

LAW OFFICE OF
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August 17, 2022

via e-mail

kelli.eargle@nelsonmullins.com

Kelli Eargle
Nelson Mullins

Re: Mediator Report for December 2021 visit

Dear Kelli:

Enclosed for filing and distribution is a mediator report in the above matter.

Thank you very much for your cooperation in this matter.

With kindest regards, I am

Very truly yours,

A handwritten signature in blue ink, appearing to be 'RME', with a flourish extending upwards and to the right.

Robert M. Erwin, Jr.

RME/slt
Enclosure

**MEDIATOR REPORT OF COMPLIANCE WITH REMEDIAL GUIDELINES
JUNE 2022 IP ASSESSMENT¹**

Components as Identified in Order ²	Relevant Policies, Plans and Standards	Implementation Panel Assessment	Mediator Assessment
<p>1. <u>The development of a systematic program for screening and evaluating inmates to more accurately identify those in need of mental health care:</u></p> <p>a. Develop and implement screening parameters and modalities that will more accurately diagnose serious mental illness among incoming inmates at R&E with the stated goal of referring inmates to the appropriate treatment programs. Accurately determine and track the percentage of the SCDC population that is mentally ill.</p>	HS 19.10	06/17/2022 Partial compliance	08/08/2022 Partial compliance
	HS 19.07	06/17/2022 Substantial compliance (11/16/18)	08/08/2022 Substantial compliance (11/16/18)
<p>b. The implementation of a formal quality management program under which mental health screening practices are reviewed and deficiencies identified and corrected in ongoing SCDC audits of R&E counselors;</p>	HS 19.07	06/17/2022 Partial compliance	08/08/2022 Partial compliance
<p>c. Enforcement of SCDC policies relating to the timeliness of assessment and treatment once an incoming inmate at R&E is determined to be mentally ill; and</p>	HS 19.07 HS 19.10	06/17/2022 Partial compliance	08/08/2022 Partial compliance

A-1
A-2
A-3

¹ The shaded components are those that have been in substantial compliance for at least 18 consecutive months.

² The Order components are for reference only and are to be used as references to identify those aspects of the Policies which apply to the Implementation.

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Components as Identified in Order ²	Relevant Policies, Plans and Standards	Implementation Panel Assessment	Mediator Assessment
<p>d. Development of a program that regularly assesses inmates within the general population for evidence of developing mental illness and provides timely access to mental health care.</p>	<p>HS 19.07 HS 19.10</p>	<p>06/17/2022 Partial compliance</p>	<p>08/08/2022 Partial compliance</p>
<p>2. <u>The development of a comprehensive mental health treatment program that prohibits inappropriate segregation of inmates in mental health crisis, generally requires improved treatment of mentally ill inmates, and substantially improves/increases mental health care facilities within SCDC:</u></p> <p>a. <u>Access to Higher Levels of Care:</u></p>			
<p>i. Significantly increase the number of Area Mental Health inmates vis-a-vis outpatient mental health inmates and provide sufficient facilities therefore;</p>	<p>HS 19.04 HS 19.11</p>	<p>06/17/2022 Partial compliance</p>	<p>08/08/2022 Partial compliance</p>
<p>ii. Significantly increase the number of male and female inmates receiving intermediate care services and provide sufficient facilities therefore;³</p>	<p>HS 19.04, HS 19.07, HS 19.11</p>	<p>06/17/2022 Partial compliance</p>	<p>08/08/2022 Partial compliance</p>
<p>iii. Significantly increase the number of male and female inmates receiving inpatient psychiatric services, requiring the substantial renovation and upgrade of Gilliam Psychiatric Hospital, or its demolition for construction of a new facility;</p>	<p>HS 19.04, HS 19.07 HS 19.09 Gilliam Construction Plan</p>	<p>06/17/2022 Partial compliance 06/17/2022 Substantial compliance (07/16/2021)</p>	<p>08/08/2022 Partial compliance 08/08/2022 Substantial compliance (07/16/2021)</p>

³ The Parties agree that 10-15% of male inmates and 15-20% female inmates on the mental health case load should receive Intermediate Care Services.

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Components as Identified in Order ²	Relevant Policies, Plans and Standards	Implementation Panel Assessment	Mediator Assessment
iv. Significantly increase clinical staffing at all levels to provide more mental health services at all levels of care; and v. The implementation of a formal quality management program under which denial of access to higher levels of mental health care is reviewed.	Hiring Plan attached as Exhibit E to the Settlement Agreement HS 19.07	06/17/2022 Substantial compliance (11/16/18) 06/17/2022 Substantial compliance (7/14/17)	08/08/2022 Substantial compliance (11/16/18) 08/08/2022 Substantial compliance (7/14/17)
b. Segregation: i. Provide access for segregated inmates to group and individual therapy services;	OP RHU Policy _22.38 Section 3.23 H.S. 19.04	06/17/2022 Partial compliance	08/08/2022 Partial compliance
ii. Provide more out-of-cell time for segregated mentally ill inmates;	HS 19.12 OP RHU Policy 22.38 Section 3.14.4 & Section 3.25	06/17/2022 Partial compliance	08/08/2022 Partial compliance
iii. Document timeliness of sessions for segregated inmates with psychiatrists, psychiatric nurse practitioners, and mental health counselors and timely review of such documentation;	HS 19.04 OP RHU Policy 22.38 Section 3.15	06/17/2022 Noncompliance	08/08/2022 Noncompliance
iv. Provide access for segregated inmates to higher levels of mental health services when needed;	HS 19.04 HS 19.06	06/17/2022 Partial compliance	08/08/2022 Partial compliance
v. The collection of data and issuance of quarterly reports identifying the percentage of mentally ill and non-mentally ill inmates in segregation compared to the percentage of each group in the total prison population with the stated goal of substantially decreasing segregation of mentally ill inmates and substantially decreasing the average length of stay in segregation for mentally ill inmates;	HS 19.07 OP RHU Policy 22.38 Section 1 and Section 2	06/17/2022 Substantial compliance (11/04/16)	08/08/2022 Substantial compliance (11/04/16)
vi. Undertake significant, documented improvement in the cleanliness and temperature of segregation cells; and	To be determined	06/17/2022 Partial compliance	08/08/2022 Partial compliance
vii. The implementation of a formal quality management program under which segregation practices and conditions are reviewed.	HS 19.07	06/17/2022 Partial compliance	08/08/2022 Partial compliance
c. Use of Force:			

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Components as Identified in Order?	Relevant Policies, Plans and Standards	Implementation Panel Assessment	Mediator Assessment
i. Development and implementation of a master plan to eliminate the disproportionate use of force, including pepper spray and the restraint chair, against inmates with mental illness;	OP 22.01 HS 19.08	06/17/2022 Substantial compliance (07/16/2021)	08/08/2022 Substantial compliance (07/16/2021)
ii. The plan will further require that all instruments of force, (e.g., chemical agents and restraint chairs) be employed in a manner fully consistent with manufacturer's instructions, and track such use in a way to enforce such compliance;	OP 22.01 HS 19.08	06/17/2022 Substantial compliance (11/22/19)	08/08/2022 Substantial compliance (11/22/19)
iii. Prohibit the use of restraints in the crucifix or other positions that do not conform to generally accepted correctional standards and enforce compliance;	OP 22.01 HS 19.08	06/17/2022 Substantial compliance (7/14/17)	08/08/2022 Substantial compliance (7/14/17)
iv. Prohibit use of restraints for pre-determined periods of time and for longer than necessary to gain control, and track such use to enforce compliance;	OP 22.01 HS 19.08	06/17/2022 Substantial compliance (03/24/18)	08/08/2022 Substantial compliance (03/24/18)
v. The collection of data and issuance of quarterly reports identifying the length of time and mental health status of inmates placed in restraint chairs;	HS 19.07 OP Use of Force 22.01 Section 13	06/17/2022 Substantial compliance (12/08/17)	08/08/2022 Substantial compliance (12/08/17)
vi. Prohibit the use of force in the absence of a reasonably perceived immediate threat;	OP 22.01 HS 19.08	06/17/2022 Substantial compliance (12/09/2021)	08/08/2022 Substantial compliance (12/09/2021)
vii. Prohibit the use of crowd control canisters, such as MK-9, in individual cells in the absence of objectively identifiable circumstances set forth in writing and only then in volumes consistent with manufacturer's instructions;	OP 22.01 HS 19.08	06/17/2022 Substantial compliance (11/22/19)	08/08/2022 Substantial compliance (11/22/19)
viii. Notification to clinical counselors prior to the planned use of force to request assistance in avoiding the necessity of such force and managing the conduct of inmates with mental illness;	OP 22.01 HS 19.08	06/17/2022 Substantial compliance (06/17/2022)	08/08/2022 Partial compliance
ix. Develop a mandatory training plan for correctional officers concerning appropriate methods of managing mentally ill inmates;	OP 22.01 ADM 17.01 Employee Training Standards, SCDC Annual Training Plan HS 19.08	06/17/2022 Substantial compliance (12/09/2021)	08/08/2022 Substantial compliance (12/09/2021)

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Components as Identified in Order ²	Relevant Policies, Plans and Standards	Implementation Panel Assessment	Mediator Assessment
x. Collection of data and issuance of quarterly reports concerning the use-of-force incidents against mentally ill and non-mentally ill inmates; and xi. The development of a formal quality management program under which use-of-force incidents involving mentally ill inmates are reviewed.	OP 22.01 HS 19.07 OP 22.01 HS 19.07	06/17/2022 Substantial compliance (03/03/17) 06/17/2022 Substantial compliance (12/16/2020)	08/08/2022 Substantial compliance (03/03/17) 08/08/2022 Substantial compliance (12/16/2020)
3. Employment of a sufficient number of trained mental health Professionals:			
a. Increase clinical staffing ratios at all levels to be more consistent with guidelines recommended by the American Psychiatric Association, the American Correctional Association, and/or the court-appointed monitor.	Hiring Plan attached as Exhibit E to the Settlement Agreement	06/17/2022 Substantial compliance (11/16/18)	08/08/2022 Substantial compliance (11/16/18)
b. Increase the involvement of appropriate SCDC mental health clinicians in treatment planning and treatment teams;	HS 19.05	06/17/2022 Partial compliance	08/08/2022 Partial compliance
c. Develop a training plan to give SCDC mental health clinicians a thorough understanding of all aspects of the SCDC mental health system, including but not limited to levels of care, mental health classifications, and conditions of confinement for caseload inmates;	Mental Health Training Policy Addendum	06/17/2022 Partial compliance	08/08/2022 Partial compliance
d. Develop a plan to decrease vacancy rates of clinical staff positions which may include the hiring of a recruiter, increase in pay grades to more competitive rates, and decreased workloads;	Hiring Plan attached as Exhibit E to the Settlement Agreement	06/17/2022 Substantial compliance (12/08/17)	08/08/2022 Substantial compliance (12/08/17)
e. Require appropriate credentialing of mental health counselors;	HS 19.04	06/17/2022 Substantial compliance (03/03/17)	08/08/2022 Substantial compliance (03/03/17)
f. Develop a remedial program with provisions for dismissal of clinical staff who repetitively fail audits; and	HS 19.07	06/17/2022 Substantial compliance (07/20/18)	08/08/2022 Substantial compliance (07/20/18)

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Components as Identified in Order ²	Relevant Policies, Plans and Standards	Implementation Panel Assessment	Mediator Assessment
g. Implement a formal quality management program under which clinical staff is reviewed.	HS 19.07	06/17/2022 Substantial compliance (07/20/18)	08/08/2022 Substantial compliance (07/20/18)
4. Maintenance of accurate, complete, and confidential mental health treatment records: a. Develop a program that dramatically improves SCDC's ability to store and retrieve, on a reasonably expedited basis:	HS 200.7		
i. Names and numbers of FTE clinicians who provide mental health services;		06/17/2022 Substantial compliance (03/03/17)	08/08/2022 Substantial compliance (03/03/17)
ii. Inmates transferred for ICS and inpatient services;		06/17/2022 Substantial Compliance (07/14/17)	08/08/2022 Substantial Compliance (07/14/17)
iii. Segregation and crisis intervention logs;		06/17/2022 Substantial compliance 12/09/2021	08/08/2022 Substantial compliance 12/09/2021
iv. Records related to any mental health program or unit (including behavior management or self-injurious behavior programs);		06/17/2022 Substantial compliance (12/16/2020)	08/08/2022 Substantial compliance (12/16/2020)
v. Use of force documentation and videotapes;		06/17/2022 Substantial compliance (03/03/17)	08/08/2022 Substantial compliance (03/03/17)
vi. Quarterly reports reflecting total use-of-force incidents against mentally ill and non-mentally ill inmates by institution;		06/17/2022 Substantial compliance (03/03/17)	08/08/2022 Substantial compliance (03/03/17)
vii. Quarterly reports reflecting total and average lengths of stay in segregation and CI for mentally ill and non-mentally ill inmates by segregation status and by institution;		06/17/2022 Substantial compliance (03/03/17)	08/08/2022 Substantial compliance (03/03/17)
viii. Quarterly reports reflecting the total number of mentally ill and non-mentally ill inmates in segregation by segregation status and by institution;		06/17/2022 Substantial compliance (03/03/17)	08/08/2022 Substantial compliance (03/03/17)

Components as Identified in Order ²	Relevant Policies, Plans and Standards	Implementation Panel Assessment	Mediator Assessment
ix. Quality management documents; and		06/17/2022 Substantial compliance (12/16/2020)	08/08/2022 Substantial compliance (12/16/2020)
x. Medical, medication administration, and disciplinary records.		06/17/2022 Partial compliance	08/08/2022 Partial compliance
b. The development of a formal quality management program under which the mental health management information system is annually reviewed and upgraded as needed.	HS 19.07	06/17/2022 Substantial compliance (07/16/2021)	08/08/2022 Substantial compliance (07/16/2021)
5. Administration of psychotropic medication only with appropriate supervision and periodic evaluation:			
a. Improve the quality of MAR documentation;	HS 18.16	06/17/2022 Partial compliance	08/08/2022 Partial compliance
b. Require a higher degree of accountability for clinicians responsible for completing and monitoring MARs;	HS 18.16	06/17/2022 Noncompliance	08/08/2022 Noncompliance
c. Review the reasonableness of times scheduled for pill lines; and	HS 18.16	06/17/2022 Partial compliance	08/08/2022 Partial compliance
d. Develop a formal quality management program under which medication administration records are reviewed.	HS 18.16	06/17/2022 Partial compliance	08/08/2022 Partial compliance
6. A basic program to identify, treat, and supervise inmates at risk for suicide:			
a. Locate all CI cells in a healthcare setting;	HS 19.03 OP RHU 22.38 Section 3.39	06/17/2022 Noncompliance	08/08/2022 Noncompliance
b. Prohibit any use for CI purposes of alternative spaces such as shower stalls, rec cages, holding cells, and interview booths;	HS 19.03 OP RHU 22.38 Section 3.39	06/17/2022 Substantial compliance (12/08/17)	08/08/2022 Substantial compliance (12/08/17)

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Components as Identified in Order?	Relevant Policies, Plans and Standards	Implementation Panel Assessment	Mediator Assessment
c. Implement the practice of continuous observation of suicidal inmates;	HS 19.03	06/17/2022 Noncompliance	08/08/2022 Noncompliance
d. Provide clean, suicide-resistant clothing, blankets, and mattresses to inmates in CI;	HS 19.03	06/17/2022 Substantial compliance (12/16/2020)	08/08/2022 Substantial compliance (12/16/2020)
e. Increase access to showers for CI inmates;	HS 19.03	06/17/2022 Partial compliance	08/08/2022 Partial compliance
f. Provide access to confidential meetings with mental health counselors, psychiatrists, and psychiatric nurse practitioners for CI inmates;	HS 19.03	06/17/2022 Noncompliance	08/08/2022 Noncompliance
g. Undertake significant, documented improvement in the cleanliness and temperature of CI cells; and	HS 19.03	06/17/2022 Partial compliance	08/08/2022 Partial compliance
h. Implement a formal quality management program under which crisis intervention practices are reviewed.	HS 19.03	06/17/2022 Partial compliance	08/08/2022 Partial compliance

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Approved

Robert M. Erwin, Jr.
Robert M. Erwin, Jr.
 Mediator
 August 8, 2022