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17
 18 **UNITED STATES DISTRICT COURT**
 19 **NORTHERN DISTRICT OF CALIFORNIA**
 20 **OAKLAND DIVISION**

21 MARCIANO PLATA, et al.,

22
 23 Plaintiffs,

24 v.

25 GAVIN NEWSOM, et al.,

26 Defendants.
 27

CASE NO. 01-1351 JST

**JOINT CASE MANAGEMENT
 CONFERENCE STATEMENT**

Judge: Hon. Jon S. Tigar

Date: July 29, 2021

Time: 10:00 a.m.

Crtrm.: 6, 2nd Floor

1 The parties submit the following joint statement in advance of the July 29, 2021
2 Case Management Conference.

3 **I. COVID-19 VACCINE**

4 As of July 27, 2021, 99% of the California Department of Corrections and
5 Rehabilitation's (CDCR) incarcerated population has been offered at least one dose of the
6 vaccine, and 76% of those offered have accepted it. This amounts to 75% percent of the
7 incarcerated population having received at least one dose of the vaccine. Those not
8 offered vaccine are almost entirely either out-to-court and thus not physically present in a
9 CDCR prison, or are Reception Center new arrivals pending a vaccine offer. Vaccination
10 rates of medically high-risk incarcerated people are as follows: over 99% of all COVID-
11 19-naïve patients aged 65 or older have been offered the vaccine, and 91% of patients in
12 this category are fully vaccinated, with another 1% awaiting the second dose of the
13 vaccine; over 99% of all COVID-19-naïve patients with a COVID-19 weighted risk score
14 of 6 or higher have been offered the vaccine, and 92% of patients in this category are fully
15 vaccinated, with another 1% awaiting the second dose of the vaccine; and 99% of COVID-
16 19-naïve patients with a COVID-19 weighted risk score of 3 or higher have been offered
17 the vaccine, and 88% of patients in this category are fully vaccinated, with another 2%
18 awaiting the second dose of the vaccine. Additionally, as of July 23, 2021, at least¹ 53%
19 of staff who work in CDCR's institutions have been given at least one dose of a COVID-
20 19 vaccine. Employees and incarcerated people are still required to wear personal
21 protective equipment and practice physical distancing even after receiving the vaccine.²

22 _____
23 ¹ CDCR and CCHCS are working with the Department of Public Health to determine the
24 number of staff who have been vaccinated outside CDCR's system to maintain accurate
25 data. Because individuals may decline to share their medical information, it may not be
26 possible to reflect every vaccinated staff member in this percentage.

27 ² CCHCS and CDCR lifted the mask-wearing requirement for those who are outdoors
28 and at least six feet away from others. And as of June 15, 2021, the State no longer
requires fully vaccinated people to wear masks in most circumstances, but still requires
mask-wearing by fully vaccinated people who live or work in correctional facilities,
consistent with public health guidance. This policy may be adjusted in light of the new

1 *Plaintiffs' Position:*

2 **Patients**

3 We continue to be pleased with CCHCS's efforts to vaccinate incarcerated people
4 against COVID-19. As of July 27, CCHCS's Patient Vaccination Registry showed that
5 99% of the approximately 99,100 people in CDCR custody have been offered a vaccine.³
6 It also showed that 73% of the population is fully vaccinated, and another 2% have
7 received one dose of a two-dose regimen, so will be fully vaccinated in no more than 30
8 days.

9 The Registry as of July 27 also showed that the COVID vaccine refusal rate among
10 the CDCR population is 24%.⁴ We appreciate that CCHCS continues to re-offer vaccine
11 to patients. In mid-July, it held a multi-day outreach event at Salinas Valley State Prison
12 to discuss the vaccine with people who had previously refused it. Reportedly, 106 people
13 agreed to be vaccinated.⁵ CCHCS is currently reviewing whether, how, and when similar
14 events might be done at other prisons. CCHCS also reports that earlier this month its
15 nursing staff talked to each of the more than 1,500 patients with a Weighted COVID Risk
16 Score of three or higher who had previously refused vaccine,⁶ and that it has directed

17 _____
18 COVID-19 mitigation measures announced by Governor Newsom on July 26, 2021,
19 discussed in Defendants' position below.

20 ³ As indicated above, those not offered vaccine are almost entirely either not physically
21 present in a CDCR prison, or are Reception Center new arrivals pending a vaccine offer.

22 ⁴ As of July 18, according to CCHCS data, there were 10 CDCR general population
23 "yards" (as sub-facilities within each prison are commonly called) with populations of
24 greater than 500 at which between 40% to 49% of incarcerated people had refused a
25 vaccine offer: Kern Valley State Prison, Facilities A and B; California State Prison, Los
26 Angeles County, Facility B; North Kern State Prison, Facility A, Pleasant Valley State
27 Prison, Facility B; Substance Abuse Treatment Facility and State Prison, Facility C, Sierra
28 Conservation Center, Facility C; Solano State Prison, Facility B, and Salinas Valley State
prison, Facility B. There were also about 30 smaller general population small units or
yards, most housing less than 100 people, with refusal rates of 45% or higher.

⁵ Approximately 1,000 incarcerated people remain unvaccinated at Salinas Valley.

⁶ As of July 27, approximately 1,800 incarcerated people in CDCR with a Weighted
COVID Risk Score of three or above, equal to approximately 10% of such patients, are
unvaccinated, according to the CCHCS Registry.

1 nursing staff to do the same over the next 30 days for those with a Risk Score of two who
2 have refused vaccine. CCHCS also implemented a change to EHRS such that if a patient
3 is vaccinated that information will auto-populate in the medical provider's note at each
4 encounter. This should help providers identify those who are not vaccinated, so that they
5 can discuss the matter with the patient.

6 While there have been newly identified COVID cases among incarcerated people in
7 the last 30 days, the numbers fortunately remain relatively low. However, in the last week
8 there was an outbreak, numbering 36 cases as of early July 27, at the Sierra Conservation
9 Center. More broadly, CCHCS reports there have been a total of 88 breakthrough
10 infections of fully vaccinated patients, including one hospitalization. The risk of outbreaks
11 and thus of harm to residents, including the vaccinated, remains significant, particularly
12 given the Delta variant and the number of new COVID infections among staff (see data
13 below).

14 Staff

15 We await the report from the Receiver regarding staff vaccinations. CCHCS data
16 shows that as of July 23 the statewide institutional staff vaccination rate (at least one dose
17 received) was only 53%. CCHCS says the rate for custody staff as of July 19 was 42%
18 overall, and among correctional officers – the job classification which has the most direct
19 contact with residents – the rate was only 41% statewide. The highest rate among
20 correctional officers was at San Quentin, with 61%. At California Health Care Facility,
21 the prison with the highest concentration of medically vulnerable patients, only 49% of
22 officers were vaccinated. The vaccination rate for officers at some prisons is far lower.
23 For example, only 16% of officers were vaccinated as of July 19 at High Desert State
24 Prison. There are also large numbers of unvaccinated staff among certain medical job
25 classifications.⁷

26 _____
27 ⁷ For example, data provided by CCHCS shows that as of July 19, 76% of Registered
28 Nurses, 76% of Certified Nurse Assistants, 64% of Licensed Vocational Nurses, and 58%
of Medical Assistants were vaccinated.

1 We continue to believe that vaccination against COVID-19 should be mandated for
2 all CDCR and CCHCS staff in the prisons. Staff are the primary vector for coronavirus
3 getting into the prisons, and those who are unvaccinated pose a much higher risk of
4 infecting residents and other staff. In addition, when staff are infected, residents, infected
5 or not, are impacted by quarantines, restricted programs, and limited medical care,
6 including postponement of previously scheduled specialty services. Further incentive
7 programs will not substantially increase current staff vaccination rates, based on recent
8 experience and studies of vaccine incentives in similar contexts.⁸

9 Regarding current COVID-19 infections among staff, CCHCS on July 16 reported
10 142 active cases statewide. On July 23, it reported 203 active cases among prison staff
11 statewide. This total was approximately ten times the number of active patient cases
12 reported that same date. On July 26, CCHCS said that routine testing last week of cadets
13 who were completing their training at the CDCR correctional officer academy (located in
14 Galt) identified 11 cases of COVID. CCHCS said a contact investigation is underway and
15 that assignments of cadets to the prisons is on hold until it can ensure that the cadets pose
16 no risk to others.

17 *Defendants' Position:* CCHCS and CDCR's efforts to vaccinate the incarcerated
18 population have been successful. Defendants are particularly pleased that the vast majority
19 of medically high-risk patients accepted the vaccine. CDCR continues to partner with
20 CCHCS to implement measures to encourage voluntary acceptance of the vaccine by
21 incarcerated people. For example, CCHCS's Electronic Health Record System informs
22 healthcare providers of patients' vaccination status, providing additional opportunities for
23 healthcare providers to discuss vaccination with patients as appropriate. CCHCS and
24 CDCR have also conducted in-person vaccine education programs at several institutions.

25
26 ⁸ Defendants below state we provide no support for the statement that further incentive
27 programs will not substantially increase staff vaccination rates. We discussed this matter
28 in detail in our June 14 memorandum to the Receiver. *See* ECF No. 3605-1 at PDF pages
4-7.

1 On July 16, 2021, CCHCS reported its recent event at Salinas Valley State Prison was
2 successful—approximately 106 incarcerated people accepted a COVID-19 vaccine at the
3 event and another 20 signed up to take the vaccine at a later time. CCHCS and CDCR
4 hope to conduct similar programs at other institutions, particularly those with lower
5 vaccine acceptance rates, and appreciate the Prison Law Office’s assistance at the events
6 its attorneys are able to attend.

7 The Receiver’s office and CDCR continue their efforts to educate and encourage
8 voluntary vaccine acceptance by staff. Since the last case management conference, the
9 percentage of staff with at least one dose of a COVID-19 vaccine increased from
10 approximately 54% to approximately 55%. The number of vaccinated institutional staff
11 increased from approximately 52% to approximately 53%. As reported in previous
12 statements, CCHCS and CDCR will arrange one-on-one consultations with unvaccinated
13 incarcerated people and staff members to address any concerns they have related to taking
14 a COVID-19 vaccine, and to assist them in making informed decisions about being
15 vaccinated. These consultations will start on August 2, 2021 and are expected to conclude
16 on September 13, 2021. It is anticipated each consultation will be scheduled for 30
17 minutes. Defendants and the Receiver’s office will continue to consider additional
18 incentives to encourage staff—particularly those who work in the prisons—to voluntarily
19 accept the vaccine.

20 Defendants disagree with Plaintiffs’ contention that “further incentive programs
21 will not substantially increase current staff vaccination rates, based on recent experience
22 and studies of vaccine incentives in similar contexts.” Whereas Plaintiffs tout CCHCS’s
23 efforts to vaccinate the incarcerated population, including the recent successful outreach
24 event at Salinas Valley, Plaintiffs fail to explain why education and incentives are only
25 effective for incarcerated persons, but not for staff. Plaintiffs also do not provide citations
26 or references to the experiences or studies they appear to rely on in forming their position
27 on incentive programs for staff. Without this information, Defendants are unable to
28

1 substantively respond to their position except to note that it appears to be unsupported by
2 evidence and should be weighted accordingly.

3 At the previous case management conference, the Receiver informed the parties that
4 a decision regarding a mandatory COVID-19 vaccine policy for CDCR and CCHCS's staff
5 would be provided before the July 29, 2021 case management conference. Defendants
6 look forward to the Receiver's decision.

7 Finally, on July 26, 2021, Governor Newsom announced a new COVID-19 safety
8 measure that requires state employees to show proof of vaccination by August 2, 2021 or,
9 in the absence of such proof, submit to weekly COVID-19 testing in addition to wearing
10 masks.⁹ This policy will take effect for congregate facilities on August 9.¹⁰ Although
11 congregate settings like prisons are required to test unvaccinated or incompletely
12 vaccinated employees once per week,¹¹ CDCR will implement a more stringent policy:
13 CDCR employees who do not verify their vaccination status or are not fully vaccinated
14 must submit to *twice*-weekly COVID-19 testing in addition to wearing a mask. CDCR's
15 existing practices require each person in its institutions to wear a mask, and each
16 unvaccinated employee to submit to regular COVID-19 testing. CDCR will comply with
17 the Governor's new measure by timely implementing a mechanism for obtaining proof of
18 vaccination from its employees.

19 **II. POPULATION REDUCTION**

20 *Plaintiffs' Position:* CDCR's population continues to slowly increase. As of July
21 27, per the CCHCS Vaccination Registry, approximately 99,100 people were incarcerated,

22 _____
23 ⁹ Office of Governor Gavin Newsom, *California Implements First-in-the-Nation*
24 *Measures to Encourage State Employees and Health Care Workers to Get Vaccinated* (Jul.
25 26, 2021), <https://www.gov.ca.gov/2021/07/26/california-implements-first-in-the-nation-measures-to-encourage-state-employees-and-health-care-workers-to-get-vaccinated/>.

26 ¹⁰ *Id.*

27 ¹¹ See California Department of Public Health, *State Public Health Officer Order of July*
28 *26, 2021* (Jul. 26, 2021), <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Unvaccinated-Workers-In-High-Risk-Settings.aspx> (unvaccinated or incompletely vaccinated workers at high-risk congregate settings, which include correctional facilities, must be tested at least once weekly)

1 an increase of approximately 600 from June 25. We acknowledge the current population is
2 approximately 20,000 fewer than pre-pandemic levels in March 2020, but remain
3 concerned that the population now continues to steadily increase. As of mid-July,
4 according to information received in the *Coleman* case, approximately 3,400 people in
5 county jails were pending transportation to CDCR.

6 CDCR has suspended the only remaining COVID-related early release program,
7 begun approximately a year ago, which had applied to some who had 180 days or less to
8 serve. From July 1, 2020 to June 30, 2021 (the most recent date for which CDCR has
9 provided data), this program resulted in more than 9,000 people paroling or being released
10 to community supervision earlier than they otherwise would have been, including
11 approximately 2,300 in the first six months of this year.¹²

12 We continue to believe that efforts to reduce population remain necessary given the
13 risk from COVID-19. *See* ECF No. 3579 at 9:21-11:1. The suspending of the 180-day
14 program is premature. It was a key part of the effort to reduce the spread of the virus in
15 prisons, including CDCR's ability to safely and fully set aside beds to use for isolation and
16 quarantine of patients. We will closely monitor population levels and related data in the
17 coming weeks and months.

18 *Defendants' Position:* CDCR implemented an early-release program as an
19 emergency measure in response to the COVID-19 pandemic at a time when safety
20 protocols were being developed.¹³ Separate from its July 2020 program, CDCR's
21 Secretary also personally reviewed and granted early releases on a discretionary basis to
22 certain incarcerated people who were at a high risk of suffering complications from

23
24 _____
25 ¹² This total was determined based on statewide releases under the program as of June 30,
26 2021 (the most recent date for which data is available), compared to the number of such
27 releases as of December 30, 2020.

28 ¹³ *See* ECF No. 3389 at 2:4-5:4 and <https://www.cdcr.ca.gov/covid19/expedited-releases/>
for details regarding CDCR's COVID-19 early-release program announced on July 10,
2020.

1 COVID-19 or who were otherwise appropriate candidates for early release.¹⁴ These efforts
2 resulted in approximately 10,115 releases as of July 22, 2021. And although COVID-19
3 cases have remained consistently low, CDCR has continued to release incarcerated people
4 through the 180-day early-release program, the program has resulted in the largest number
5 of early releases—approximately 9,489 since July 2020.

6 CDCR was able to implement these measures under California Government Code
7 section 8658, which authorizes the release of incarcerated people from institutions when an
8 emergency endangers their lives. But now CCHCS and CDCR have a robust COVID-19
9 mitigation framework in place, including stringent quarantine, testing, and transfer
10 protocols, which they continue to evaluate and improve as more is learned and
11 circumstances change. And, as discussed above, CCHCS and CDCR's COVID-19 vaccine
12 program has been successful among the patient population. Accordingly, CDCR has
13 determined the emergent circumstances that justified the implementation of its early-
14 release efforts no longer exist, and will therefore suspend the 180-day early-release
15 program on July 28, 2021. CDCR has processed approximately 650 releases through the
16 180-day program this month, and will continue to process releases for those already
17 deemed eligible for early release through this program.

18 CDCR is focusing on carefully alleviating the backlog of people currently awaiting
19 transfer in county jails to CDCR custody while COVID-19 case numbers in CDCR remain
20 consistently low. As a result, CDCR is experiencing a slow and modest population
21 increase. As part of its continued efforts to keep the incarcerated population and staff
22 members safe from COVID-19, each intake is carefully evaluated, taking into
23 consideration space needs, staff availability, and transfer-related testing and quarantine
24 protocols.¹⁵

25 _____
26 ¹⁴ See ECF No. 3530 at 11:16-12:25 for a sampling of these additional early-release
27 efforts.

28 ¹⁵ The most recent version of the COVID-19 Screening and Testing Matrix for Patient
Movement is available at [https://cchcs.ca.gov/wp-
content/uploads/sites/60/COVID19/Appendix13-PatientMovement.pdf](https://cchcs.ca.gov/wp-content/uploads/sites/60/COVID19/Appendix13-PatientMovement.pdf).

1 **III. QUARANTINE**

2 *Plaintiffs' Position:* Consistent with public health recommendations, CCHCS and
3 CDCR quarantine residents who have close contact with a confirmed COVID-19 case and
4 have not tested positive in the last 90 days. Quarantine for exposure, as it is sometimes
5 called, lasts at least 14 days and results in restricted programming and medical services.
6 Substantial numbers of people are adversely impacted by such quarantines, including in
7 prisons putatively designated as Reopening Phase 3 ("the new normal"). For example,
8 according to our *Coleman* case co-counsel who were at the California Health Care Facility
9 last week, 16 housing units comprising hundreds of patients were on quarantine due to
10 confirmed cases among staff. We believe staff cases are currently the primary cause of
11 quarantine for exposure orders statewide.

12 CCHCS and CDCR also place people on "precautionary quarantine" when there has
13 been no close contact with a confirmed case but there is a concern that a positive case
14 could cause an outbreak. For example, new arrivals in reception centers, and those who
15 transfer between prisons and are not vaccinated, are placed on precautionary quarantine.
16 This quarantine also lasts at least 14 days and results in restricted programming and
17 medical services.

18 On July 14, CCHCS reported that more than 1,100 people statewide were on
19 quarantine for exposure, and approximately 5,000 were on precautionary quarantine. But
20 it also said the total quarantined was approximately 2,700. When asked about this
21 discrepancy, CCHCS said that its quarantine data collection processes were undergoing
22 review. We await further information regarding this matter. Full and accurate data
23 regarding the number quarantined is important, both to monitor the necessary public health
24 efforts, and to understand the continuing impact of the pandemic, including that caused by
25 newly confirmed COVID cases among staff.

26 *Defendants' Position:* Defendants continue to utilize quarantine procedures
27 consistent with the CCHCS Movement Matrix and CDC guidelines. Quarantine has been
28

1 an effective tool in reducing the risk of infections. As Plaintiffs note, precautionary
2 quarantine is used with new arrivals in reception centers, and those who transfer between
3 prisons, which is consistent with the current version of the Movement Matrix. These
4 precautionary measures have been effective—to date, no outbreak has been traced to
5 county jail intake conducted in accordance with CCHCS’s Movement Matrix. Moreover,
6 while a quarantined incarcerated person may see a reduction in their programming, it is
7 only temporary. The benefits of quarantine, however, along with other COVID prevention
8 measures that CDCR and CCHCS have implemented, have contributed to the drastic
9 reduction of infections.

10 **IV. HOUSING UNIT VENTILATION**

11 *Plaintiffs’ Position:* Housing unit ventilation remains a concern given its role in
12 spreading the virus that causes COVID-19. CDCR is pursuing two initiatives related to
13 ventilation: (1) the installation of upgraded filters, known as MERV-13s, in housing unit
14 ventilation systems that use recirculated air and can adequately operate with such filters,
15 and (2) inspections of each prison’s housing unit ventilation systems so as to evaluate,
16 prioritize, and presumably make necessary repairs. These upgrades and repairs, in our
17 view, must be completed before the cold weather months begin, given last winter’s surge
18 in cases in cellblocks, which has been partly attributed to inadequate or poorly functioning
19 ventilation systems.

20 With regard to MERV-13 filters, a July 16 report provided by CDCR shows that
21 five prisons will not have the filters installed because they do not use recirculated air, and
22 one other will not because its ventilation system due to its design would not operate
23 adequately with them. *See* “Outside Air Ventilation and MERV-13 Filters,” attached
24 hereto as Exhibit A. Fourteen prisons, according to the report, have fully installed the
25 filters, and the remaining fourteen prisons are estimated to install MERV-13 filters
26 between now and October. *See id.* & “MERV-13 Filter Installation Schedule,” also
27 attached hereto as Exhibit A.

28

1 CDCR further reports a delay in its preparation of an Executive Summary of the
2 individual prison ventilation system inspections for the Receiver and CDCR Secretary.
3 The delay is attributed to delays in receiving information about the inspections from the
4 prisons. CDCR now says it is “targeting” a mid to late August for completing the
5 summary.

6 CDCR says it will provide a copy of the Executive Summary when complete but
7 has refused to provide the data about the inspections received from the prisons. We have
8 asked for a phone call with a CDCR person knowledgeable about the project, so we can
9 obtain basic information about what is being reviewed and the scope of potential findings
10 and recommendations. Our key concern, especially with this most recent delay, is that
11 there will be very little time – only approximately two months – to determine what needs
12 to be done and for repairs to be made before the cold weather season begins, especially if
13 funding and contracts are necessary for the work to be done.

14 *Defendants’ Position:* Defendants continue to provide Plaintiffs with updates
15 regarding CDCR’s ongoing efforts to inspect prison ventilation systems. CDCR is making
16 good progress with this project. Currently, approximately 50% of all housing units in
17 CDCR’s institutions use MERV-13 filters or filters with higher efficiency. This is an
18 increase since Defendants’ report in the previous CMC statement, when approximately
19 43% of housing units were using MERV-13 or higher-efficiency filters. Approximately
20 48% of housing units currently use 100% outside air. Of the 373 housing units currently
21 using 100% outside air, 178 may switch to recirculated air when needed depending on
22 weather conditions in individual institutions’ regions. MERV-13 or higher-efficiency
23 filters will not be installed in certain housing units at the California Institution for Women,
24 California Rehabilitation Center, Correctional Training Facility, and San Quentin State
25 Prison where interior air is not recirculated. The MERV-13 filter installation schedule set
26 forth in Plaintiffs’ position above is consistent with Defendants’ records. Finally, as
27 previously discussed with Plaintiffs, CDCR is in the process of analyzing data obtained
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1 from its ventilation unit inspections and preparing a report with its findings and
2 recommendations for the Secretary and Receiver's review. As Plaintiffs note, the
3 projected timeframe to complete this task is mid- to late-August. It is premature to discuss
4 data that is still being analyzed with non-CDCR employees. CDCR will arrange a phone
5 call with Plaintiffs once the Secretary and Receiver have had an opportunity to review its
6 findings.

7 **V. RESUMPTION OF SERVICES**

8 *Plaintiffs' Position:* The following is provided for the Court's information, and is
9 based on information provided by CCHCS in response to recent requests or via regularly
10 provided monthly documents. Backlogs of primary care and specialty service orders,
11 largely caused by delays during the pandemic, remain substantial and are only very slowly
12 decreasing. As of July 15, CCHCS reported 8,600 overdue appointments for specialty
13 services, compared to just over 9,000 in mid-May.

14 We are especially concerned about cancer screening ultrasounds for end stage liver
15 disease patients, given the risk posed by overdue screenings. *See* ECF 3605 at 13, fn. 5.
16 As of May, approximately 1,000 patients were overdue for such imaging. CCHCS reports
17 there are now 876 overdue.

18 We also recently asked about optometry appointments, for which thousands are
19 overdue statewide, including in particular at a half-dozen prisons. For example, as of July
20 1, California Health Care Facility (CHCF) had approximately 700 overdue optometry
21 appointments pending, including some ordered high priority (to take place within 14 days)
22 which had been pending for months. A July 26 CCHCS response indicated that a lack of
23 registry optometrists is a problem at the prisons with large backlogs. CCHCS also
24 indicated it has directed prisons to make sure that ordered optometry appointments are
25 truly necessary (some replacement glasses can be ordered without an appointment, and
26 other patients may just need reading glasses), and that it was willing to explore the use of
27 mobile optometry clinics (but again noting the lack of registry optometrists). CCHCS
28

1 further reported that it believed it could eliminate optometry backlogs at three of the half-
2 dozen prisons with substantial backlogs within the next two to four months. Based on the
3 number of appointments CCHCS says it is able to currently provide, CHCF will take
4 several months to eliminate its optometry backlog, even assuming no further orders for that
5 service are made. We plan to further discuss this issue with CCHCS, including whether
6 the pay rate for registry optometrists can be increased to provide additional incentives, as
7 was done in the past for registry primary care providers.

8 CCHCS also released a revised schedule for training of prisons regarding its
9 necessary emergency medical response improvement project, which had been stalled by
10 the pandemic. *See* ECF No. 3579 at 16:20-17:7. Under that schedule, all but six of the
11 prisons will receive training by May 2022, with the training dates for the remaining prisons
12 still to be determined but presumably to occur in the months after that date. CCHCS has
13 explained that approximately a year of post-training work is required before a prison is
14 certified to use the new emergency medical response procedures, it is now likely that it
15 will be late 2023 at the earliest before all prisons are so certified.

16 Efforts to provide medication assisted treatment (MAT) to those with opioid use
17 disorders, to CCHCS's and Defendants' credit, increased during the pandemic, and are
18 continuing. As of June 16, nearly 11,000 patients statewide were receiving MAT. While
19 the number of overdue initial addiction medicine appointments has been almost halved
20 since November 2020, more than 3,000 such appointments remain backlogged, with more
21 than 1,000 of those more than six months overdue. If the current pace continues, it will be
22 early 2022 before the backlog is eliminated. More broadly, group counseling for substance
23 use disorder patients has not yet broadly re-started, nor has the clustering of such patients
24 in therapeutic community housing units.

25 Finally, we asked CCHCS this month about its project, initiated in mid-2018, to
26 evaluate, offer, and provide direct-acting antiviral (DAA) medication to patients diagnosed
27 with HCV. This medication essentially cures the patient of the disease. CCHCS reports
28

1 that more than 19,000 HCV patients have been started on DAA medication since the
2 project began. Not surprisingly, the number of new treatment starts during the pandemic,
3 while still notable, was substantially less than in either of the two previous years, and
4 many patients await evaluation and, if appropriate, treatment. The most recent data from
5 CCHCS, from the end of May, showed almost 500 Risk Group 1 HCV patients – those
6 most at risk of suffering serious consequences from the disease – have not been offered
7 treatment, as well as nearly 4,000 other Risk Group 2 and 3 patients. CCHCS reports that
8 it has recently discussed HCV treatment efforts with physician leaders in the prisons,
9 including on July 21. We appreciate medical headquarters' focus on this matter and will
10 continue to monitor efforts at the prisons.

11 *Defendants' Position:* With COVID-19 case numbers relatively low and a large
12 percentage of the incarcerated population vaccinated, CDCR is focusing on resuming pre-
13 pandemic programming to the extent possible. Even while resuming programming,
14 quarantine may be necessary in the event of an exposure to COVID-19 to protect those
15 exposed and prevent an outbreak. CDCR recognizes that quarantine impairs incarcerated
16 people's ability to program and therefore carefully evaluates the need in consultation with
17 CCHCS before instituting a quarantine. Additionally, CCHCS is addressing specialty
18 services orders that were previously postponed. CDCR is committed to working closely
19 with CCHCS to do its part in facilitating these specialty services.

20

21

22 DATED: July 27, 2021

HANSON BRIDGETT LLP

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By: /s/ Samantha Wolff

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DATED: July 27, 2021

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Exhibit A

Outside Air Ventilation and MERV-13 Filters

(Based on Information as of 7/16/21)

| Institution | Total Number of Housing Units | Number of Housing Units <u>with</u> MERV-13 Filters Installed ¹ | Number of Housing Units <u>without</u> MERV-13 Filters Installed ² | Number of Housing Units Currently Using 100% Outside Air |
|---------------|-------------------------------|--|---|--|
| ASP | 24 | 24 | 0 | 0 |
| CAC | 10 | 10 | 0 | 0 |
| CAL | 23 | 23 | 0 | 0 |
| CCC | 21 | 18 | 3 | 6 |
| CCI | 22 | 1 | 21 | 22 |
| CCWF | 16 | 0 | 16 | 16 |
| CEN | 23 | 4 | 19 | 0 |
| CHCF | 29 | 29 | 0 | 0 |
| CIM | 26 | 26 | 0 | 26 |
| CIW | 9 | 0 | 9 | 9 |
| CMC | 41 | 0 | 41 | 41 |
| CMF | 24 | 6 | 18 | 24 |
| COR | 27 | 4 | 23 | 0 |
| CRC | 49 | 4 | 45 | 46 |
| CTF | 22 | 8 | 14 | 14 |
| CVSP | 14 | 14 | 0 | 0 |
| DVI | 1 | 0 | 1 | 1 |
| FSP | 18 | 8 | 10 | 10 |
| HDSP | 21 | 21 | 0 | 0 |
| ISP | 22 | 22 | 0 | 22 |
| KVSP | 20 | 5 | 15 | 0 |
| LAC | 23 | 1 | 22 | 21 |
| MCSP | 23 | 23 | 0 | 6 |
| NKSP | 25 | 25 | 0 | 25 |
| PBSP | 33 | 0 | 33 | 0 |
| PVSP | 23 | 23 | 0 | 0 |
| RJD | 25 | 25 | 0 | 3 |
| SAC | 15 | 15 | 0 | 4 |
| SATF | 27 | 0 | 27 | 27 |
| SCC* | 11 | 0 | 11 | 0 |
| SOL | 24 | 24 | 0 | 24 |
| SQ | 10 | 8 | 2 | 10 |
| SVSP | 21 | 0 | 21 | 0 |
| VSP | 16 | 1 | 15 | 16 |
| WSP | 28 | 6 | 22 | 0 |
| Totals | 766 | 378 | 388 | 373 |

¹ Includes filters with higher efficiency (MERV-14).² At CIW, CRC, CTF, FSP and SQ, the air handling units of the housing units listed in this column do not recirculate any amount of

* System design does not allow for installation of MERV-13 filters due to resulting decreased air flow. MERV-11 is the highest efficiency that provides sufficient airflow.

MERV-13 Filter Installation Schedule**(Based on Information as of 7/16/21)**

| Institution | Estimated Installation Date |
|--------------------|------------------------------------|
| CCC | July 2021 |
| CCI | October 2021 |
| CCWF | September 2021 |
| CEN | August 2021 |
| CMC | October 2021 |
| CMF | August 2021 |
| COR | September 2021 |
| KVSP | August 2021 |
| LAC | October 2021 |
| PBSP | October 2021 |
| SATF | September 2021 |
| SVSP | August 2021 |
| VSP | October 2021 |
| WSP | August 2021 |