The location of the cells shall provide full visibility to staff. At the time of placement on suicide precautions, medical or mental health staff shall write orders setting forth the conditions of the observation, including but not limited to allowable clothing, property, and utensils, and orders addressing continuation of privileges, such as showers, telephone, visiting, recreation, etc., commensurate with the inmate's security level. Removal of an inmate's prison jumpsuit (excluding belts and shoelaces) and the use of any restraints shall be avoided whenever possible, and used only as a last resort when the inmate is engaging in self-destructive behavior. The Parties recognize that security and mental health staff are working towards the common goal of protecting inmates from self-injury and from harm inflicted by other inmates. Such orders must therefore take into account all relevant security concerns, which can include issues relating to the commingling of certain prison populations and the smuggling of contraband. Mental health staff shall give due consideration to such factors when setting forth the conditions of the observation, and any disputes over the privileges that are appropriate shall be resolved by the Warden or his or her designee. Scheduled court hearings shall not be cancelled because an inmate is on suicide precautions.
- (50) Observation The State shall develop and implement policies and procedures pertaining to observation of suicidal inmates, whereby an inmate who is not actively suicidal, but expresses suicidal ideation (e.g., expressing a wish to die without a specific threat or plan) and/or has a recent prior history of self-destructive behavior, or an inmate who denies suicidal ideation or does not threaten suicide, but demonstrates other concerning behavior (through actions, current circumstances, or recent history) indicating the potential for self-injury, shall be placed under close observation status and observed by staff at staggered intervals not to exceed every 15 minutes (e.g., 5, 10, 7 minutes). An inmate who is actively suicidal, either threatening or engaging in self-injurious behavior, shall be placed on constant observation status and observed by staff on a continuous, uninterrupted basis. Mental health staff shall assess and interact with (not just observe) inmates on suicide precautions on a daily basis.
- (51) “Step-Down Observation” The State shall develop and implement a “step-down” level of observation whereby inmates on suicide precaution are released gradually from more restrictive levels of supervision to less restrictive levels for an appropriate period of time prior to their discharge from suicide precautions. The State shall ensure that all inmates discharged from suicide precautions continue to receive follow-up assessment in accordance with a treatment plan developed by a qualified mental health professional.
- (52) Intervention The State shall develop and implement an intervention policy to ensure that all staff who come into contact with inmates are trained in standard first aid and

cardiopulmonary resuscitation; all staff who come into contact with inmates participate in annual “mock drill” training to ensure a prompt emergency response to all suicide attempts; and shall ensure that an emergency response bag that includes appropriate equipment, including a first aid kit and emergency rescue tool, shall be in close proximity to all housing units. All staff who come into regular contact with inmates shall know the location of this emergency response bag and be trained in its use.

- (53) Mortality and Morbidity Review The State shall develop and implement policies, procedures, and practices to ensure that a multidisciplinary review is established to review all suicides and serious suicide attempts (e.g., those incidents requiring hospitalization for medical treatment). At a minimum, the review shall comprise an inquiry of: a) circumstances surrounding the incident; b) facility procedures relevant to the incident; c) all relevant training received by involved staff; d) pertinent medical and mental health services/reports involving the victim; e) possible precipitating factors leading to the suicide; and f) recommendations, if any, for changes in policy, training, physical plant, medical or mental health services, and operational procedures. When appropriate, the review team shall develop a written plan (and timetable) to address areas that require corrective action.

V. QUALITY ASSURANCE

- (54) Policies and Procedures The State shall develop and implement written quality assurance policies and procedures to regularly assess and ensure compliance with the terms of this Agreement. These policies and procedures should include, at a minimum: provisions requiring an annual quality management plan and annual evaluation; quantitative performance measurement with tools to be approved in advance by DOJ; tracking and trending of data; creation of a multidisciplinary team; morbidity and mortality reviews with self-critical analysis, and periodic review of emergency room visits and hospitalizations for ambulatory-sensitive conditions.
- (55) Corrective Action Plans The State shall develop and implement policies and procedures to address problems that are uncovered during the course of quality assurance activities. The State shall develop and implement corrective action plans to address these problems in such a manner as to prevent them from occurring again in the future.

VI. IMPLEMENTATION

- (56) Revision of Activities and Documents The State shall revise and/or develop as necessary its current policies, procedures, protocols, training, staffing and practices to ensure that they are consistent with, incorporate, address and implement all provisions of this Agreement. The State shall revise and/or develop as necessary other written documents such as screening tools, logs, handbooks, manuals, and forms, to effectuate the provisions of this Agreement.

- (57) Dissemination of Agreement Within thirty (30) days of the effective date of this Agreement, the State shall distribute copies of the Agreement to all relevant staff, including all medical, mental health and security staff at the Facilities and explain it as appropriate.
- (58) In Service Training Training academy staff shall develop, on an on-going basis, scripts for in service training directed at issues related to effective implementation of the Agreement. In service training shall be provided regularly and shall be documented. In service training scripts shall be provided to DOJ for its review in accordance with the time frames for compliance set forth below.

VII. MONITORING, ENFORCEMENT AND TERMINATION

- (59) Termination This Agreement shall terminate three (3) years after its effective date.
- (60) Satisfaction of the Agreement and Early Termination This Agreement may be terminated prior to the conclusion of the three (3) year period described in Paragraph 59 if the State reaches substantial compliance with all provisions of this Agreement and sustains it for one (1) year. “Substantial Compliance” with each and every term of this Agreement for a period of one (1) year shall fully satisfy the Agreement. Noncompliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance, shall not constitute failure to maintain substantial compliance. At the same time, temporary compliance during a period of otherwise sustained noncompliance shall not constitute substantial compliance. The State may submit a written request for early termination of the Agreement based upon an assertion of one (1) year of substantial compliance with all substantive paragraphs set forth in Sections III through VIII of this Agreement. The DOJ, in its good faith discretion, will determine whether the State has maintained substantial compliance for the one (1) year period.
- (61) Review and Approval All policies, procedures, plans and protocols required by, or referenced in, this Agreement shall be consistent with the substantive terms of this Agreement. All policies, procedures, plans and protocols required by, or referenced in, this Agreement shall be submitted to the DOJ for its review and approval within sixty (60) calendar days after approval of the Action Plan described in Paragraph 65 of this Agreement. Any such plans, policies, procedures and protocols for which this Agreement requires review and approval by DOJ shall be expeditiously reviewed by the DOJ. The DOJ shall not unreasonably withhold any such approval. Absent unforeseen circumstances beyond the Parties’ control, if DOJ does not provide a written objection to said materials within sixty (60) days of receipt of same, the materials will be deemed approved by DOJ.
- (62) State Response to DOJ Questions Within thirty (30) days of receipt of written questions from the DOJ concerning the State’s compliance with this Agreement, the State shall

provide the DOJ with written answers and any requested documents regarding the State's compliance with the requirements of this Agreement.

- (63) State Documentation of Compliance The State shall maintain sufficient records to document its compliance with all of the requirements of this Agreement. The State shall also maintain (so long as this Agreement remains in effect) any and all records required by or developed under this Agreement.
- (64) Implementation The State shall implement policies, procedures, plans, and protocols consistent with the Action Plan referred to in Paragraph 65 of this Agreement.
- (65) Action Plan Within one hundred and twenty (120) days after the effective date of this Agreement, the State shall prepare and submit to the DOJ a comprehensive action plan ("Action Plan") identifying the specific measures the State intends to take in order to bring the Facilities into compliance with each paragraph containing substantive requirements in Sections III through V of this Agreement ("Substantive Provisions"), including a timeline for completion of each of the measures.
- (66) Compliance Reporting The State shall prepare and submit reports regarding compliance ("Compliance Reports") with each of the Substantive Provisions of this Agreement. The State shall submit its first Compliance Report within ninety (90) days after submitting the Action Plan described in Paragraph 65 of this Agreement, and then every six (6) months. The Compliance Reports shall identify the State's progress in implementing the Action Plan, any revisions to the Action Plan, and shall include a summary of steps taken to implement this Agreement, along with supporting documentation and certifications. Upon achieving substantial compliance as determined by DOJ with any substantive paragraph(s) of this Agreement for one (1) year, no further reporting shall be required on that paragraph.
- (67) Selection of Monitor Within ninety (90) days after entry of this Agreement, the State and DOJ shall together select a Monitor. If the Parties are unable to agree on a Monitor, each Party shall submit two names of persons who have experience in corrections and who may have served as a correctional practices expert or monitor, or as a Federal, state, or county prosecutor or judge along with resumes or curricula vitae and cost proposals to a third party neutral, selected with the assistance of the Federal Mediation and Conciliation Service, and the third party neutral shall appoint the Monitor from among the names of qualified persons submitted. The selection of the Monitor shall be conducted solely pursuant to the procedures set forth in this Agreement, and will not be governed by any formal or legal procurement requirements.
- (68) Limitations on Public Disclosures by Monitor The Monitor shall not be retained by any current or future litigant or claimant in a claim or suit against the State, its agents or employees. The Monitor shall not issue statements or make findings with regard to any act or omission of the State, or their agents or representatives, except as required by the

terms of this Agreement. The Monitor may testify in any case brought by any Party to this Agreement regarding any matter relating to the implementation, enforcement, or dissolution of this Agreement.

- (69) Monitoring Resources The Monitor, at any time, may associate such additional persons or entities as are reasonably necessary to perform the monitoring tasks specified by this Agreement. The Monitor shall notify in writing DOJ and the State if and when such additional persons or entities are selected for association by the Monitor. The notice shall identify and describe the qualifications of the person or entity to be associated and the monitoring task to be performed.
- (70) Monitor's Fees The State shall bear all reasonable fees and costs of the Monitor. In selecting the Monitor, DOJ and the State recognize the importance of ensuring that the fees and costs borne by the State are reasonable, and accordingly fees and costs shall be one factor considered in selecting the Monitor. In the event that any dispute arises regarding the payment of the Monitor's fees and costs, the State, DOJ, and the Monitor shall attempt to resolve such dispute cooperatively.
- (71) Monitor's Duties and Responsibilities The Monitor shall review and report on the State's implementation of, and assist with the State's compliance with, this Agreement. The Monitor shall only have the duties, responsibilities and authority conferred by this Agreement. The Monitor shall not, and is not intended to, replace or take over the role and duties of the State or the Commissioner of the Delaware Department of Corrections. The Monitor may testify in any action brought to enforce this Agreement regarding any matter relating to the implementation or enforcement of the Agreement. The Monitor shall not testify in any other litigation or proceeding with regard to any act or omission of the State, or any of their agents, representatives, or employees related to this Agreement or regarding any matter or subject that the Monitor may have received knowledge of as a result of his or her performance under this Agreement. Unless such conflict is waived by the Parties, the Monitor shall not accept employment or provide consulting services that would present a conflict of interest with the Monitor's responsibilities under this Agreement, including being retained (on a paid or unpaid basis) by any current or future litigant or claimant, or such litigant's or claimant's attorney, in connection with a claim or suit against the State or its departments, officers, agents or employees. The Monitor is not a state or local agency, or an agent thereof, and accordingly the records maintained by the Monitor shall not be deemed public records. The Monitor shall not be liable for any claim, lawsuit, or demand arising out of the Monitor's performance pursuant to this Agreement. Provided, however, that this paragraph does not apply to any proceeding before a court related to performance of contracts or subcontracts for monitoring this Agreement.
- (72) Technical Assistance by the Monitor The Monitor shall offer the State technical assistance regarding compliance with this Agreement. The Monitor may not modify, amend, diminish, or expand this Agreement.

- (73) Monitor's Access The State shall provide the Monitor with full and unrestricted access to all of the Facilities, relevant State and facility staff and employees, and any documents (including databases) necessary to carry out the duties assigned to the State by this Agreement. The Monitor's right of access includes, but is not limited to, all documents regarding medical care, mental health care, suicide prevention, or protocols or analyses involving one of those subject areas. The Monitor shall retain any non-public information in a confidential manner and shall not disclose any non-public information to any person or entity, other than a Court or DOJ, absent written notice to the State and either written consent by the State or a court order authorizing disclosure.
- (74) Monitor's Communication with the Parties In monitoring the implementation of this Agreement, the Monitor shall maintain regular contact with the State and DOJ. The Monitor shall be permitted to initiate and receive ex parte communications with the Parties and the Parties' consultants.
- (75) Compliance Monitoring In order to monitor and report on the State's implementation of each substantive provision of this Agreement, the Monitor shall conduct periodic reviews as the Monitor deems appropriate, but no less than quarterly at each of the Facilities. The Monitor may make recommendations to the Parties regarding measures necessary to ensure full and timely implementation of this Agreement.
- (76) Compliance Coordinator The Parties agree that the State shall hire and retain, or reassign a current State employee, for the duration of this Agreement, a Compliance Coordinator. The Compliance Coordinator shall serve as a liaison between the State, the Monitor and DOJ, and shall assist with the State's compliance with this Agreement. At a minimum, the Compliance Coordinator shall: (a) coordinate the State's compliance and implementation of activities required by this Agreement; (b) facilitate the provision of data, documents and other access to State employees and material to the Monitor and DOJ as needed; (c) ensure that all documents and records are maintained as provided in this Agreement; (d) assist in assigning compliance tasks to State personnel, as directed by the Commissioner of the Delaware Department of Corrections or his designee; take primary responsibility for collecting information to provide the State's status reports specified in paragraph 61.
- (77) DOJ Access DOJ shall continue to have full and unrestricted access to all documents (including databases), staff, inmates and the Facilities that are relevant to evaluate compliance with this Agreement, except any documents protected by the attorney-client privilege or applicable self-evaluative privileges (e.g., 24 Del. C § 1768). Should the State decline to provide DOJ with access to a document based on attorney-client privilege, the State shall provide the Monitor and DOJ with a log describing the document. DOJ's right of access includes, but is not limited to, all documents regarding medical care, mental health care, suicide prevention and any protocols or analyses involving those subject areas. This Agreement does not authorize, nor shall it be construed to authorize, access to any State documents, except as expressly provided by

this Agreement, by persons or entities other than DOJ, the State, and the Monitor. DOJ shall retain any non-public information in a confidential manner and shall not disclose any non-public information to any person or entity, other than a Court or the Monitor, absent written notice to the State and either written consent by the State or a court order authorizing disclosure. Throughout the duration of this Settlement Agreement, letters between counsel for the DOJ and counsel for the State shall be confidential and subject to the Confidentiality Agreement between the DOJ and the State entered into on May 3, 2006 and supplemented by the Non-Waiver Agreement dated September 28, 2006.

- (78) Timeliness of DOJ Review of Documents and Information DOJ shall review documents and information provided by the State and the Monitor and shall provide its analysis and comments to the State and the Monitor at appropriate times and in an appropriate manner, consistent with the purpose of this Agreement to promote cooperative efforts.
- (79) Monitor Reports The Monitor shall issue semi-annual public reports detailing the State's compliance with and implementation of this Agreement. The first report shall issue six months from the effective date of this Agreement. The Monitor may issue reports more frequently if the Monitor determines it appropriate to do so. At least ten business days prior to issuing a report, the Monitor shall provide a draft to the Parties for review and comment to determine if any factual errors have been made. The Monitor shall consider the Parties' responses and then promptly issue the report.
- (80) Noncompliance If DOJ believes that the State has failed to substantially comply with any obligation under this Agreement, DOJ will, prior to seeking judicial action to enforce the terms of this Agreement, give written notice of the failure to the State. The Parties shall conduct good-faith discussions to resolve the dispute. If the Parties are unable to reach agreement within 15 days of the DOJ's written notice, the Parties shall submit the dispute to mediation. Michael Bromwich, Esq., shall serve as the mediator unless the Parties expressly agree to an alternative selection. The Parties shall split the cost of the mediator. The Parties shall attempt in good faith to mediate the dispute for a minimum of 30 days prior to initiating any court action. DOJ commits to work in good faith with the State to avoid enforcement actions. However, in case of an emergency posing an immediate threat to the health or safety of inmates, the DOJ may omit the notice and cure requirements herein (including the provision regarding mediation), before seeking judicial action. Non-action by the DOJ shall not constitute a waiver of the right to seek judicial action.
- (81) Successors This Agreement shall be binding on all successors, assignees, employees, and all those working for or on behalf of the State.
- (82) Defense of Agreement The Parties agree to defend the provisions of this Agreement. The Parties shall notify each other of any court challenge to this Agreement. In the event any provision of this Agreement is challenged in any local or state court, the Parties shall seek to remove the matter to a federal court.

- (83) Enforcement Failure by either Party to enforce this entire Agreement or any provision thereof with respect to any deadline or any other provision herein shall not be construed as a waiver of its right to enforce other deadlines or provisions of this Agreement.
- (84) Non-Retaliation The State agrees that it shall not retaliate against any person because that person has filed or may file a complaint, provided information or assistance, or participated in any other manner in an investigation or proceeding relating to this Agreement.
- (85) Severability In the event any provision of this Agreement is declared invalid for any reason by a court of competent jurisdiction, said finding shall not affect the remaining provisions of this Agreement.
- (86) Notice “Notice” under this Agreement shall be provided via overnight delivery and shall be provided to the Governor of the State of Delaware and to the Attorney General of the State of Delaware.
- (87) Subheadings All subheadings in this Agreement are written for convenience of locating individual provisions. If questions arise as to the meanings of individual provisions, the Parties shall follow the text of each provision.

For the DOJ:

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/s/ Shanetta Y. Cutlar
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Dated: December 29, 2006

APPENDIX III

**THE STATE OF DELAWARE DEPARTMENT OF CORRECTION
COMPREHENSIVE ACTION PLAN IS ATTACHED**

The State of Delaware

Department of Correction

Action Plan

April 30, 2007

Delaware Department of Correction **Action Plan**

I. Introduction

This Action Plan has been developed in accordance with the December 29, 2006 Memorandum of Agreement Between the State of Delaware and the United States Department of Justice (the MOA). In particular, paragraph 65 of the MOA requires the State to submit a “comprehensive action plan” to the United States identifying the specific measures the State intends to take in order to bring four Department of Correction facilities¹ into compliance with each paragraph of the MOA containing substantive requirements relating to three general areas: Medical and Mental Health Care, Suicide Prevention, and Quality Assurance. As is required by paragraph 65, each item addressed in the Action Plan contains a timeline for completion.

The measures described in this Action Plan are intended to provide the United States Department of Justice (the DOJ) with a roadmap of specific remedial steps to be taken by the Delaware Department of Correction (the DOC). The Action Plan has been developed with an emphasis on achievable, realistic, and, in most cases, incremental steps towards full compliance. All measures described here have been developed with the expectation that the DOC will ultimately meet or exceed requirements of the MOA and generally accepted professional standards, such as those published by the National Commission on Correctional Health Care (NCCHC).

The Action Plan is organized so that paragraph numbers refer to corresponding paragraphs in Sections III through V of the MOA. “Timeline for Completion” references in each section indicate the date by which the DOC expects to have fully implemented the proposed actions. Target deadlines for achieving incremental steps towards full compliance are also noted where appropriate. Most of the efforts described in this Action Plan will require continuing attention. To the extent that an effort does not have any defined endpoint or deadline for completion, it is noted to be “continuing.”

As will be described more fully in the DOC’s first Compliance Report, substantial work has already begun on many of the MOA requirements, and many improvements in the quality of inmate care are already apparent. However, most of the substantive MOA provisions discussed here involve the development or revision of policies and procedures. The corresponding sections of this Action Plan necessarily reflect a certain level of generality, because those policies and procedures are not yet complete. In those cases, the Action Plan:

¹ The Delaware DOC facilities covered by the MOA are the Delores J. Baylor Women’s Correctional Institution (Baylor); the Delaware Correctional Center (DCC); the Howard R. Young Correctional Institution (HRYCI); and the Sussex Correctional Institution (SCI) (collectively, the “Facilities”).

- addresses each substantive requirement;
- affirms the DOC's commitment to completing the work necessary to establish appropriate policies and procedures;
- identifies the entities or individuals responsible for achieving compliance with the underlying substantive issues;
- identifies those areas in which auditing and quality improvement efforts will be concentrated in order to assure that new policies and procedures are achieving the desired result; and
- establishes timelines for training staff on new policies and procedures, performing quality assurance, and achieving full compliance.

The MOA compliance officer will have global responsibility for assuring compliance with the MOA.

II. Medical and Mental Health Care

1. Standard

All of the steps described in the pages that follow are designed to satisfy the ultimate, most fundamental requirement of the MOA: ensuring that services provided by the State address the serious medical and mental health needs of inmates in a manner that satisfies generally accepted professional standards. To accomplish this, the DOC plans to:

- diligently pursue compliance with each substantive provision of the MOA;
- rely on a multi-disciplinary, problem-solving approach to identify and overcome obstacles to improvement;
- solicit the advice of experts and consultants, where appropriate; and
- refer to NCCHC or other appropriate correctional health care standards when evaluating the services provided to inmates.

Timeline for Completion: Continuing

2. Policies and Procedures

The DOC is currently drafting and revising DOC policies and procedures that will eventually replace those currently provided by the medical vendor. In the event of vendor turnover or a transition to self-operation of DOC health care services, stand-alone DOC policies will provide continuity in both the standards of care and the performance expected of staff.

- Some of the most critical policies are identified in the MOA, and relate to intake, communicable disease screening, sick call, chronic disease management, medication delivery, laboratory testing, acute care, infection control, infirmary care, and dental care. The DOC will focus its initial efforts on these most essential policies.
- The DOC will continue seeking policies and procedures from correctional facilities in other jurisdictions in an attempt to identify good models for its own manuals.
- Individuals with appropriate experience in mental health, quality assurance, medical, and nursing protocols are being assigned responsibility for drafting DOC policies and procedures, including the Director of Health Services, Mental Health Treatment Program Administrator, and the Quality Improvement Administrator
- Policies and procedures will also be subject to review and comment by the Deputy Attorney General and DOC Bureau of Prisons Chief.

- The DOC will continually review and update policies and procedures as needed. At a minimum, a yearly review will be conducted by the Office of Health Services.

Timeline for Completion:

The critical policies and procedures identified above will be drafted and available for DOJ review by 07/01/07.

Additional policies and procedures will be promulgated as needed throughout the term of the MOA, and on a continuing basis thereafter.

As noted above, policies will be continually updated as needed. A yearly review will take place, with the first yearly review to be completed by 07/01/08.

3. Record keeping

3a. Develop and Implement Unitary Record Keeping System

The DOC currently has a unitary system that includes both medical and mental health records. This paper medical record will be available to practitioners who need access to the record for treatment, quality assurance, and auditing purposes. The DOC also plans to issue a Request For Proposals during the next fiscal year to evaluate the feasibility, costs, and benefits of an electronic medical record (“EMR”).

Additionally, the DOC plans substantial improvements in the integration of medical and mental health information contained in the Delaware Automated Correction System (DACS) records. These efforts began in April 2006, and are continuing. Jim Welch, Joyce Talley, the Mental Health Treatment Program Administrator, the medical vendor, and individuals from the Delaware Management Information Systems department will continue working on enhancements to the Health and Medical Modules of DACS.

The DACS software vendor has been provided with a list of 178 requirements for improvements to the following 12 system functions in the Health and Medical Modules:

- Intake Screening
- Scheduling
- Medical Transfers
- Chronic Care
- Sick Call
- Outside Consults
- Pregnancy
- Mental Health
- Administrative Segregation
- Infirmary Care

- Dental
- General/Reports

Timeline for Completion:

Software development: approximately 6/18/07

System testing: 6/07 - 7/07

Revisions: 8/07

Training vendor and DOC staff: 8/07 - 9/07

Full implementation: 10/30/07

Issuance of RFP for an EMR: 7/01/08

3b. Medical Records Staffing

The DOC will facilitate the provision of additional medical records staffing to reduce the potential for significant lags in filing records in the patient's medical record.

Timeline for Completion:

DOC will evaluate current medical records staffing and the need for additional staff by 4/1/07 (completed).

DOC negotiated an amendment to its agreement with the current medical vendor to provide for additional medical records staff, and staff are expected to be hired by no later than 10/30/07.

4. Medication and Laboratory Orders

4a. Policies, Procedures, and Practices for Medication and Laboratory Orders

Policies and procedures relating to medication and laboratory orders will be included in review and drafting process described in ¶ 2, above.

Timeline for Completion:

Policies: 07/01/07

4b. Periodic Evaluation

The DOC has begun and is continuing to develop an auditing system to assure that medications are ordered and delivered in a timely manner. The auditing system will also assure that laboratory orders are taken off the chart, and tests ordered are completed and results reported to the ordering practitioner in a timely manner. This process will include continued monitoring under the DOC's audit system.

Timeline for Completion:

Full development of medication audit system: 10/30/07

Auditing: Continuing

Staffing and Training

5. Job Descriptions and Licensure

5a. Appropriate Licensing/Certification of Medical and Mental Health Staff

The DOC will ensure that any person requiring a license or certification to practice under State law has the necessary credentials prior to employment.

- The vendor will be required to submit documentation regarding a prospective employee's licensure or certification to the DOC before the individual begins working at the Facilities.
- The licensure and certification list will be updated monthly by the medical vendor and submitted to the senior fiscal officer for the DOC, who will be responsible for reviewing the list and responding to any deficiencies.

Timeline for Completion:

Policies: 07/01/07

5b. Establish Credentialing Program

The DOC will establish a credentialing program to ensure that all licensed and certified staff have satisfied initial education requirements, as well as any continuing education standards set by the relevant licensing and credentialing bodies.

Timeline for Completion: 01/01/08

6. Staffing

The DOC plans to continue assessing staffing levels and to enter into negotiations when necessary for additional clinical and non-clinical positions. The Director of Health Services and the medical vendor share responsibility for compliance with this provision.

- An additional 14.33 FTE mental health staff and 24.82 FTE medical staff are scheduled to be hired because of staffing increases negotiated in April 2007 with the current medical vendor.

- The DOC will continue evaluating staffing alternatives and options for contending with a serious local and national shortage of qualified nurses.
- DOC will continue efforts to identify and hire qualified individuals to fill the following new positions established in the Office of Health Services:
 - MOA Compliance Officer;
 - Quality Improvement Administrator
 - Administrative Specialist
 - Nurse Practitioner; and
 - Physician

Timeline for Completion: Continuing

7. Medical and Mental Health Staff Management

The medical vendor has been delegated responsibility for assuring compliance with this provision.

7a. Full-Time Medical Director

A full time Medical Director is in place, provided by the contracted medical vendor.

Timeline for Completion: Completed

7b. Director of Nursing

A full time Director of Nursing is in place, provided by the contracted medical vendor.

Timeline for Completion: Completed

7c. Administrative Medical and Mental Health Management

A full time Mental Health Director is in place, provided by the contracted medical vendor. The DOC will facilitate the hiring of additional administrative management staff. This will occur through increased staffing levels negotiated in April 2007 with the current vendor.

Timeline for Completion:

Hiring additional administrative staff: 10/30/07

7d. Facility Clinical Director of Mental Health

On site clinical mental health director positions are currently established and staffed at each of the facilities.

Timeline for Completion: Completed

8. Medical and Mental Health Staff Training

The Mental Health Treatment Services Administrator, Director of Health Services, the medical vendor, and the Educational Development Center (“EDC”) will share responsibility for compliance with requirements in this provision.

8a. Training to Meet Serious Medical and Mental Health Needs

- Initial and in-service training activities will continue to be scheduled by the vendor to provide mental health and special needs medical and mental health populations training.
- Documentation of training and copies of training materials will be available for examination.

Timeline for Completion: 01/01/08

8b. Suicide Prevention

- Qualified mental health professionals will obtain Monitor approval of a curriculum for training on suicide prevention, as described in ¶ 42 below.
- Documentation of attendance at suicide prevention training, as described in ¶ 43 below, will be available for examination.

Timeline for Completion: 01/01/08

8c. Identification and Care of Inmates With Mental Disorders

- Training for medical and mental health staff on the identification and care of inmates with mental health disorders will continue to be provided by the vendor.
- Documentation of training and copies of training materials will be available for examination.
- The Office of Health Services and the EDC will work together to audit compliance with training requirements. Attendance records will be maintained and available for examination.

Timeline for Completion: 01/01/08

9. Security Staff Training

The Director of Health Services, Mental Health Treatment Program Administrator, the medical vendor, and the EDC will share responsibility for compliance with requirements in this provision.

9a. Identification, Referral, and Supervision of Inmates with Serious Medical and Mental Health Needs

- Training in the identification, referral, and supervision of inmates with serious medical and mental health needs will continue to be provided by the vendor.
- Documentation of training and copies of training materials will be available for examination.
- The Office of Health Services and the EDC will work together to audit compliance with training requirements. Attendance records will be maintained and available for examination.

Timeline for Completion: 07/01/08

9b. Additional Mental Health Training for Staff Assigned to Mental Health Units

- The medical vendor will continue to provide training to staff assigned to work in mental health units.
- Documentation of training and copies of training materials will be available for examination.
- The Office of Health Services will work with the EDC to audit compliance with training requirements. Attendance records will be maintained and available for examination.

Timeline for Completion: 07/01/08

Screening and Treatment

10. Medical Screening

The DOC will use the updated DACS intake module for the medical and mental health screening as required under this provision. A printed copy of the medical/mental health screening will be placed in the permanent medical chart.

The medical screening addresses the following issues:

- identification of individuals with serious medical and mental health issues;
- identification of acute medical needs;
- infectious diseases;
- chronic conditions;
- physical disabilities;

- mental illness;
- suicide risk; and
- identification of potential for drug and alcohol withdrawal.

This module includes a full mental health screening. Notification of a mental health provider for issues requiring immediate attention and follow-up will occur via this module system. The DOC is currently using a version of this system that is, as noted above, scheduled for full implementation by 10/30/07. Emergent referrals are currently made via telephone.

The Director of Health Services, the medical vendor, and the Quality Improvement Administrator share responsibility for compliance with this provision.

Timeline for Completion: 10/30/07

11. Privacy

The Commissioner of Correction is leading the effort to achieve full compliance with this provision.

- The DOC is reviewing long-term expansion plans at the Facilities in an effort to assure that privacy is accommodated in all areas where a medical or mental health service will be provided.
- The DOC will study the feasibility of consolidating a range of medical and mental health services into a centralized facility.
- A capital improvements plan is being prepared for presentation to the legislature.
- Because capital improvements require long range planning and substantial funding, staff are evaluating all of the Facilities to identify strategies for:
 - making the best possible use of existing space and;
 - addressing privacy issues.
- Examples of improvements already made include:
 - At HRYCI, an additional patient examination room has been created from space previously used to store records.
 - At BWCI, two offices outside the medical area, previously used for other purposes, have been provided for mental health services, freeing up an additional office in the medical area for an exam room.
 - At SCI, a large storage closet outside the medical area was appropriately modified and converted into an interview room for the psychiatrist.
- Site Wardens and the Director of Health Services are jointly responsible for the Facility evaluations.

Timeline for Completion:

Facility evaluations: 07/01/07

Implementation of short-term changes to available space: 12/30/07

Capital improvements plan to be presented to the bond bill committee in June 2007.
Full compliance: Continuing

12. Health Assessments

The Director of Health Services, the medical vendor, and the Quality Improvement Administrator will be responsible for facilitating compliance with the requirements of this provision.

12a. Timely Medical and Mental health Assessments

- The DOC will use the updated DACS module to track intakes and referrals to chronic care and mental health.
- As noted above, the DOC is currently using a telephone system for emergent referrals to mental health. This system will be used until full implementation of the updated DACS module.
- Referrals will be made directly from the intake system to either the sick call scheduling process, or to the mental health supervisor on call.
- This system allows for quick turnaround of any chronic disease or mental health issue identified during the intake process.
- The referral will be made within 24 hours, and appointments with providers will be scheduled within the time frame prescribed in the MOA.
- All inmates will receive a full health assessment, regardless of identified illness, within 14 days, while inmates identified at intake with a chronic illness will receive a full health assessment within 7 days.
- In accordance with NCCHC standards, any inmate who was previously incarcerated and received an intake physical exam within the previous 12 months will receive an intake screening and chart review. If that screening and chart review indicate no change in health status from the previous intake, a new full physical exam will not be required.
- The Office of Health Services will audit intake procedures quarterly to monitor compliance with these standards.

Timeline for Completion:

Final roll out of updated DACS module: 10/30/07

Quarterly auditing: Continuing

12b. Tracking of Inmates with Chronic Illness

- DOC will use the DACS system and manual lists to track those inmates who are identified (at intake or subsequently) as having a chronic condition.
- Procedures for running chronic care clinics are being amended so that scheduling decisions will be based on the degree of control of the illness.
 - Inmates whose illnesses are under poor control will have more frequent visits to the provider for appropriate evaluation and treatment.

- At a minimum, the DOC plans to assure that all chronic care patients are evaluated by a provider at least once per quarter.
- Quality improvement evaluations will be conducted by the Office of Health Services, using a DOC audit tool, every two months for the first two quarters after full implementation occurs, and every three months for the following quarters.

Timeline for Completion:

Full implementation of new chronic care scheduling procedures: 10/30/07

A paper tracking and scheduling system currently exists.

Quality improvement and audit evaluations have already begun. Auditing of the new system is expected to begin by 12/30/07.

13. Referrals for Specialty Care

The medical vendor and the Quality Improvement Administrator will share responsibility for assuring compliance with this provision.

13a. Referral of Inmates Whose Needs Exceed Facility Capabilities

- The DOC has established a consult tracking system.
- The efficacy of the tracking system will be audited on a quarterly basis to evaluate whether:
 - inmates are referred in a timely manner;
 - consultants' recommendations are reviewed by appropriate referring staff; and
 - clinician responses to consultants' recommendations are documented.

Timeline for Completion:

Consult tracking system identification: Completed

Initial quality improvement audits: 10/30/07

13b. Tracking and Documenting Specialist Findings and Recommendations

After each consultant visit, immediately on return to the institution, a nurse will:

- review the documentation provided by the consultant;
- schedule a follow-up appointment with the referring (DOC vendor) provider to review the consultant's findings and see the patient.

The follow up visit with the provider is to occur no later than 7 days after the consultant appointment.

Recommendations made by the specialist and discussion with the patient will be noted in the progress notes of the patient chart.

The DOC audit tool is used on a quarterly basis to assure that appropriate follow up occurs and is properly documented.

Timeline for Completion:

The DOC's goal is to achieve full compliance with this provision by 10/30/07. Auditing has already begun, and is conducted every two months for the first two audits and quarterly thereafter. Review of the audit results is immediate, and corrective action is taken with the medical vendor to reinforce DOC policy.

14. Treatment or Accommodation Plans

The Facility wardens and the medical vendor will share responsibility for assuring compliance with this provision.

14a. Special Needs Plans

Special needs treatment plans will be developed by the medical and/or mental health providers for all special needs inmates, as defined in NCCHC standards. These plans will include, at a minimum, frequency of follow-up, the type and frequency of diagnostic testing and therapeutic regimens, and when appropriate instructions about diet, exercise, adaptation to the correctional environment, and medication.

Timeline for Completion: 10/30/07

14b. Discharge Planning

For inmates with special needs, who have been in our facilities longer than 30 days, appropriate discharge planning will be included in the treatment plan. Such discharge planning shall be made in relation to the anticipated date of release.

Timeline for Completion: 10/30/07

15. Drug and Alcohol Withdrawal

The Substance Abuse Treatment Program Administrator, Director of Health Services and medical vendor will share responsibility for assuring compliance with this provision.

15a. Policies, Protocols, and Practices to Identify, Monitor, and Treat Withdrawal

The DOC will develop or revise appropriate policies, protocols, and practices for the identification, monitoring and treatment of inmates at risk for, or who are experiencing,

drug or alcohol withdrawal. The intake screening process will be the first line of defense for identifying at-risk individuals and implementing these policies and procedures. The DOC plans to work with the medical vendor and security staff to assure that appropriate personnel are trained on any new policies.

Timeline for Completion:

Drafting and revision of policies: 07/01/07

Staff training: 12/30/07

15b. Withdrawal and Detoxification Programs

The DOC will follow the policies developed for appropriate withdrawal and detoxification of inmates who are at risk of or who have symptoms of drug or alcohol withdrawal.

Timeline for Completion:

Policies: 07/01/07

15c. Methadone Maintenance for Pregnant Inmates

The DOC will work with a community provider to establish an appropriate methadone maintenance program for those inmates who are identified as pregnant at intake and are in a community methadone maintenance program or addicted to opiates.

The DOC will evaluate local and national standards for women who are pregnant and on a methadone maintenance program to assure that the DOC program meets generally accepted professional standards.

Timeline for Completion:

Development of policies: 07/01/07

Full implementation: 12/30/07

16. Pregnant Inmates

The medical vendor, Quality Improvement Administrator, and the Director of Health Services will work together to achieve compliance with this provision.

- The DOC will develop or revise and implement policies and procedures consistent with the appropriate screening, treatment and follow-up of pregnant inmates.

- Policies will be developed to specifically address those patients identified as “high risk” pregnancies.
- All women are currently screened for pregnancy at intake, and the DOC plans to continue this practice.
- The Director of Health Services and the medical vendor are jointly responsible for auditing and assuring compliance with this item.

Timeline for Completion:

Development of policies: 07/01/07

Training on policies: 10/30/07

Full implementation: 12/30/07

17. Communicable and Infectious Disease Management

The DOC Quality Improvement Administrator, Director of Health Services, and the medical vendor will share responsibility for assuring compliance with this provision.

- Policies will be developed and/or revised relating to the identification of individuals in DOC custody with communicable diseases.
- Appropriate screening and treatment for inmates with communicable diseases will be instituted.
- Communicable and infectious disease statistics will be collected, analyzed, and available for review by the Monitor.
- Monthly reports will be instituted to assist with consistency of treatment and control of identified diseases.

Timeline for Completion:

Policy development: 07/01/07

Full implementation: 10/30/07

18. Clinic Space and Equipment

The Commissioner of Correction, bureau chiefs, and wardens will work with appropriate State authorities to achieve compliance with this provision.

- The DOC is reviewing expansion plans at the Facilities to assure that in all areas where a medical or mental health service is provided that adequate space for private, face-to-face nursing and physical examinations is available.
- The DOC will study the feasibility of consolidating a range of medical and mental health services into a centralized facility.

- Because capital improvements are long term solutions, sites are reviewing initial strategies for addressing space and privacy needs.
- Examples of improvements already made include:
 - At HRYCI, an additional patient examination room has been created from space previously used to store records.
 - At BWCI, two offices outside the medical area, previously used for other purposes, have been provided for mental health services, freeing up an additional office in the medical area for an exam room.
 - At SCI, a large storage closet outside the medical area was appropriately modified and converted into an interview room for the psychiatrist.

Timeline for Completion:

Site evaluations: 07/01/07

Initial solutions to be implemented: 12/30/07

Capital improvements plan to be presented to the bond bill committee: 06/07

18a. Privacy for Clinical Exams

Evaluations of each site are taking place to make any initial modifications to the layout of each clinic area. Each site will conduct an audit to identify the specific areas where such changes are possible.

Timeline for Completion:

Evaluations: 07/01/07

Initial modifications/changes: 12/30/07

18b. Adequately Sized and Equipped Exam Rooms

Evaluations of each site are taking place to make any initial changes to the layout of each clinic area. Each site will conduct an audit to identify the specific areas where such changes are possible.

Timeline for Completion:

Evaluations due 07/01/07

Minor modifications/changes due 12/30/07

18c. Action Plan (Paragraph 65) Regarding Bringing Facilities Into Compliance

The DOC expects to present a capital improvements plan to the bond bill committee in June 2007.

Access to Care

19. Access to Medical and Mental Health Services

The Commissioner of Correction, Facility wardens, medical vendor, and Director of Health Services share responsibility for assuring compliance with these provisions.

19a. Opportunity to Request and Receive Medical and Mental Health Care

The DOC will develop or revise and implement policies assuring that inmates have both the opportunity to request and receive medical and mental health care.

Timeline for Completion:

Policies: 07/01/07

Implementation: 10/30/07

19b. Medical Response to Requests

- Currently, and according to the policy in development, all written requests for medical/mental health care will be screened within 24 hours.
- If a clinical symptom is reported, a face-to-face encounter will occur within 72 hours from the time of request, at the latest; or earlier if the screening process identifies that the patient needs to be seen more promptly.

Timeline for Completion:

Policies: 07/01/07

Implementation: 10/30/07

19c. Adequate Security Staffing to Ensure Timely Escort

- The DOC will ensure that adequate security staff are available and accessible to inmates who need to be escorted to the medical/mental health appointment as necessary.
- Facility Wardens and local medical vendor staff will be responsible for assuring compliance with this requirement. Scheduling delays, canceled sick call visits, and/or missed appointments will be evaluated through the DOC audit mechanism to identify the root cause of the delay in providing services. Security-related reasons for the delay will be noted, and evaluated for appropriate corrective action.

Timeline for Completion:

Policies: 07/01/07

Implementation: 10/30/07

19d. Develop and Implement Sick Call Policy

The DOC will develop or revise and implement a sick call policy that will address the following areas:

- an explanation of the order in which patients are scheduled;
- a specific procedure for scheduling patients;
- locations for treatment;
- requirements for clinical evaluations; and
- the maintenance of a sick call log.

Timeline for Completion:

Policies: 07/01/07

Implementation: 10/30/07

19e. Treatment in Response to Sick Call Request in a Clinical Setting

- A policy will be developed and/or revised providing that all sick call visits will take place in an appropriate, private setting conducive to the activity.
- In some areas this will be difficult without the physical plant changes noted in ¶¶ 11 and 18.
- The DOC will work to assure that, in the meantime and to the extent possible, the clinical setting is appropriate for the service to be provided.

Timeline for Completion:

Policies: 07/01/07

20. Isolation Rounds

The DOC will be responsible for drafting appropriate policies, and the medical vendor is responsible for actually performing in compliance with this provision.

- The DOC will develop or revise and implement a policy to assure that medical staff make daily sick call rounds in isolation areas and nursing staff make rounds at least three times a week.
- The policy will indicate that the intent is to provide an opportunity for inmates in isolation adequate opportunity to contact and discuss health/mental health concerns with appropriate medical/mental health staff in a setting that affords as much privacy as the security concerns allow.

Timeline for Completion:

Policies: 07/01/07

Implementation date: 10/30/07

21. Grievances

The Office of Health Services, Quality Improvement Administrator, and medical vendor will share responsibility for assuring compliance with this provision.

21a. Develop and Implement Medical Grievance System

- The DOC will develop or revise and implement an improved grievance system.
- That system will ensure that medical grievances are processed and addressed in a timely manner. The Office of Health Services, along with the Bureau of Prisons, is the responsible party for assuring that grievances are handled in an efficient and effective fashion. The contract audit nurses are part of the team that will work to evaluate the effectiveness of the system, and make suggestions for improvement.

Timeline for Completion: 12/30/07

21b. Medical Grievances and Responses Placed in Inmate Files

- Medical issues raised by the grievance process will be addressed and actions taken will be noted in the progress notes of the inmates' medical record.
- The actual grievance is maintained electronically, under each inmate's name, in DACS as described in ¶ 21c below.

Timeline for Completion: 12/30/07

21c. Log, Review, and Analyze Grievance Outcomes

- Grievances, along with all updates, appeals, responses, and outcomes are, and will continue to be, logged in the DACS system, which can be reviewed by all parties.
- The Office of Health Services will review and analyze the grievances on a monthly basis to identify and note any systemic issues raised by the grievances.

Timeline for Completion: 12/30/07

21d. Develop and Implement Procedure for Addressing Systemic Problems

- The DOC will develop and implement a comprehensive system for understanding and addressing all systemic problems discovered through the analysis conducted in ¶ 21c, above.
- On a monthly basis, the Office of Health Services will be responsible for reviewing systemic problems and making recommendations for systemic responses.

Timeline for Completion: 12/30/07

Chronic Disease Care

22. Chronic Disease Management Program

The Health Services Director, the Quality Improvement Administrator, the audit nurses, and the medical vendor staff will share responsibility for assuring compliance with this provision.

22a. Develop and Implement Chronic Care Disease Management Program

- The DOC will develop or revise and implement a Chronic Care Disease Management Program to identify and track inmates with chronic conditions.
- The DOC plans to implement a Chronic Care Disease Management Program that is driven by the level of control achieved for any given chronic condition.
 - For example, the frequency of chronic care appointments will be based on degree of control of the illness.
 - Each chronic care patient will be seen at least quarterly.
 - Those under poor control will have more frequent visits to the provider for appropriate evaluation and treatment.
- Appropriate diagnosis, treatment, monitoring and continuity of care are important components of the Chronic Care Disease Management Program and will be tracked accordingly.
- Quality improvement audits will be conducted using the DOC audit tool every two months for the first two quarters beginning July 2007 and every three months for the following quarters.

Timeline for Completion: 12/30/07

22b. Maintain Registry of Inmates with Chronic Disease

- DOC will use the DACS system and a manual registry to track those inmates who at intake, or on subsequent occasions, are identified as having a chronic condition.
- Compliance with this requirement will be audited every two months for the first two quarters beginning July 2007 and every three months for the following quarters.

Timeline for Completion: 12/30/07

23. Immunizations

The DOC Office of Health Services, and the medical vendor will share responsibility for assuring compliance with this provision.

23a. Obtain Immunization Records for Juveniles

- The DOC plans to work with the Division of Public Health Immunization program to obtain records, if available, of those juveniles who are in the custody of the DOC.
- Records obtained will become a part of the unified patient chart.

Timeline for Completion:

Policies: 07/01/07

23b. Update Juvenile Immunizations

- The DOC plans to develop or revise immunization policy consistent with current immunization standards.
- The DOC plans to implement standards that are consistent with current nationally recognized guidelines, adolescent immunization standards, and Delaware School Admission requirements.

Timeline for Completion: 10/30/07

23c. Develop Policies and Procedures for Influenza, Pneumonia, and Hepatitis A and B Vaccines

- The DOC plans to develop or revise and implement immunization policies, which will include policies for identifying inmates who require immunizations.
- DOC policies will address immunizations that may be indicated in connection with certain chronic diseases or other conditions, as well as immunization schedules that are appropriate for certain categories of inmates.
- Patients will be evaluated for the following immunizations: pneumonia, influenza, Hepatitis A and B.
- Inmates will be offered immunization based on the criteria established by the policy.
- Medical staff and physician extenders will be trained on immunization protocols
- The medical vendor's Quality Assurance/Control of Infectious Disease ("QA/CID") nurse will be required to monitor compliance with these policies

Timeline for Completion:

Policies: 07/01/07

Implementation start date for immunizations: 10/01/07

Medication

24. Medication Administration

The medical vendor, DOC security staff, and Quality Improvement Administrator will share responsibility for assuring compliance with this requirement.

24a. Appropriately Prescribe and Administer Medications in Timely Manner

- The DOC plans to develop or revise and implement policies that are consistent with NCCHC standards for the prescription and delivery of appropriate medications, based on an assessment and clinically indicated by symptomatology.
- The current formulary will be assessed for appropriateness.
- The DOC intends to draft policies that will require prescribing practitioners to note in the medical record if an alternative medication is indicated and the reason for prescribing the alternative medication. The alternative medication will be made available within 72 hours.

Timeline for Completion:

Policies: 07/01/07

Training: 08/01/07

Implementation date: 10/30/07

24b. Appropriate Access to Medications

- The DOC will develop or revise and implement policies to assure that inmates who are prescribed medications receive those medications on a schedule consistent with clinical practice guidelines and the instructions of the prescribing practitioner.
- A formulary committee was established in February 2007, and is scheduled to meet on at least a quarterly basis.
- The formulary committee will include the Medical Director, Director of Nursing, Director of Psychiatry, one staff clinician, one advanced practice nurse, the DOC Director of Health Services, the DOC Mental Health Treatment Services Administrator and one other DOC professional employee.
- Minutes of the formulary committee meetings will be available for review and examination.

Timeline for Completion:

Policies: 07/01/07

Implementation date: 08/01/07

24c. Policies and Procedures Regarding Missed Doses

- DOC will develop or revise and implement policies to ensure that the prescribing practitioner is notified if a patient misses doses of a particular medication on three consecutive days.
- Notice to the provider shall be documented, according to policy, in the medical chart.
- Compliance with this requirement will be audited every two months for the first two quarters beginning July 2007 and every three months for the following quarters.

Timeline for Completion:

Policy development: 07/01/07

Implementation date: 08/01/07

24d. Formulary Shall Not Unduly Restrict Medications

- The DOC will develop or revise formulary policies which reflect the understanding that the formulary developed will not unduly restrict medications.
- Additions and deletions from the formulary will be made by vote of the committee and reasons for the addition or deletion of any particular medication will be noted in the minutes of the committee.
- Non-formulary requests must be submitted to the vendor's medical director for approval.
- Reasons for denial must be documented and alternatives noted on request forms.

Timeline for Completion:

Policies: 07/01/07

Training: 08/01/07

Implementation date: 10/30/07

24e. MARs Appropriately Completed and Maintained

- The DOC is currently using a MAR in the unified chart.
- The DOC will develop or revise policies to require that medications prescribed are noted in a MAR, which will be a part of each inmate's medical file.
- DOC policies will require documentation in the MAR that is consistent with standard practices.
- Compliance with DOC policy will be audited every two months for the first two quarters beginning July 2007 and every three subsequently.

Timeline for Completion:

Finalization of policy: 07/01/07

Total implementation and completion of first Quality Improvement Audit: 10/30/07

25. Continuity of Medication

- The DOC will develop or revise policy to assure that on intake each entering inmate is screened for medications currently prescribed and those medications are noted on the intake form.
- That list will be forwarded to the prescribing practitioner, who will determine the medical appropriateness of any medications and note any changes to the medication regimen in the progress notes.
- A face-to-face encounter will be conducted when the medical condition so dictates.
- The medication prescribed will be ordered and administered consistent with the medication policy noted above.
- The DOC will implement changes to the DACS medical module to streamline this process.

Timeline for Completion

Policy: 07/01/07

Intake changes to the DACS system: 10/30/07

26. Medication Management

- The DOC will develop or revise policies and procedures consistent with standard practice for the access to, storage of, and safe and proper disposal of medications and medical waste.
- The medical vendor and the Substance Abuse Treatment Services Administrator will be the responsible parties for compliance with this item.

Timeline for Completion:

Policy: 07/01/07

Training: 08/01/07

Implementation: 09/01/07

Emergency Care

27. Access to Emergency Care

The Director of Health Services, Mental Health Treatment Program Administrator, EDC and the medical vendor will share responsibility for assuring compliance with this provision.

27a. Train to Recognize and Respond to Medical and Mental Health Emergencies

- As noted in ¶¶ 8 and 9 of this document, the DOC will assure appropriate training of staff who may respond to emergency situations.

Timeline for Completion: 01/01/08

27b. Timely and Appropriate Care of Medical and Mental Health Emergencies

- The DOC will develop or revise policies requiring medical personnel to use appropriate clinical judgment to determine whether the inmate must be transported to an outside facility for emergency treatment.
- If medical staff are not available, the policy will require transportation of the patient to an appropriate facility for evaluation.

Timeline for Completion:

Policy: 07/01/07

Implementation: 01/01/08

28. First Responder Assistance

28a. First Responder Training

As noted in ¶¶ 8 and 9 of this Action Plan, the DOC will continue to conduct training sessions for all employees. Training materials and schedules will be available to the monitor for inspection.

Timeline for Completion: 01/01/08

28b. Emergency Response Protective Gear

Consistent with the training noted above, protective gear will continue to be made available. Protective gear includes items such as masks, gloves, etc.

Timeline for Completion:

Training: 10/30/07

Full implementation: 01/01/08

Mental Health Care

29. Treatment

Mental Health Treatment Program Administrator, the Clinical Director of Mental Health, and the medical vendor will share responsibility for assuring compliance with this provision.

- The DOC will develop policies to address the provision of mental health services by qualified mental health professionals.
- The policy will address timely, adequate, and appropriate screening, assessment, evaluation, treatment and structured therapeutic activities for inmates who are diagnosed with a mental health illness.
- The policy will also address the need for specific observation of and assessment of those inmates who are identified as suicidal, and those who enter DOC with a serious mental health condition or need, or who develop such a need after incarceration.

Timeline for Completion:

Policy: 07/01/07

Full implementation: 10/30/07

30. Psychiatrist Staffing

The Office of Health Services will work with the medical vendor to identify qualified psychiatrists to meet the psychiatrist staffing needs in the DOC system.

30a. Psychiatrist Staffing

- Additional psychiatric staff are scheduled to be hired because of staffing increases negotiated in April 2007 with the current medical vendor.
- The DOC will assist the medical vendor in recruiting and retaining qualified psychiatrists to meet the mental health needs of inmates housed in the Facilities.
 - The DOC plans to work with the Medical Society of Delaware to identify qualified candidates.
 - The DOC also plans to contact regional medical schools to identify recruiting opportunities.
- The DOC will work with the Clinical Director of Mental Health and the medical vendor to identify the appropriate number of psychiatrist hours required to participate in individualized treatment plans, prescribe and adequately monitor

psychotropic medications, review charts, and respond to diagnostic and laboratory tests.

- As noted in ¶ 5, the DOC will ensure that psychiatrists hired by the medical vendor have appropriate licenses and certifications.
- The DOC will maintain a roster of all professionals providing this service, including the sites they are assigned to and the number of hours provided.

Timeline for Completion: Continuing

30b. Psychiatrist Duties and Responsibilities

- The DOC will work with the Clinical Director of Mental Health to assure that all psychiatric staff:
 - collaborate with mental health staff to identify the resources needed to care for those with serious mental health illness; and
 - communicate those needs to the warden of the particular Facility, while maintaining autonomy regarding clinical decisions.
- Psychiatrists assigned to a Facility will oversee the Facility's mental health treatment team.

Timeline for Completion: 10/30/07

31. Administration of Mental Health Medications

Responsibility for compliance with this provision will be shared by the medical vendor, Mental Health Treatment Program Administrator, nursing supervisors, and the Quality Improvement Administrator.

31a. Policies, Procedures, and Practices Regarding Prescribing, Distributing, and Monitoring Psychotropic Medications

- As noted in ¶ 24 of this Action Plan, the DOC will develop or revise and implement medication prescribing, ordering, distribution and reordering policies consistent with professional standards.
- This procedure will apply to all medications, including those prescribed for psychiatric conditions.

Timeline for Completion:

Policy: 07/01/07

Implementation: 10/30/07

31b. MAR Documentation

- As noted in ¶24 of this Action Plan, the MAR will be used to document the time and amount of medication given and any refusal by the inmate.

- Only registered and licensed practical nurses will be allowed to administer medications to inmates in the Facilities, in accordance with Delaware law.
- Compliance with existing policies requiring nurses to perform mouth checks will be monitored.
- Compliance with policies requiring nurses to note any adverse effects of medications in the patient record will be audited at each Facility with the DOC audit tool every two months for the first two quarters beginning 10/30/07, and every three months for the following quarters.

Timeline for Completion:

Policies: 07/01/07

Total implementation and completion of first Quality Improvement audit: 10/30/07

31c. MAR Review

- MARs will be reviewed on a regular basis by the nursing supervisor assigned to the particular clinical area.
- This review will be to assure that policies and procedures are being followed consistently and thoroughly.
- Notations in the progress notes of the medical chart will also be reviewed for appropriate documentation.

Timeline for Completion:

Policy: 07/01/07

Training: 08/01/07

Total implementation and completion of first review by nurse supervisor: 10/30/07

32. Mental Illness Training

As noted in ¶¶ 8 and 9 of this Action Plan, mental illness training will be conducted consistent with this portion of the MOA.

- Security personnel who are assigned to the special needs units will have training designed for their job locations.
- Qualified mental health professionals will provide training through on-site or via interactive Internet.

Timeline for Completion: 01/01/08

33. Mental Health Screening

33a. Screening within 24 Hours

- As noted in ¶¶ 10 and 12 of this Action Plan, the DOC plans to use the updated DACS module for the initial intake process.
- This intake system is designed to be consistent with generally accepted mental health screens conducted according to NCCHC standards.
- The DOC expects that mental health screening performed with this tool will identify any history of mental illness, current psychiatric medications, potential for suicide ideation, past suicide attempts, or suicidal tendencies.

Timeline for Completion:

Policy development: 07/01/07

Screening tool on line: 10/30/07

33b. Psychiatric Assessment

- The DOC will develop or revise policies to require a face-to-face encounter with a psychiatrist before any changes are made to psychotropic medications.
- The DOC expects that this assessment will take place no later than 10 days after the intake is completed.
- Inmates who require resumption of psychotropic medications are expected to be seen as soon as clinically appropriate, but no later than 10 days after intake.

Timeline for Completion:

Policy development: 07/01/07

Full implementation of policy due to lag time in hiring psychiatrists: 01/01/08

33c. Medication Continuation

- The DOC will develop or revise policies intended to assure that generally accepted professional standards are met in identifying whether an inmate was prescribed psychotropic medications at the time of intake and that orders for the continuation of psychotropic medications are written in accordance with the provisions of the MOA.

Timeline for Completion:

Policy development: 07/01/07

Full implementation of policy: 10/30/07

33d. Emergency Mental Health Referral

- The DOC will develop or revise its policies to require direct communication, either in-person or via telephone, with a qualified mental health professional when an immediate referral to a qualified mental health professional is clinically indicated, based on the inmate's responses to the intake screening.

- Quality Improvement systems developed for mental health referrals will be used to assure adherence to this policy.

Timeline for Completion:

Policy development: 07/01/07

Implementation of updated DACS module and Quality Improvement activities: 10/30/07

34. Mental Health Assessment and Referral

The Clinical Director of Mental Health, the medical vendor, and DOC mental health personnel share responsibility for assuring compliance with this provision. DOC personnel will also assist with updates to the DACS mental health modules.

34a. Mental Health Assessment

- When the updated DACS module is completed, it will automatically refer any inmate identified during the intake process as requiring an assessment by a qualified mental health professional.
- Inmates referred for routine mental health referrals are to be seen by a mental health professional within 72 hours.
- The vendor has been instructed that it must make direct contact with a qualified mental health professional when an urgent referral is needed for an urgent problem.

Timeline for Completion:

Policy development: 07/01/07

Full implementation: 10/30/07

34b. Confidential Self-Referral

- The DOC will develop or revise policies to assure that each inmate will have access, regardless of institutional setting, to a confidential self-referral system without the need to reveal the substance of the request to security staff.
- The DOC will work to assure that written requests will be evaluated daily and triaged by qualified mental health professionals for immediate and routine evaluation.
- DOC policies will require the medical vendor to arrange for a face-to-face encounter with a qualified mental health professional within 72 hours of the request.

Timeline for Completion:

Policy development: 07/01/07
Implementation: 10/30/07

34c. Referral for Specialty Care

- The DOC will develop or revise policies regarding referrals to specialty psychiatric care, if such a need is identified based on the face-to-face clinical evaluation of a psychiatrist.
- All patients identified with a serious mental health condition will have routine mental health visits scheduled.
- The referral process will be monitored via regular compliance audits.

Timeline for Completion:

Policy development: 07/01/07
Full implementation of policy due to unavoidable lag time in hiring psychiatrists:
01/01/08

35. Mental Health Treatment Plans

- The DOC will develop or revise policies to assure that patients requiring ongoing mental health services have a treatment plan based on diagnosis and individual clinical needs.
- DOC policies will require treatment plans to be prepared at the time of the initial assessment and updated at a minimum of quarterly.
- DOC policies will also require that changes to a treatment plan be documented in the unified medical record.

Timeline for Completion:

Policy development: 07/01/07
Implementation: 10/30/07

36. Crisis Services

Responsibility for assuring compliance with this requirement will be shared by the Commissioner of Correction, Deputy Attorney General assigned to the DOC, Mental Health Treatment Program Administrator, and the medical vendor.

36a. Adequate Array of Crisis Services

- The DOC will develop or revise policies assuring that appropriate services are available in the event of a psychiatric crisis.

- Transfer to the Delaware Psychiatric Center (“DPC”) will be used when it is determined that in-patient psychiatric care is necessary to stabilize the patient.
- It is currently, and will continue to be, the policy of the DOC that administrative/disciplinary isolation or observation status is not a substitute for in-patient psychiatric care.

Timeline for Completion:

Policy development: 07/01/07

Full implementation of referral to DPC: 01/01/08. (Additional time is required for full implementation of referral policies because Department of Health and Social Services policies regarding the availability of beds may also have to be revised.)

36b. In-Patient Psychiatric Care

- The Delaware Psychiatric Center will be used for in-patient psychiatric services.
- The DOC, Deputy Attorney General, and medical vendor will work together to assure that transfers to DPC occur as expeditiously as possible.
- The DOC also plans to develop strategies for assuring that adequate space is available for psychiatric care at each Facility.

Timeline for Completion:

Full implementation of referral to DPC: 01/01/08. (Additional time is required for full implementation of referral policies because Department of Health and Social Services policies regarding the availability of beds may also have to be revised.)

37. Treatment for Seriously Mentally Ill Inmates

37a. Space for Treatment

- The DOC will continue working to assure that space is available for the treatment of inmates with a mental health diagnosis.
- The DOC is currently reviewing potential expansion options at the Facilities.
- Because capital improvements are long range solutions to space issues, the Facilities will continue reviewing opportunities for short-term modifications to existing resources in an effort to improve space available for mental health treatment.

Timeline for Completion:

Site evaluations: 07/01/07

Minor changes: 12/30/07

Capital improvements plan to be presented to the bond bill committee in June 2007.

37b. Staffing

Recruitment of qualified mental health professional staff has been initiated, and will continue on an as-needed basis

Timeline for Completion:

Continuing

37c. Adequate Array of Therapeutic Programming

- Because the availability of therapeutic programming depends significantly on the mental health staffing levels, the DOC and medical vendor plan to continue recruiting efforts.
- The DOC will develop or revise policies on the appropriate use of therapeutic programming for those inmates identified as seriously mentally ill.

Timeline for Completion:

Policy development: 07/01/07

Implementation based on hiring appropriate qualified mental health professionals:
10/30/07

37d. Regular Physician Visits for Inmates on Psychotropic Medications

- The DOC will develop or revise and implement policies to assure that patients who are being treated with psychotropic medications are seen routinely by a physician to monitor responses and potential reactions to the medications.
- The DOC will conduct audits to ensure compliance.
- The DOC will work with the medical vendor to ensure the relevant health care staff receive training on new policies.

Timeline for Completion:

Policy development: 07/01/07

Implementation of regular visits by physicians: 01/01/2008

38. Review of Disciplinary Charges for Mental Illness Symptoms

Responsibility for compliance with this provision will be shared by Facility wardens, the Mental Health Treatment Program Administrator, Clinical Director of Mental Health, and medical vendor.

- The DOC will develop or revise and implement policies to assure that when any inmate identified as seriously mentally ill has a disciplinary charge resulting in

transfer to isolated status, the charge will be reviewed by a qualified mental health professional, who will evaluate the inmate, on the time schedule outlined in ¶ 39b below, to determine if there are mitigating factors related to the serious mental illness of the inmate.

- If the qualified mental health professional determines that such mitigating factors exist, this will be considered when punishment is imposed on that particular inmate with a serious mental illness.
- When serious security concerns exist that contraindicate the recommend remedy made by the mental health staff, a multidisciplinary case conference, including at a minimum security and mental health staff, will be held and an appropriate alternative will be identified.

Timeline for Completion:

Policy development: 07/01/07

Implementation based on the hiring of qualified mental health professional staff: 10/30/07.

39. Procedures for Mentally Ill Inmates in Isolation or Observation Status

The Commissioner of Correction, Mental Health Treatment Program Administrator, and medical vendor will share responsibility for assuring compliance with this provision.

39a. Policies, Procedures, and Practices Regarding Treatment of Inmates Housed in Isolation

- The DOC will develop or revise and implement policies, procedures, and practices to ensure appropriate treatment of inmates housed in isolation, including isolation rounds one time per week by qualified mental health professionals.
- The DOC will conduct audits to ensure compliance.

Timeline for Completion:

Policy development: 07/01/07

Full implementation (depending on ability to hire qualified mental health professional staff): 10/30/07.

39b. Evaluation of Mentally Ill Inmates Placed in Isolation

- The DOC will develop or revise and implement policies to ensure initial evaluation by a qualified mental health professional within 24 hours for inmates with serious mental illness who are placed in isolation.
- After the initial evaluation, these inmates will be reevaluated for any psychological decompensation by a qualified mental health professional a minimum of three times per week.

- The DOC will evaluate whether continued isolation is appropriate, based upon the evaluation of a qualified mental health professional, or whether the inmate would be appropriate for graduated alternatives.

Timeline for Completion:

Policy development: 07/01/07

Implementation based on the hiring of a sufficient number of qualified mental health professional staff: 10/30/07

39c. Documentation and Treatment Review by Psychiatrist

- The DOC will develop or revise and implement its policies, procedures, and practices to ensure adequate documentation by medical/mental health staff for all admissions to and discharges from isolation.
- Such documentation shall include a review of treatment by a psychiatrist.
- The DOC will work with the medical vendor to ensure the relevant health care staff receive training on new policies.
- The DOC will conduct audits to ensure compliance.

Timeline for Completion:

Policy development: 07/01/07

Implementation based on the hiring of qualified mental health professional and psychiatric staff: 10/30/07

39d. Adequate Observation Facilities

- The DOC will provide adequate facilities for observation, with no more than two inmates per room.
- Evaluations of each site are taking place to identify potential options for complying with this requirement utilizing existing resources.
- Full compliance with this requirement will be accomplished as outlined in ¶ 18 above.

Timeline for Completion:

Evaluations: 07/01/07

Initial modifications/changes due: 12/30/07

Capitol improvements as outlined in ¶ 18 above

40. Mental Health Services Logs and Documentation

Responsibility for assuring continuing compliance with this provision will be shared by the DOC Quality Improvement Administrator and the medical vendor.

40a. Mental Health Log

- The DOC will continue maintaining a log of inmates receiving mental health services, listing all inmates receiving mental health treatment regardless of medication status.
- The log will continue to include the following information:
 - name;
 - diagnosis or complaint;
 - next scheduled appointment;
 - and medications and dosages.
- The log will continue to be maintained and made available to each clinician.

Timeline for Completion:

Log is currently available and will be maintained on a continuing basis. Log is available on request for inspection.

40b. Updated and Accurate Medical Records

- Inmate medical records shall contain current and accurate information regarding any medication changes ordered in at least the past year.
- The DOC will continue to conduct quality assurance reviews of medical records to identify deficiencies and training needs.

Timeline for Completion:

Medical records are currently available; quality assurance monitoring will be continuing.

IV. Suicide Prevention

41. Suicide Prevention Policy

The Mental Health Treatment Program Administrator and the Quality Improvement Administrator will be responsible for assuring compliance with this provision.

- The DOC will develop or revise a suicide prevention policy to ensure training, intake screening/assessment, communication, housing, observation, intervention, and morbidity and mortality review.

Timeline for Completion:

Policy development: 07/01/07

42. Suicide Prevention Training Curriculum

The Mental Health Treatment Program Administrator and EDC share responsibility for developing the suicide prevention training curriculum.

- The DOC will develop or revise a suicide prevention training curriculum, which will include the following information:
 - the DOC suicide prevention policy;
 - the ways in which facility environments contribute to suicidal behavior;
 - potential predisposing factors to suicide;
 - high risk suicide periods;
 - warning signs and symptoms;
 - case studies of recent suicides and serious suicide attempts;
 - mock demonstrations regarding the proper response to a suicide attempt;
 - and the proper use of emergency equipment.

Timeline for Completion:

Training curriculum development: 06/15/07

43. Staff Training

Mental Health Treatment Program Administrator, the Director of Health Services, the medical vendor, and EDC will share responsibility for compliance with requirements in this provision.

43a. Initial Training

- Consistent with ¶ 8b above, the DOC will ensure that training on suicide prevention for all existing and newly hired correctional, medical, and mental health staff will be provided using a monitor-approved curriculum as described in ¶ 42.

Timeline for Completion:

Curriculum available for DOJ review by 06/15/07

Training will commence upon DOJ approval of the curriculum, and is expected to be completed by 01/01/08.

43b. Refresher Training

- After initial training is completed, the DOC will ensure that all correctional, medical, and mental health staff receive an annual two-hour refresher training on the suicide prevention curriculum, described in ¶ 42 above, each year.

Timeline for Completion:

Policy development by 07/01/07

Refresher training is scheduled to begin one year after initial training is completed (this date will be driven by the date on which DOC receives approval of the curriculum from DOJ and begins the initial training).

44. Intake Screening/Assessment

Responsibility for assuring compliance with this section is being shared by Mental Health Treatment Program Administrator, the DOC Quality Improvement Administrator, DOC Management Information Systems, and CMS

- The DOC will develop or revise and implement policies and procedures pertaining to intake screening in order to identify newly arrived inmates who may be at risk for suicide.
- The screening will include inquiry regarding past suicide ideation and/or attempts, current ideation, threat, plan, prior mental health treatment/hospitalization, recent significant loss (job, relationship, death of a family member/close friend, etc.), history of suicidal behavior by a family member/close friend, suicide risk during prior confinement in a state facility, and the arresting or transporting officer(s) belief that the inmate is currently at risk.
- The updated DACS system will be used to track and identify if the inmate has any of the above factors noted on intake.
- Under the current intake system, these factors are noted and referrals are made via telephone to the qualified mental health professional.

Timeline for Completion:

Policy development: 07/01/07

DACS changes: 10/30/07

45. Mental Health Records

Health Services Director and the medical vendor are responsible for assuring compliance with this provision.

- The DOC will develop or revise and implement policies that require medical staff to immediately request all pertinent mental health records, regarding an inmate's prior hospitalization, court-ordered evaluations, medication and other treatment, upon admission.
- The DOC Office of Health Services will work with local providers to facilitate compliance.

Timeline for Completion:

Policy development: 07/01/07

Coordination with external agencies and education of intake medical staff: 10/30/07

46. Identification of Inmates at Risk of Suicide

Policy development will be the responsibility of the DOC; the medical vendor will be responsible for implementing the policies as written.

- The DOC will develop or revise and implement policies that require medical staff place inmates identified as at risk for suicide on suicide precautions until they can be assessed by a qualified mental health professional.
 - Inmates identified as “at risk” include those who actively suicidal (i.e. threatening or engaging in suicidal behavior), those expressing suicidal ideation, (i.e. a vague wish to die without a plan), or those with a recent history of self-destructive behavior, and/or those who deny suicidal ideation and do not threaten suicide, but whose behavior indicates the potential for self-injury.
- The assessment is to occur according to the time limit stated below in ¶ 47.

Timeline for Completion:

Policy development : 07/01/07

Implementation based on the hiring of a sufficient number of qualified mental health professional staff: 10/30/07

47. Suicide Risk Assessment

The Mental Health Treatment Program Administrator, DOC Quality Improvement Administrator, and the medical vendor will share responsibility for compliance with this provision.

- The DOC will develop or revise and implement policies that require a formalized risk assessment to be conducted by a qualified mental health professional within the appropriate time frame, not to exceed 24 hours from the initiation of suicide precautions.
- The assessment shall include, but not be limited to, description of antecedent events and precipitating factors, suicidal indicators, mental status examination, previous psychiatric and suicide risk history, level of lethality, current medication, diagnosis, and recommendations/treatment plan.
- The assessment will be documented in the treatment record.

Timeline for Completion:

Policy development: 07/01/07

Training of existing staff by 08/01/07

Timing of full implementation will be governed partly by the medical vendor’s ability to hire a sufficient number of qualified mental health professional staff, but the DOC’s goal is to have this task accomplished by 10/30/07.

48. Communication

The Mental Health Treatment Program Administrator and medical vendor share responsibility for this provision.

48a. Documentation for Inmates on Suicide Precautions

- The DOC will develop or revise and implement policies that require mental health or medical staff placing an inmate on suicide precautions to document the initiation of the precautions, level of observation, housing location, and conditions of the precautions.

Timeline for Completion:

Policy development: 07/01/07

Implementation: 08/01/07

48b. Notification of Mental Health Staff

- The DOC will develop or revise and implement policies requiring mental health staff to be provided with all of the documentation described in ¶ 48a (above).
- These policies will also require that in-person contact be made with mental health staff to alert them of placement of an inmate on suicide precautions.

Timeline for Completion:

Policy development: 07/01/07

Implementation: 08/01/07

48c. Medical Record Review

- The DOC will develop or revise and implement policies that require that mental health staff thoroughly review the health care record for documentation of any prior suicidal behavior.

Timeline for Completion:

Policy development: 07/01/07

Implementation: 08/01/07

48d. Medical Record Documentation

- The DOC will develop or revise and implement policies requiring that mental health staff document each interaction with and/or assessment of a suicidal inmate in the health care record, including full justification of any decision to upgrade, downgrade, discharge, or maintain an inmate on suicide precautions.

Timeline for Completion:

Policy development: 07/01/07

Implementation: 08/01/07

48e. Downgrade / Discharge Suicide Precautions

- The DOC will develop or revise and implement policies stating that no inmate is downgraded or discharged from suicide precautions until the responsible mental and health care staff has thoroughly reviewed the inmate's health care record and conferred with correctional personnel regarding the inmate's stability.

Timeline for Completion:

Policy development: 07/01/07

Implementation: 08/01/07

48f. Multidisciplinary Case Management

- The DOC will develop or revise and implement policies requiring multidisciplinary case management team meetings (to include correctional, medical, and mental health staff) to occur on a weekly basis in order to discuss the status of inmates on suicide precautions.

Timeline for Completion:

Policy development: 07/01/07

Implementation: 08/01/07

49. Housing

The Mental Health Treatment Program Administrator, DOC Maintenance Department, DOC Wardens, and medical vendor will all share responsibility for assuring compliance with this provision.

49a. Suicide Resistant Cells

The DOC will ensure that all inmates on suicide precautions are housed in suicide resistant cells (i.e. cells without protrusions that would provide easy access for hanging attempts), which provide full visibility to staff.

Cells used for suicide precautions are being or have been evaluated for suicide resistance at each of the facilities. At HRYCI, identified cells have been retrofitted with breakaway sprinkler heads. Suicide resistant air vents have been installed, and openings in window frames, which could have been used for hanging, have been sealed.

Timeline for Completion:

Facility improvements are either under way or being evaluated
Full compliance is expected to occur by 01/01/08

49b. Mental Health Staff to Stipulate Conditions

- The DOC will develop or revise and implement policies requiring that the appropriate medical or mental health staff write orders in the health care record setting forth the conditions for the observation.
- Such orders will take into consideration all relevant security concerns.
- The Warden and or his or her designee will work with the mental health provider to resolve any dispute between custody and mental health/medical staff over which privileges are appropriate in a particular instance.

Timeline for Completion:

Policy development: 07/01/07
Implementation: 08/01/07

50. Observation

The Mental Health Treatment Program Administrator is responsible for drafting the policies required under this section, and, along with the medical vendor, will oversee training on the policies. The medical vendor and DOC security staff will share responsibility for implementing the policies.

50a. Policies and Procedures Pertaining to Suicidal Inmates

- The DOC will develop or revise and implement policies and procedures relating to the observation of inmates who are suicidal or at risk for suicide under the criteria identified in ¶ 50 of the MOA.
- These policies will provide that such inmates are to be placed on close observation status and observed by staff at staggered intervals, not to exceed every 15 minutes.
- The DOC policy will provide that any inmate who is actively suicidal, i.e. threatening or engaging in suicidal behavior, will be placed on constant observation and observed by staff on a continuous, uninterrupted basis.

Timeline for Completion:

Policy development: 07/01/07
Implementation: 08/01/07

50b. Daily Mental Health Assessment of Suicidal Inmates

- The DOC will develop or revise and implement policies and procedures requiring that mental health staff interact with inmates on suicide precautions on a daily basis, rather than just observing the inmates.

Timeline for Completion:

Policy development: 07/01/07

Full implementation depends on the vendor's ability to hire a sufficient number of qualified mental health professionals, but the DOC's goal is to accomplish full implementation by 10/30/07

51. Step-Down Observation

The Mental Health Treatment Program Administrator is responsible for drafting the policies required under this section, and, along with the medical vendor, will oversee training on the policies. The medical vendor and DOC security staff will share responsibility for implementing the policies.

51a. Step-Down Level of Observation

- The DOC will develop or revise and implement policies and procedures requiring that inmates released from suicide precautions are gradually released via a "step-down," from a more restrictive level of observation to less restrictive levels, for an appropriate period of time prior to their discharge from suicide precautions.

Timeline for Completion:

Develop policy by 07/01/07

Train existing staff by 10/30/07

Full implementation will be contingent on the medical vendor's ability to hire a sufficient number of qualified mental health professionals, but the DOC's goal is for this to be accomplished by 01/01/08.

51b. Follow-Up Assessment

- The DOC will develop or revise and implement policies and procedures requiring that inmates discharged from suicide precautions receive follow up assessment in accordance with a treatment plan developed by a qualified mental health professional.

Timeline for Completion:

Develop policy by 07/01/07

Train existing staff by 10/30/07

Full implementation will be contingent on the medical vendor's ability to hire a sufficient number of qualified mental health professionals, but the DOC's goal is for this to be accomplished by 10/30/07.

52. Intervention

The Mental Health Treatment Program Administrator, Director of Health Services, medical vendor, and EDC will share responsibility for compliance with requirements in this provision.

52a. First Aid and CPR Training

- The DOC will develop or revise and implement policies and procedures ensuring that all staff who come into contact with inmates receive training in CPR and First Aid on a biennial basis.

Timeline for Completion:

Currently up to date; training will be continuing.

52b. Annual Mock Drill

Mock drill/demonstration will be a part of the initial and annual suicide trainings as outlined in ¶¶ 42 and 43 above.

Timeline for Completion: 01/01/08

52c. Response Equipment

The DOC will ensure that emergency response equipment is available within close proximity to each housing unit, including a first aid kit and an emergency rescue (cut down knife) tool, and that all staff who come into contact with inmates know the location and proper use of the equipment.

Timeline for Completion:

Completed; compliance will be continuing.

53. Mortality and Morbidity Review

The DOC Quality Improvement Administrator, Mental Health Treatment Program Administrator, and medical vendor share responsibility for assuring compliance with this provision.

- The DOC will develop or revise and implement policies and procedures ensuring that a multidisciplinary review is conducted to review all suicides and serious suicide attempts (e.g., those requiring hospitalization for medical treatment).
- The review will include an inquiry of:
 - the circumstances surrounding the incident;
 - facility procedures relevant to the incident;
 - relevant training received by staff involved;
 - pertinent medical and mental health reports involving the victim;
 - possible precipitating factors; and
 - recommendations, if any, that are made.
- A written plan will be developed to address any identified areas requiring corrective action.

Timeline for Completion:

Policy development: 07/01/07

Implementation: 08/01/07

V. Quality Assurance

54. Policies and Procedures

The DOC Quality Improvement Administrator, Director of Health Services, Mental Health Treatment Program Administrator, BOP Chief Richard Kearney, and the Deputy Attorney General assigned to the DOC share responsibility for assuring compliance with this provision.

- The DOC will develop or revise quality assurance policies and procedures that address each of the substantive provisions noted above.
- The DOC Quality Assurance Program will involve:
 - the creation of a multidisciplinary team;
 - morbidity and mortality reviews with root cause analysis;
 - periodic review of emergency room visits and hospitalizations for ambulatory-sensitive conditions.
- The DOC Quality Assurance program will be designed to assure that the DOC is able to regularly assess and address identified deficiencies.
- An assessment tool is currently being used for DOC Quality Improvement audits.
- This assessment tool permits data tracking and analysis of trends, and can be easily modified to address new issues.

Timeline for Completion:

Policies and procedure: 07/01/07

First Quality Assurance report: 10/30/07

55. Corrective Action Plans

55a. Policies and Procedures to Address Identified Problems

- The DOC will develop or revise policies and procedures as needed to address issues that arise during the Quality Assurance activities described in this Action Plan.

Timeline for Completion: 10/30/07 and continuing as needed

55b. Corrective Action Plan

- When indicated by the results of a quality assurance review, the DOC will develop corrective action plans to address identified issues.
- The purpose of the corrective action plan will be to prevent future occurrences of identified issues.

Timeline for Completion:

As needed