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

19 **RALPH COLEMAN, et al.,**

20 Plaintiffs,

21 v.

22 **EDMUND G. BROWN JR., et al.,**

23 Defendants.

24 2:90-cv-00520 KJM-DB (PC)

25 **STIPULATION AND ORDER WAIVING  
26 STATE LAW REGARDING THE USE OF  
27 UNLICENSED MENTAL HEALTH  
28 CRISIS BEDS AT THE CALIFORNIA  
INSTITUTION FOR WOMEN**

29 Defendants plan to build an additional 100 flexible use inpatient and crisis beds for  
30 mentally ill inmate-patients in southern California. As a temporary measure to provide access to  
31 additional crisis beds until the new beds are activated, Defendants propose converting cells in the  
32 Walker Unit at the California Institution for Women for use as inpatient and crisis beds. These  
33 additional beds will expand the capacity for inpatient and crisis beds for female inmate-patients.

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1 The State has appropriated \$6.8 million needed for facility modifications and staffing.<sup>1</sup> However,  
2 to move forward with this project, state licensing requirements must be waived. The waivers are  
3 justified by the current and forecasted shortage of crisis beds for female inmate-patients and the  
4 potential risk of serious harm to patients caused by delayed access to the Mental Health Crisis  
5 Bed level of care.

6 The “Supreme Court has stated that otherwise valid state laws or court orders cannot stand  
7 in the way of a federal court’s remedial scheme if the action is essential to enforce the scheme.”  
8 *Stone v. City and County of San Francisco*, 968 F.2d 850, 862 (9th Cir. 1992) (quoting *North*  
9 *Carolina State Bd. of Educ. v. Swann*, 402 U.S. 43, 45 (1971)). On April 19, 2017, this Court  
10 ordered that “full compliance with the twenty-four-hour timeline to transfer to [Mental Health  
11 Crisis Beds] is required to satisfy the Eighth Amendment.” (ECF No. 5610 at 11.) The addition  
12 of the proposed temporary crisis beds at the California Institution for Women is an integral part of  
13 ensuring timely access to crisis bed and inpatient beds.

14 Given the urgency of the need, and to activate these beds as quickly as possible, Defendants  
15 and Plaintiffs jointly request that the Court waive applicable state licensing requirements so that  
16 fifteen crisis beds and four flexible-use beds<sup>2</sup> in the Walker Unit at the California Institution for  
17 Women may be activated on or before December 31, 2018.

18 This Court has held on six prior occasions that state licensing requirements temporarily  
19 give way to the use of unlicensed Mental Health Crisis Beds and Intermediate Care Facility  
20 inpatient beds. (See ECF Nos. 4095 and 1800, Orders filed October 7, 2011, and May 6, 2006,  
21 respectively, concerning California Men’s Colony; ECF No. 3748, Order filed December 11,  
22 2009, concerning California State Prison, Sacramento; ECF No. 3516, Order filed February 17,  
23 2009, concerning California Institution for Men; and ECF Nos. 4120 and 5592, Orders filed  
24 November 17, 2011, and April 6, 2017 respectively, concerning California Medical Facility.)  
25 The present request is similar to those past stipulations and orders.

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27 <sup>1</sup> <http://www.ebudget.ca.gov/2018-19/pdf/Enacted/BudgetSummary/PublicSafety.pdf>  
28 <sup>2</sup> Flexible-use beds are used for the Mental Health Crisis Bed, Acute, and Intermediate  
inpatient levels of care.

1 Good cause presented to the Court and appearing, the parties stipulate that the Court should  
2 waive the licensing requirements described below.

3 **IT IS STIPULATED AS FOLLOWS:**

4 1. The following state licensing requirements shall be waived with respect to fifteen  
5 proposed temporary Mental Health Crisis Bed and four flexible-use beds in the Walker Unit at the  
6 California Institution for Women:

7 A. California Health and Safety Code section 1250(j); and  
8 B. California Code of Regulations, Title 22, sections 79501–79861.

9  
10 Dated: September 11, 2018

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JAY RUSSELL  
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13 */s/ ELISE OWENS THORN*  
14 ELISE OWENS THORN  
15 Deputy Attorney General  
16 *Attorneys for Defendants*

17  
18 Dated: September 11, 2018

*/s/ LISA ELLS*  
19 LISA ELLS  
20 *Attorneys for Plaintiffs*

21 **IT IS SO ORDERED.**

22  
23 DATED: September 24, 2018.

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UNITED STATES DISTRICT JUDGE