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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

RALPH COLEMAN, et al.,

Plaintiffs,

v.

GAVIN NEWSOM, et al.,

Defendants.

Case No. 2:90-cv-00520 KJM-DB (PC)

**THIRD STIPULATION AND ORDER TO
EXTEND THE APRIL 14, 2017 ORDER
WAIVING STATE LAW REGARDING
L-WING AT CALIFORNIA MEDICAL
FACILITY**

Judge: The Hon. Kimberly J. Mueller

On April 14, 2017, the Court approved the parties' stipulation to waive state licensing requirements so that CDCR could convert 37 cells on the first floor of the L-Wing at the California Medical Facility (L-1) into 70 temporary unlicensed Intermediate Care Facility (ICF) level-of-care beds and two observation and restraint rooms for high-custody inmate-patients referred for ICF care. (ECF No. 5605.) The Court approved the parties' stipulation on two conditions: (1) "Defendants shall report to the Special Master monthly as to whether there are

1 any inmate-patients in L-1 wing who have been custodially approved by CDCR and clinically
2 cleared by the Department of State Hospitals (DSH) for placement in one of the DSH facilities
3 and, if so, why any such inmate-patient is in the L-1 Wing rather than in a DSH facility consistent
4 with the patient's Least Restrictive Housing designation or other appropriate DSH facility;" and
5 (2) "the parties are directed to work with the Special Master to bring the plans for the L-1 Wing
6 unit into compliance, as necessary and as expeditiously as possible, with the requirements of the
7 October 18, 2007 order [ECF No. 2461]." (*Id.* at 5.)

8 The period covered under the April 14, 2017 order waiving state law has been extended
9 twice, through October 15, 2020. (ECF Nos. 5950 and 6606.) Consistent with the court's order,
10 CDCR has provided monthly reports to the Special Master and Plaintiffs with patient-level data
11 showing offered out-of-cell time, offered structured hours, and program cancellations. The
12 second extension continuing the waiver to October 15 recognized CDCR's continued need for the
13 beds in L-1, Plaintiffs' need for additional assurances that CDCR consistently offers patients in
14 L-1 twelve hours of daily out-of-cell time, and COVID-19's impact on Defendants' ability to
15 provide a workable solution to ensure that CDCR consistently offers patients in L-1 twelve hours
16 of daily out-of-cell time. (ECF No. 6606 at 2-3.) The second extension also provided that the
17 parties would revisit the need for a further extension of the waiver after five months. (*Id.*)

18 The parties have conferred regarding the need for a third extension of the April 14 order
19 waiving state licensing laws concerning L-1. CDCR continues to need the beds in L-1 to provide
20 additional inpatient beds pending planned construction and activation of new flexible beds.
21 Plaintiffs' concerns regarding Defendants' ability to comply with the terms of the order waiving
22 state law requirements, particularly a plan to ensure each patient is offered twelve hours of out-of-
23 cell time daily, persists. In addition, Plaintiffs are concerned with the COVID-19 impacts on the
24 reductions in structured treatment over the past six months for the patients in L-1.

25 Accordingly, the parties jointly request the Court extend the April 14, 2017 order waiving
26 state law for an additional six months. Defendants agree, as a condition for the extension of the
27 waiver, to develop and submit to the Special Master and Plaintiffs within one month from the date

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1 of the order approving this stipulation a plan to provide additional structured treatment, subject to
2 monitoring by the Special Master.

3 Good cause presented to the Court and appearing, the parties stipulate that the Court should
4 extend the waivers of the licensing requirements described below for an additional six months
5 from the date of the Court's order.

6 **IT IS STIPULATED AND ORDERED AS FOLLOWS:**

7 1. The following state licensing requirements shall be waived with respect to the 70
8 temporary Intermediate Care Facility beds and two observation and restraint rooms in the L-
9 Wing, L-1, at California Medical Facility:

10 A. California Health and Safety Code section 1250(j); and

11 B. California Code of Regulations, Title 22, sections 79501–79861.

12 2. The waiver is extended six months to April 15, 2021;

13 3. Within one month from the date of this order, Defendants shall provide the Special
14 Master and Plaintiffs with a plan for additional structured treatment, subject to monitoring by the
15 Special Master; and

16 4. Within five months from the date of this order, the parties agree to revisit the need for
17 a further extension of the waiver.

18 The Special Master has reviewed and approves this stipulation.

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1 Dated: October 14, 2020

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Supervising Deputy Attorney General

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5 /s/ Elise Owens Thorn

6 ELISE OWENS THORN
7 Deputy Attorney General
8 *Attorneys for Defendants*

9 Dated: October 14, 2020

ROSEN BIEN GALVAN & GRUNFELD LLP

10 /s/ Marc Shinn Krantz

11 Marc Shinn-Krantz
12 *Attorneys for Plaintiffs*

13 **IT IS SO ORDERED.**

14 Dated: October 19, 2020.

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16 CHIEF UNITED STATES DISTRICT JUDGE
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