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

18 **RALPH COLEMAN, et al.,**

19 Plaintiffs,

20 v.

21 **ARNOLD SCHWARZENEGGER, et al.,**

22 Defendants.

23 2:90-cv-00520 LKK JFM P

24 **STIPULATION AND
25 ORDER RE: MODIFICATION OF
26 FULL OCCUPANCY DATES FOR
27 88-BED LEVEL I/II ENHANCED
28 OUTPATIENT PROGRAM-GENERAL
POPULATION DUAL DIAGNOSIS
PROGRAM AND 176-BED LEVEL I/II
ENHANCED OUTPATIENT PROGRAM
-SENSITIVE NEEDS YARD PROJECT
AT THE SUBSTANCE ABUSE
TREATMENT FACILITY; AND
WAIVER OF CALIFORNIA CODE OF
REGULATIONS, TITLE 15, SECTIONS
3040.1(a) and (c)(6)**

Acronym List	
Term	Definition
CDCR	California Department of Corrections and Rehabilitation
EOP	Enhanced Outpatient Program
GP	General Population
SAP	Substance Abuse Program
SATF	Substance Abuse Treatment Facility
SNY	Sensitive Needs Yard

INTRODUCTION

In connection with two intermediate-term mental health bed projects at the Substance Abuse Treatment Facility (SATF), the parties jointly agree to modify the full occupancy dates for those projects and, with respect to one of those projects, request a waiver of State regulations. The *Coleman* Special Master agrees with these requests.

BACKGROUND

On March 31, 2009, this Court ordered that Defendants develop and file concrete proposals to meet the short-term, intermediate, and long-range mental health beds needs of the *Coleman* class members. (Docket No. 3556.) Defendants submitted their bed plan on May 26, 2009. (Docket No. 3592.) Defendants submitted two intermediate-term projects for SATF: (1) 88-bed Level I/II Enhanced Outpatient Program-General Population (EOP-GP) dual diagnosis program for inmates with substance abuse disorders and serious mental illness with an expected implementation date by June 2010; and (2) 150-bed Level III/IV Enhanced Outpatient Program-Sensitive Needs Yard (EOP-SNY) project. (Docket No. 3592 at 9–10.)

On February 25, 2010, the parties stipulated that Defendants replace the 150-bed Level III/IV EOP-SNY project with a 176-bed Level I/II EOP-SNY project. (Docket No. 3811 at 2:23-25.) The stipulation further stated that the California Department of Corrections and Rehabilitation (CDCR) expects to activate these 176 beds over three different time periods: (1) Phase I (88 beds) with an expected full occupancy date of April 30, 2010; (2) Phase II (44 beds) with an expected full occupancy date of August 30, 2010; and (3) Phase III (44 beds) with an expected full occupancy date of September 30, 2010, with Phases II and III dependent upon clinical staff availability and inmate population need. (Docket No. 3811.) Thus, the 176-bed Level I/II EOP-SNY project was developed in such a way that CDCR would have time between Phases I and II to evaluate clinical staff availability and inmate population need before commencing Phases II and III. Phase I is complete, and even though CDCR is still hiring clinical staff for Phases II and III, it has determined that the project currently has sufficient staff to commence Phases II and III now, rather than in August and September 2010 as planned. Additionally, the wait list for inmates needing Level I/II EOP-SNY beds suggests that there is a

1 current need for the additional 88 beds. CDCR cannot continue activating Phases II and III,
2 however, without modifying the June 2010 date for implementing the 88-bed Level I/II EOP-GP
3 dual diagnosis program because it does not have sufficient clinical staff to concurrently bring up
4 these two programs.

5 **STIPULATION**

6 **A. Admission Timelines.**

7 The parties have met and conferred and stipulate that Defendants will modify their
8 admission time lines as follows:

9 (1) The expected implementation date for the 88-bed Level I/II EOP-GP dual diagnosis
10 program is revised from June 2010 to reflect an expected full occupancy date of September 30,
11 2010; and

12 (2) The expected full occupancy dates for the 176-bed Level I/II EOP-SNY project,
13 Phases II and III, are revised from August and September 2010, respectively, to July 30, 2010.

14 The parties have met and conferred and stipulate that notwithstanding the revised
15 September 30, 2010 full occupancy date for the 88-bed Level I/II EOP-GP dual diagnosis
16 program, Defendants expect to accelerate that date by admitting 15 inmates a week into the dual
17 diagnosis program commencing August 1, 2010, assuming that a need for 15 beds a week exists.

18
19 **B. Waiver of Sections 3040.1(a) and (c)(6) for the SATF 88-bed Level I/II EOP-GP Dual
Diagnosis Program.**

20 This Court ordered Defendants to inform it of any regulatory or licensing barriers that
21 impede activation of mental health care beds. (Docket No. 1800.) California Code of
22 Regulations, title 15, sections 3040.1(a) and (c)(6) state that a prison Substance Abuse Program
23 (SAP) is not intended to provide mental health treatment, and that inmates who are enrolled in
24 EOP services shall not be placed in a SAP, respectively. Cal. Code Regs. tit. 15, §§ 3040.1(a),
25 (c)(6). Defendants will not be able to activate the SATF 88-bed Level I/II EOP-GP dual
26 diagnosis program unless this Court waives Sections 3040.1(a) and (c)(6) as applied to that
27 program.

1 The parties have met and conferred regarding California Code of Regulations, title 15,
2 sections 3040.1(a) and (c)(6), and stipulate that the Court should waive these state regulations
3 with respect to the SATF 88-bed Level I/II EOP-GP dual diagnosis program so that CDCR can
4 implement this program.

5 The parties have met and conferred with *Coleman* Special Master Matthew Lopes and he
6 is in agreement with this stipulation.

7 || SO STIPULATED.

9 Dated: June 17, 2010 By: /s/ Debbie J. Vorous
10 Debbie J. Vorous
Office of the Attorney General
Attorneys for Defendants

12 Dated: June 17, 2010 By: /s/ Jane Kahn
13 Jane Kahn
Rosen, Bien and Galvan
Attorneys for Plaintiffs

15 || SO ORDERED

16 The above stipulation is the Order of this Court.

18 Dated: June 21, 2010

Lawrence K. Karlton
LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT