

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
CIVIL MINUTES - GENERAL**

Phoenix Division

CV-12-0601-PHX-DKD

DATE: June 14, 2017

Title: Parsons et al vs. Ryan et al
Plaintiffs Defendants

HON: David K. Duncan

Judge # 70BL/DKD

Caryn Smith
Deputy Clerk

Laurie Adams
Court Reporter

APPEARANCES:

David Fathi, Amy Fettig, Corene Kendrick, Kirstin Eidenbach and Maya Abela for Plaintiffs
Timothy Bojanowski, Rachel Love and Anne Orcutt, with Lucy Rand appearing telephonically,
for Defendants

PROCEEDINGS: X **Open Court** **Chambers** **Other**

This is the time set for Status Hearing. The Court receives the April updates for Performance Measures 11 and 13. Discussion is held as to the numbers for Perryville. IT IS ORDERED, effective immediately at Perryville, every single failure to comply with Performance Measure 13 will result in an order to show cause hearing as to why a \$1,000.00 fine should not be imposed. IT IS FURTHER ORDERED a report shall be filed in both redacted and under seal version indicating the number and names of those inmates who did not receive medication as required by Performance Measure 13.

April updates for Performance Measures 14 and 35 are received. Performance Measure 14 is compliant. As to Performance Measure 35, IT IS ORDERED, effective immediately at Eyman, Florence, Lewis, Phoenix and Tucson, every single failure to comply will result in an order to show cause hearing as to why a \$1,000.00 fine should not be imposed. IT IS FURTHER ORDERED a redacted and sealed report shall be filed indicating the number and names of those inmates who were impacted by the failure to comply with this Performance Measure.

Performance Measures 37 and 39 are compliant. As to Performance Measure 40, IT IS ORDERED, effective immediately at Eyman, every single failure to comply will result in an order to show cause hearing as to why a \$1,000.00 fine should not be imposed. IT IS FURTHER ORDERED a redacted and sealed report shall be filed indicating the number and names of those inmates who were impacted by the failure to comply with Performance Measure 40.

As to Performance Measure 44, IT IS ORDERED Defendants shall submit to the Court a report of the previous 30 days of every Eyman inmate who was returning from an inpatient hospital stay or ER transport with discharge recommendations from the hospital and how each of these individuals were reviewed and acted upon by the medical provider within 24 hours as required by this Performance Measure.

As to Performance Measure 45, IT IS ORDERED, effective immediately at Lewis and Tucson, every single failure to comply will result in an order to show cause hearing as to why a \$1,000.00 fine should not be imposed. IT IS FURTHER ORDERED a redacted and sealed report shall be filed indicating the number and names of those inmates who were impacted by the failure to comply with this Performance Measure.

Upon request of the Plaintiffs and good cause appearing, IT IS ORDERED all reports related to non-compliance of all identified Performance Measures required as set forth in this Minute Entry shall include data for the 30 days prior to July 14, 2017 and shall be submitted to the Court by no later than July 13, 2017.

As to Performance Measure 46, IT IS ORDERED, effective immediately at Douglas, Eyman, Florence, Lewis, Perryville, Phoenix and Tucson, every single failure to comply will result in an order to show cause hearing as to why a \$1,000.00 fine should not be imposed. IT IS FURTHER ORDERED a redacted and sealed report shall be filed indicating the number and names of those inmates who were impacted by the failure to comply with this Performance Measure.

Argument is heard regarding Performance Measure 47. IT IS ORDERED on June 30, 2017 the Defendants shall file a notice with the Court informing it about the implementation of the new measure to address the failures to satisfy Performance Measure 47, including concrete, unequivocal statements as to how it is working. Plaintiffs request an interim fix. Further argument is heard. IT IS ORDERED Defendants shall start the eOMIS system on June 22, 2017 and report to the Court on June 30, 2017 whether the system is working or not.

As to Performance Measure 50, IT IS ORDERED, effective immediately at Florence, every single failure to comply will result in an order to show cause hearing as to why a \$1,000.00 fine should not be imposed. IT IS FURTHER ORDERED a redacted and sealed report shall be filed indicating the number and names of those inmates who were impacted by the failure to comply with this Performance Measure.

As to Performance Measure 51, the Court will monitor for improvement at Tucson.

As to Performance Measure 52, IT IS ORDERED, effective immediately at Florence, every single failure to comply will result in an order to show cause hearing as to why a \$1,000.00 fine should not be imposed. IT IS FURTHER ORDERED a redacted and sealed report shall be filed indicating the number and names of those inmates who were impacted by the failure to comply with this Performance Measure.

As to Performance Measure 54, the Court will continue to monitor for improvement at Eyman and expects to have a better explanation for Florence if there is a continued departure.

Argument is heard regarding Performance Measure 66. IT IS ORDERED, effective immediately at Florence, Lewis and Tucson, every single failure to comply will result in an order to show cause hearing as to why a \$1,000.00 fine should not be imposed. IT IS FURTHER ORDERED a redacted and sealed report shall be filed indicating the number and names of those inmates who were impacted by the failure to comply with this Performance Measure.

Discussion is held as to Performance Measure 80.

10:30 AM – Court stands at recess.

10:48 AM – Court reconvenes with respective counsel present. Court Reporter, Laurie Adams, is present.

Further discussion is held regarding Performance Measure 80. Argument is heard regarding the method Defendants are using to count records. Dr. Taylor is sworn and examined. IT IS ORDERED Plaintiffs shall submit draft language within one week to allow Defendants a week to add any modifications that address their concerns about Plaintiffs' proposed language. Plaintiffs shall then have seven days for their reply after which time the Court will rule.

Performance Measures 85, 92 and 93 are compliant.

Discussion is held as to Performance Measure 94. IT IS ORDERED this portion of the transcript shall be provided to Dr. Calcote and from this he shall provide a supplemental affidavit by no later than June 30, 2017 regarding what can be done to ensure the message has been properly communicated.

Argument is heard as to Performance Measure 98. IT IS ORDERED the last six months of healthcare grievances from two facilities chosen by Plaintiffs be produced to Plaintiffs within two weeks. IT IS FURTHER ORDERED directors level grievances shall also be produced. The parties shall then meet and confer by no later than June 21, 2017 to agree on the best method of monitoring the situation.

12:02 PM – Court stands at recess.

1:20 PM – Court reconvenes with respective counsel present. Court Reporter, Laurie Adams is present.

Discussion is held regarding sign-in sheets for HNRs. IT IS ORDERED Defendants shall submit an affidavit to the Court by no later than June 30, 2017 as to when the procedure regarding this remediation measure was corrected.

Discussion is held regarding enforcement of the stipulation involving staffing issues. IT IS ORDERED the parties shall meet and confer in two weeks to identify an expert the Court can retain, at Defendants' cost, to determine and guide the Court in crafting more precise measures to assist in compliance with the stipulation. Briefs may be submitted by either party but time will not be extended.

Discussion is held regarding a possible visit by the Court to the open clinic. The Court will coordinate any such visit with counsel.

Further discussion is held regarding removal of the HNR boxes. The Court will hold an evidentiary hearing prior to ruling. IT IS ORDERED setting Evidentiary Hearing for July 13, 2017 at 1:30 PM before this Court.

As to Performance Measures 85 and 86, the Court will adopt Plaintiffs' Declaration of Craig Haney, Ph.D., (Doc. 2048) at paragraph 12. The final sample of Performance Measure 85 will be the start of a sample for Performance Measure 86.

The Court is informed that the two facilities chosen regarding the healthcare grievances are Perryville and Lewis.

Discussion is held regarding patients taking psychotropic medications being protected during the heat wave forecast for the week of June 19, 2017.

Discovery issues are discussed. IT IS ORDERED setting a Telephonic Discovery Hearing for June 20, 2017 at 1:30 PM. The Court is advised that David Fathi and Lucy Rand will be the attorneys proceeding with the hearing.

Discussion is held regarding Plaintiffs' Motion for Reconsideration (Doc. 2042). The Court will issue its ruling later this week.

Argument is heard regarding group counts outside of Performance Measure 92. Dr. Taylor avows that group counts are not being used.

Argument is heard regarding cell-front contacts being used. Dr. Taylor avows they are not counting cell-front contacts.

As to Performance Measures 94, 95 and 97, the Court will review Dr. Haney's report.

Argument is heard regarding Performance Measure 95. Dr. Taylor addresses the Court. Plaintiffs request a written version of Dr. Taylor's proposal. SO ORDERED.

IT IS ORDERED Performance Measure 85 shall be updated as set forth on the record.

Discussion is held regarding Performance Measure 25. IT IS ORDERED taking the matter under advisement.

In response to Plaintiffs' request for clarification regarding the scope of the OSC orders, IT IS ORDERED that all names and numbers of those people who did not receive the called for healthcare shall be identified in each Performance Measure identified.

Time in court: 5 hr 24 min (9:00 AM – 3:00 PM)