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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Victor Antonio Parsons, et al.,

No. CV-12-00601-PHX-ROS

10 Plaintiffs,

ORDER

11 v.

12 David Shinn,

13 Defendant.
14

15 Pursuant to the Stipulation, Performance Measure 44 requires that “[i]nmates
16 returning from an inpatient hospital stay or ER transport with discharge recommendations
17 from the hospital shall have the hospital’s treatment recommendations reviewed and acted
18 upon by a medical provider within 24 hours.” (Doc. 1185-1 at 24.) The Court found PM
19 44 at Tucson substantially noncompliant on April 23, 2020. (Doc. 3574.) In compliance
20 with Paragraph 36 of the Stipulation (Doc. 1185 ¶ 36), before the Court gains the power to
21 enforce compliance, the Court is required to first provide Defendants an opportunity to
22 develop a remedial plan to bring the measure into compliance. Defendants’ remedial plan
23 for PM 44 is as follows:

24 **Basis of Non-Compliance:**

25 Providers are not documenting rationale for changing medications and are
26 not placing consults within timeframe. Additionally, providers need to sign
27 off on nursing note forwarded to them for review.

28 **Corrective Action Plan:**

This PM is monitored daily to determine if documentation was completed

1 correctly. On identifying a non-compliant chart, the provider is alerted to the
2 discrepancies or need for further explanation, and documentation is entered
3 to ensure compliance. The SMD [Site Medical Director] discussed continued
4 vigilance at provider meetings on 08/27/2019 and 10/09/2019. The SMD
5 continued to provide the providers education on 03/10/2020 during a meeting
6 to help clarify lingering issues. The education provided included the
7 following: 1) All discharge recommendations must be reviewed and acted
8 upon within 24 hours; 2) Any deviations from recommendations to include
9 but not limited to medication orders and consult referrals must state a reason
10 for the deviation; 3) All consult recommendations must be entered within the
11 24-hour timeframe; and 4) Lab orders and medication orders must be entered
12 within the 24-hour timeframe. This education was provided via PowerPoint
13 presentation as well as email communication.

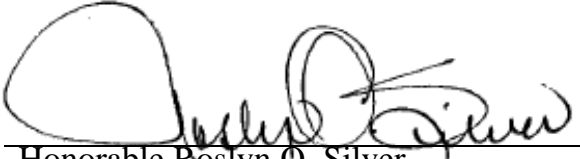
14 (Doc. 3585)

15 The Stipulation requires the remedial plan be “approved by the Court.” While this
16 may grant the Court the authority to reject a proposed remedial plan as insufficient, the
17 Court will accept this remedial plan with the following observations.

18 It has now been over five years since Defendants agreed to perform PM 44. But
19 even before the Court found PM 44 at Tucson substantially noncompliant in April 2020,
20 noncompliance was persistent. The Court is concerned that a remedial plan that simply
21 provides education to healthcare staff about the fundamental requirements of PM 44 may
22 not have a meaningful chance of success. If Defendants believe their remedial plan
23 represents their best effort to bring this measure into compliance, the Court is not presently
24 in a position to second-guess that belief. Like all other PMs, however, if this remedial plan
25 does not prove successful, the Court is obligated by the terms of the Stipulation to pursue
26 “all remedies provided by law” to bring PM 44 into compliance.

27 **IT IS ORDERED** Defendants’ remedial plan for PM 44 at Tucson (Doc. 3585) is
28 accepted.

Dated this 19th day of May, 2020.


Honorable Roslyn O. Silver
Senior United States District Judge