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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Kilian Gregoire Hale,
10 Plaintiff,

11 v.

12 A. Ferguson and Alice Warren,
13 Defendants.
14

No. CV-20-00558-TUC-JCH

ORDER

15 Before the Court is Plaintiff Kilian G. Hale's pro se "Motion to Compel Discovery
16 pursuant to the Fed. R. Civ. P. Rule 37(a)(2)." (Doc. 73.)

17 **I. BACKGROUND**

18 In 2021, the Court issued a screening order permitting Hale's Eighth Amendment
19 claims against Defendants Warren and Ferguson to proceed and dismissing all other
20 defendants and claims. (Doc. 21.) To state a § 1983 medical claim under the Eighth
21 Amendment, a plaintiff must show (1) a "serious medical need" by demonstrating that
22 failure to treat the condition could result in further significant injury or the unnecessary
23 and wanton infliction of pain and (2) the defendant's response was deliberately indifferent.
24 *Jett v. Penner*, 439 F.3d 1091, 1096 (9th Cir. 2006).

25 The Screening Order set out the following facts regarding the remaining
26 Defendants:

27 On August 26, 2020 [after testing positive for COVID-19], Plaintiff
28 submitted a Health Needs Request (HNR), and was seen for an E.K.G. [Doc.
19 at 6.] Plaintiff was prescribed Tylenol for his headaches, but "never saw

1 the provider, Defendant N.P. Alice Warren." *Id.* On September 3, 2020,
2 Plaintiff was assigned to a "hard labor" job in the kitchen, which made his
3 symptoms worse. *Id.* On September 10, 2020, Plaintiff submitted another
4 HNR, and was told that he would be scheduled to see "the provider"
5 (presumably, Defendant Warren). *Id.* at 7. A nurse told Plaintiff that she
6 would ask Warren to prescribe Excedrin for Plaintiff's headaches in the
7 meantime. Plaintiff never received any Excedrin. *Id.*

8 On September 12, 2020, Plaintiff submitted an informal complaint
9 resolution, and, on October 6, 2020, he submitted a medical grievance to
10 Defendant Ferguson regarding the lack of any visit with Defendant Warren,
11 the failure to receive the Excedrin, and his "increasing serious COVID-
12 related health problems." *Id.* On October 9, 2020, Plaintiff was seen by
13 Warren. (Doc. 19 at 7.3) Plaintiff told her Tylenol did not work, his
14 symptoms were getting worse, and asked to be referred to a virologist.
15 Warren "dismissed Plaintiff's serious medical needs as being allergies." *Id.*
16 Plaintiff then asked for Excedrin for his headaches, but Warren "suggested
17 that Plaintiff should purchase ibuprofen from the store if the Tylenol did not
18 help." *Id.* Plaintiff told Warren that he was indigent and unable to purchase
19 ibuprofen, and, in any event, that he was not supposed to take ibuprofen "due
20 to kidney problems." *Id.*

21 Plaintiff then "began another round of HNRs," but the only response he
22 received from Ferguson was to "submit an HNR." *Id.* at 8. After "several
23 months went by without any medical care or treatment," Plaintiff filed
24 several more grievances and HNRs, but was not seen by the provider again
25 or provided any treatment for his symptoms. *Id.* Plaintiff alleges that the only
26 response to his grievances were from Ferguson directing him to "submit an
27 HNR."

28 (Doc. 21 at 4–5.)

II. ANALYSIS

a. Motion to Compel Legal Standard

Under Fed. R. Civ. P. 37(a)(3)(B)(iv), "A party seeking discovery may move for an order compelling . . . production . . . if . . . a party fails to produce documents." Generally, "[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the

1 discovery in resolving the issues, and whether the burden or expense of the proposed
2 discovery outweighs its likely benefit. Information within this scope of discovery need not
3 be admissible in evidence to be discoverable." Fed. R. Civ. P. 26(b)(1). Discovery is not
4 permitted on dismissed claims. *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 352
5 (1978) ("[I]t is proper to deny discovery of matter that is relevant only to claims or defenses
6 that have been stricken . . . unless the information sought is otherwise relevant to issues in
7 the case.").

8 **b. Requests for Production Nos. 1–15**

- 9 1. Any and all grievances, complaints or other documents received by
10 A.S.P.C. Tucson/Whetstone staff against defendant Alice Warren and
11 any memoranda, investigative files, or other documents created in
12 response to such complaints, since January 1, 2019.

13 Defendants are unlikely to have access to the information this request seeks because
14 it seeks information received by A.S.P.C. Tucson/Whetstone staff. A.S.P.C.
15 Tucson/Whetstone is more likely to have access to the requested information but is not
16 party to this action. Defendants also object that this request is vague, ambiguous, overly
17 broad, unduly burdensome, irrelevant, disproportionate to the needs of the case, not
18 narrowly tailored, and an impermissible fishing expedition. The Court finds that these
19 documents could be relevant to a claim of deliberate indifference because they might show
20 a pattern of behavior not visible in Hale's complaint history alone. And although aspects of
21 the request are vague, the Court finds the overall focus on documents related to Defendant
22 Warren's misconduct since 2019 is clear. This request is therefore **granted** to the extent
23 Defendant Warren has or can obtain legal access to any of these documents.

- 24 2. Any and all grievances, complaints, lawsuits, disciplinary actions,
25 reprimands or other documents received by Centurion Health or its agents
26 against defendant Alice Warren (Nurse Prac[t]itioner for Centurion
27 Health), and any settlements, [judgment]s, memoranda, investigative
28 files or other documents created in response to such complaints, since
January 1, 2018.

Defendants are unlikely to have access to the information this request seeks because
it seeks information received by Centurion Health. Centurion Health is more likely to have

1 access to the requested information but is not party to this action. Defendants repeat their
2 objections as to the first request. The Court finds that these documents could be relevant to
3 a claim of deliberate indifference because they might show a pattern of behavior not visible
4 in Hale's complaint history alone or if limited to A.S.P.C. Tucson/Whetstone. And although
5 aspects of the request are vague, the Court finds the overall focus on documents related to
6 Defendant Warren's misconduct since 2018 is clear. This request is therefore **granted** to
7 the extent Defendant Warren has or can obtain legal access to any of these documents.

- 8 3. Any and all grievances, complaints or other documents received by
9 A.S.P.C. Tucson Complex staff against defendant Alicia Ferguson
10 (Contract Facility Health Administrator for Centurion Health), and any
11 memoranda, investigative files or other documents created in response to
12 such complaints, since January 1, 2019.

12 Defendants are unlikely to have access to the information this request seeks because
13 it seeks information received by A.S.P.C. Tucson Complex staff. A.S.P.C. Tucson
14 Complex is more likely to have access to the requested information but is not party to this
15 action. Defendants repeat their objections as to the first request. The Court finds that these
16 documents could be relevant to a claim of deliberate indifference because they might show
17 a pattern of behavior not visible in Hale's complaint history alone. And although aspects of
18 the request are vague, the Court finds the overall focus on documents related to Defendant
19 Ferguson's misconduct since 2019 is clear. This request is therefore **granted** to the extent
20 Defendant Ferguson has or can obtain legal access to any of these documents.

- 21 4. Any and all grievances, complaints, lawsuits, disciplinary actions,
22 reprimands or other documents received by Centurion Health or its agents
23 against defendant Alicia Ferguson (Contract Facility Health
24 Administrator for Centurion Health), and any settlements, [judgment]s,
25 memoranda, investigative files or other documents created in response to
26 such complaints, since January 1, 2018.

25 Defendants are unlikely to have access to the information this request seeks because
26 it seeks information received by Centurion Health. Centurion Health is more likely to have
27 access to the requested information but is not party to this action. Defendants repeat their
28 objections as to the first request. The Court finds that these documents could be relevant to

1 a claim of deliberate indifference because they might show a pattern of behavior not visible
2 in Hale's complaint history alone or if limited to A.S.P.C. Tucson/Whetstone. And although
3 aspects of the request are vague, the Court finds the overall focus on documents related to
4 Defendant Ferguson's misconduct since 2018 is clear. This request is therefore **granted** to
5 the extent Defendant Ferguson has or can obtain legal access to any of these documents.

- 6 5. Any and all communications, electronically stored information (including
7 Emails), reports, advisements, directives, instructions, memoranda, or
8 other documents regarding the COVID-19 virus and the Arizona
9 Department of Corrections (including A.S.P.C. Tucson/Whetstone Unit;
10 within Centurion Health between the staff, officials, employees, or its
11 agents, since January 1, 2020 to January 1, 2021

12 Defendants are unlikely to have access to the information this request seeks because
13 it seeks communications and stored information from the Arizona Department of
14 Corrections. The Arizona Department of Corrections is more likely to have access to the
15 requested information but is not party to this action. This request also seeks information
16 that is irrelevant to Hale's claim of Defendant Warren's deliberate indifference in failing to
17 prescribe Excedrin or diagnose Hale's COVID-19 symptoms, or to Hale's claim of
18 Defendant Ferguson's deliberate indifference to Hale's complaints about Defendant
19 Warren's care. For similar reasons, this request is overbroad and not proportionate to the
20 needs of the case because it includes documents that could not support Hale's claims. This
21 request is therefore **denied**.

- 22 6. Any and all communications, electronically stored information (including
23 Emails), reports, advisements, directives, instructions, memoranda, or
24 other documents; between Centurion Health staff, officials, employees,
25 or its agents with the Arizona Department of Corrections regarding the
26 COVID-19 virus, since January 1, 2020 to January 1, 2021.

27 Defendants are unlikely to have access to the information this request seeks because
28 it seeks communications and stored information from the Arizona Department of
Corrections and Centurion Health. The Arizona Department of Corrections and Centurion
Health are more likely to have access to the requested information but are not parties in
this action. This request also seeks information that is irrelevant to Hale's claim of

1 Defendant Warren's deliberate indifference in failing to prescribe Excedrin or diagnose
2 Hale's COVID-19 symptoms, or to Hale's claim of Defendant Ferguson's deliberate
3 indifference to Hale's complaints about Defendant Warren's care. For similar reasons, this
4 request is overbroad and not proportionate to the needs of the case because it includes
5 documents that could not support Hale's claims. This request is therefore **denied**.

- 6 7. Any and all communications, electronically stored information (including
7 Emails), reports, advisements, directives, instructions, memoranda, or
8 other documents; between Centurion Health staff, officials, employees,
9 or its agents with the Arizona State Prison Complex-Tucson (including
10 A.S.P.C. Tucson/Whetstone Unit), regarding the COVID-19 virus, since
11 January 1, 2020 to January 1, 2021.

12 Defendants are unlikely to have access to the information this request seeks because
13 it seeks communications and stored information from Centurion Health and the Arizona
14 State Prison Complex-Tucson (including A.S.P.C. Tucson/Whetstone). Centurion Health
15 and the Arizona State Prison Complex-Tucson are more likely to have access to the
16 requested information but are not parties in this action. This request also seeks information
17 that is irrelevant to Hale's claim of Defendant Warren's deliberate indifference in failing to
18 prescribe Excedrin or diagnose Hale's COVID-19 symptoms, or to Hale's claim of
19 Defendant Ferguson's deliberate indifference to Hale's complaints about Defendant
20 Warren's care. For similar reasons, this request is overbroad and not proportionate to the
21 needs of the case because it includes documents that could not support Hale's claims. This
22 request is therefore **denied**.

- 23 8. Any and all policies, directives, reports, protocols, instructions,
24 memoranda, or other documents regarding communicable diseases
25 (including the COVID-19 virus) and infectious disease controls of
26 Centurion Health/Az. Dept. of Corrections, including the Health Services
27 Technical Manual, the Mandatory Exposure Control Plan, ADOC Policy,
28 Dept. Order #116-Employee Communicable Disease Exposure Control
Plan, and the Section 8 Housekeeping within the ADOC Department
Order Manual.

Defendants are unlikely to have access to the information this request seeks because
it seeks various documents from Centurion Health and the Arizona Department of
Corrections. Centurion Health and the Arizona Department of Corrections are more likely

1 to have access to the requested information but are not parties. This request also seeks
2 information that is irrelevant to Hale's claim of Defendant Warren's deliberate indifference
3 in failing to prescribe Excedrin or diagnose Hale's COVID-19 symptoms, or to Hale's claim
4 of Defendant Ferguson's deliberate indifference to Hale's complaints about Defendant
5 Warren's care. For similar reasons, this request is overbroad and not proportionate to the
6 needs of the case because it includes documents that could not support Hale's claims. This
7 request is therefore **denied**.

8 9. Any and all reports filed by defendant Alicia Ferguson (CHFA) or
9 designee of for Centurion Health in accordance with ADOC Department
10 Order #1102, 1.0- Communicable Disease Reporting Requirement, filed
11 with the Arizona Department of Health and Safety (ADHS) or local
12 county Health Department (including the summary listed in Dept. Order
13 #1102, 1.3.4; and "all" monthly report filings), as was required since
14 January 1, 2020 to January 1, 2021.

13 This request seeks information that is irrelevant to Hale's claim of Defendant
14 Warren's deliberate indifference in failing to prescribe Excedrin or diagnose Hale's
15 COVID-19 symptoms, or to Hale's claim of Defendant Ferguson's deliberate indifference
16 to Hale's complaints about Defendant Warren's care. For similar reasons, this request is
17 overbroad and not proportionate to the needs of the case because it includes documents that
18 could not support Hale's claims. This request is therefore **denied**.

19 10. Any and all communications, electronically stored data (including
20 Emails), reports, advisements, new policies regarding the COVID-19
21 virus, directives, instructions, memoranda, or other documents: between
22 defendant Alicia Ferguson (CHFA for Centurion Health) and those
23 individuals, ADOC staff and officials and agencies listed with the ADOC
24 policy Dept. Order #1102, 3.2 to #1102, 3.3., since January 1, 2020 to
25 January 1, 2021.

24 This request seeks information that is irrelevant to Hale's claim of Defendant
25 Warren's deliberate indifference in failing to prescribe Excedrin or diagnose Hale's
26 COVID-19 symptoms, or to Hale's claim of Defendant Ferguson's deliberate indifference
27 to Hale's complaints about Defendant Warren's care. For similar reasons, this request is
28 overbroad and not proportionate to the needs of the case because it includes documents that
could not support Hale's claims. This request is therefore **denied**.

1 11. Any and all communications, electronically stored information (including
2 Emails), reports, advisements, new policies regarding the COVID-19
3 virus, directives, instructions, memoranda, or other documents; between
4 the defendant Alicia Ferguson (CFHA for Centurion Health), and
5 Centurion Health staff, officials or its agents regarding the COVID-19
6 virus, since January 1, 2020 to January 1, 2021.

7 This request seeks information that is irrelevant to Hale's claim of Defendant
8 Warren's deliberate indifference in failing to prescribe Excedrin or diagnose Hale's
9 COVID-19 symptoms, or to Hale's claim of Defendant Ferguson's deliberate indifference
10 to Hale's complaints about Defendant Warren's care. For similar reasons, this request is
11 overbroad and not proportionate to the needs of the case because it includes documents that
12 could not support Hale's claims. This request is therefore **denied**.

13 12. Any and all communications, electronically stored information (including
14 Emails), reports, advisements, directives, instructions, memoranda, or
15 other documents; between the defendant Alice Warren (Nurse
16 Prac[titioner /Provider for Centurion Health), and Centurion Health
17 staff, officials or its agents regarding the COVID-19 virus, since January
18 1, 2020 to January 1, 2021.

19 This request seeks information that is irrelevant to Hale's claim of Defendant
20 Warren's deliberate indifference in failing to prescribe Excedrin or diagnose Hale's
21 COVID-19 symptoms, or to Hale's claim of Defendant Ferguson's deliberate indifference
22 to Hale's complaints about Defendant Warren's care. For similar reasons, this request is
23 overbroad and not proportionate to the needs of the case because it includes documents that
24 could not support Hale's claims. This request is therefore **denied**.

25 13. Any and all communications, electronically stored information (including
26 Emails), reports, advisements, directives, instructions, memoranda, or
27 other documents; between the defendant Alice Warren (Nurse
28 Prac[titioner/Provider for Centurion Health), and all Arizona
Department of Corrections staff, officials, employees and its agents
regarding the COVID-19 virus, since January 1, 2020 to January 1, 2021.

This request seeks information that is irrelevant to Hale's claim of Defendant
Warren's deliberate indifference in failing to prescribe Excedrin or diagnose Hale's
COVID-19 symptoms, or to Hale's claim of Defendant Ferguson's deliberate indifference
to Hale's complaints about Defendant Warren's care. For similar reasons, this request is

1 overbroad and not proportionate to the needs of the case because it includes documents that
2 could not support Hale's claims. This request is therefore **denied**.

3 14. The plaintiff's complete medical records from June 1, 2020 to date of your
4 response.

5 Defendants state that they will supplement their discovery responses and provide
6 Plaintiff with a paper copy of his medical records from June 1, 2020, to September 30,
7 2020. Defendants explain that Plaintiff's motion to compel raised for the first time that he
8 was unable to obtain his records through the ordinary procedure. This request is therefore
9 **denied as moot**. If Defendants have not already provided Plaintiff with his medical records
10 Defendants will do so by **November 4, 2022**.

11 15. Any and all communications, electronically stored information (including
12 Emails), and instructions, reports or other documents created by
13 Centurion Health staff, officials, employees or its agents, concerning the
14 plaintiffs medical care (not included in item #14 of this request) and in
15 response to his medical grievances, since June 1, 2020 to date of your
16 response

17 Defendants state that they will supplement their discovery responses and provide
18 Plaintiff with a paper copy of his informal complaints and/or grievances and the responses
19 prepared by Defendants to those complaints and/or grievances from June 1, 2020, to
20 September 30, 2020. Defendants explain that Plaintiff's motion to compel raised for the
21 first time that he was unable to obtain his records through the ordinary procedure. This
22 request is therefore **denied as moot**. If Defendants have not already provided Plaintiff with
23 these materials Defendants will do so by **November 4, 2022**.

24 **c. Requests for Production Nos. 16–21**

25 The Court's Scheduling Order permits each party up to 15 requests for production.
26 (Doc. 32 at 2 ("Discovery requests are . . . subject to the following limitations on each
27 party: . . . No more than 15 requests for production of documents.")) Hale has not sought
28 leave from the Court to permit additional discovery. Defendants assert that good cause has
not been shown for this additional discovery, and that permitting it would allow Hale to
continue to seek documents irrelevant to his claims against the Defendants. (Doc. 76 at 7.)

1 Hale states he believed he was permitted to make 15 requests of each party, not that each
2 party was limited to 15 requests. (*See* Doc. 73 at 24.)

3 However, even if the Court granted Hale's implicit request to permit additional
4 discovery beyond 15 requests, each request is deficient.

5 16. Any and all communications, electronically stored information (including
6 Emails), logs, lists, reports, ADOC employee records, records regarding
7 COVID-19 virus test results for ADOC (now ADCRR) employees and
8 civilian staff, Trinity Staff, Keefe Staff, and all Whetstone inmates) or
9 other documents that show and confirm the "dates and number of
COVID-19 virus positive cases" at Whetstone Unit, and Keefe
Warehouse, since January 1, 2020 to January 1, 2021.

10 Defendants are unlikely to have access to the information this request seeks because
11 it seeks information received by the Arizona Department of Corrections. The Arizona
12 Department of Corrections is more likely to have access to the requested information but
13 is not party to this action. This request also seeks information that is irrelevant to Hale's
14 claim of Defendant Warren's deliberate indifference in failing to prescribe Excedrin or
15 diagnose Hale's COVID-19 symptoms, or to Hale's claim of Defendant Ferguson's
16 deliberate indifference to Hale's complaints about Defendant Warren's care. For similar
17 reasons, this request is overbroad and not proportionate to the needs of the case because it
18 includes documents that could not support Hale's claims. This request is therefore **denied**.

19 17. Any and policies, directives or instructions to Centurion Health Staff
20 regarding medical care and treatment, and those procedures.

21 Defendants are unlikely to have access to the information this request seeks because
22 it seeks information sent to all Centurion Health staff, not just to the Defendants. Centurion
23 Health is more likely to have access to the requested information but is not party to this
24 action. For similar reasons, this request is overbroad and not proportionate to the needs of
25 the case because it includes documents that could not support Hale's claims. This request
26 is therefore **denied**.

27 18. Any and all grievances (both medical and non-medical), complaints,
28 Inmate Letters, Inmate Informal Resolutions, lawsuits or other documents
filed by Whetstone inmates in regards to the COVID-19 virus; and any
settlements, [judgment]s, memorand[a], communications, electronically

1 stored information (including Emails), investigative files, responses, or
2 other documents created in response to such complaints, since January 1,
3 2020 to January 1, 2021.

4 Defendants are unlikely to have access to the information this request seeks because
5 it seeks information related to all inmates at Arizona State Prison Complex-Whetstone
6 Unit. The Arizona State Prison Complex-Whetstone Unit or the Arizona Department of
7 Corrections are more likely to have access to the requested information but are not parties
8 in this action. This request also seeks information that is irrelevant to Hale's claim of
9 Defendant Warren's deliberate indifference in failing to prescribe Excedrin or diagnose
10 Hale's COVID-19 symptoms, or to Hale's claim of Defendant Ferguson's deliberate
11 indifference to Hale's complaints about Defendant Warren's care. For similar reasons, this
12 request is overbroad and not proportionate to the needs of the case because it includes
13 documents that could not support Hale's claims. This request is therefore **denied**.

14 19. Any and all communications, electronically stored information (including
15 Emails), reports Inmate Health Needs Request Forms (HNR's), nurses
16 reports, provider reports, logs, lists, inmate medical records or other
17 documents showing the "dates and number of Whetstone inmates" that
18 reported "any" flu-like symptoms, cold-like symptoms, breathing
19 problems, head-aches, fever, chills, chest pains, coughing, loss of taste,
20 loss of smell, aches and pains, and any other COVID-like or related
21 symptoms, since March 1, 2020 to August 1, 2020.

22 Defendants are unlikely to have access to the information this request seeks because
23 it seeks information related to all inmates at Arizona State Prison Complex-Whetstone
24 Unit. The Arizona State Prison Complex-Whetstone Unit, Arizona Department of
25 Corrections, or Centurion Health are more likely to have access to the requested
26 information but are not parties in this action. This request also seeks information that is
27 irrelevant to Hale's claim of Defendant Warren's deliberate indifference in failing to
28 prescribe Excedrin or diagnose Hale's COVID-19 symptoms, or to Hale's claim of
Defendant Ferguson's deliberate indifference to Hale's complaints about Defendant
Warren's care. For similar reasons, this request is overbroad and not proportionate to the
needs of the case because it includes documents that could not support Hale's claims. This

1 request is therefore **denied**.

2 20. Any and all guidelines, directive, instructions, memoranda,
3 communications, reports, mandates, policies, or other documents within
4 Centurion Health regarding any and all recommendations by the Centers
5 For Disease Control (C.D.C.) regarding communicable diseases
6 (including the COVID-19 virus) and infectious disease controls.

7 Defendants are unlikely to have access to the information this request seeks because
8 it seeks documents from Centurion Health. Centurion Health is more likely to have access
9 to the requested information but is not party to this action. This request also seeks
10 information that is irrelevant to Hale's claim of Defendant Warren's deliberate indifference
11 in failing to prescribe Excedrin or diagnose Hale's COVID-19 symptoms, or to Hale's claim
12 of Defendant Ferguson's deliberate indifference to Hale's complaints about Defendant
13 Warren's care. For similar reasons, this request is overbroad and not proportionate to the
14 needs of the case because it includes documents that could not support Hale's claims. This
15 request is therefore **denied**.

16 21. Any and all guidelines, directives, instructions, memoranda,
17 communications, reports, mandates, policies, or other documents within
18 Centurion Health regarding any and all recommendations by the Arizona
19 Department of Health and Safety (A.D.H.S.) regarding communicable
20 diseases (including the COVID-19 virus) and infectious disease controls.

21 Defendants are unlikely to have access to the information this request seeks because
22 it seeks documents from Centurion Health. Centurion Health is more likely to have access
23 to the requested information but is not party to this action. This request also seeks
24 information that is irrelevant to Hale's claim of Defendant Warren's deliberate indifference
25 in failing to prescribe Excedrin or diagnose Hale's COVID-19 symptoms, or to Hale's claim
26 of Defendant Ferguson's deliberate indifference to Hale's complaints about Defendant
27 Warren's care. For similar reasons, this request is overbroad and not proportionate to the
28 needs of the case because it includes documents that could not support Hale's claims. This
29 request is therefore **denied**.

30 **d. Interrogatories**

31 Hale also served on Defendants several "Interrogatories and Request for the

1 Production of Documents." (*See* Doc. 76-1 at 13–20.) The Court's Scheduling Order
2 permits each party up to 15 requests for production and 25 interrogatories. (Doc. 32 at 2.)
3 Hale has not sought leave from the Court to permit additional discovery. Defendants
4 interpreted Hale's "Interrogatories and Request for the Production of Documents" as
5 interrogatories because Hale had already exhausted his requests for production. (Doc. 76
6 at 7.) The Court will also interpret these requests as interrogatories.

- 7 1. State the duties of defendant Alice Warren (Nurse Prac[t]itioner of
8 Centurion Health) at A.S.P.C. Tucson/Whetstone Unit. If those duties are
9 set forth in any job description or other document, produce those
10 document(s).

11 Defendants' response to the interrogatory states that Defendant Warren is a nurse
12 practitioner, responsible for the clinical assessment, diagnosis, and treatment of inmates,
13 consistent with her licensure and Centurion's contract with the Arizona Department of
14 Corrections. (Doc. 76-1 at 14.) The Court finds that this statement sufficiently answers
15 Hale's interrogatory, and therefore his motion to compel an answer is **denied**.

- 16 2. State the duties and responsibilities of defendant Alice Warren (Nurse
17 Prac[t]itioner of Centurion Health) at A.S.P.C. Tucson/Wh[e]tstone Unit,
18 insofar as they pertain to communicable diseases (including the COVID-
19 19 virus), and responsibilities regarding infectious disease controls. If
20 those duties and responsibilities are set forth in any job description or
21 document, produce those documents.

22 Defendants' response to the interrogatory states that Defendant Warren is a nurse
23 practitioner, responsible for the clinical assessment, diagnosis, and treatment of inmates,
24 consistent with her licensure and Centurion's contract with the Arizona Department of
25 Corrections. (Doc. 76-1 at 14.) The Court finds that this statement sufficiently answers
26 Hale's interrogatory, and therefore his motion to compel an answer is **denied**.

- 27 3. State the duties of defendant Alicia Ferguson (Contract Facility Health
28 Administrator for Centurion Health) at A.S.P.C. Tucson/Whetstone Unit.
If those duties are set forth in any job description or document, produce
those document(s).

Defendants' response to the interrogatory states that Defendant Ferguson was a
Facility Health Administrator responsible for responding to and coordinating with medical
staff to address formal medical grievances and to assist with the administrative aspects of

1 the delivery of healthcare at the prison. (Doc. 76-1 at 15.) The Court finds that this
2 statement sufficiently answers Hale's interrogatory, and therefore his motion to compel an
3 answer is **denied**.

4 4. State the duties and responsibilities of defendant Alicia Ferguson
5 (Contract Facility Health Administrator for Centurion Health) at A.S.P.C.
6 Tucson/Whetstone Unit, insofar as they pertain to communicable diseases
7 (including the COVID-19 virus), and responsibilities regarding infectious
8 disease controls. If those duties and responsibilities are set forth in any
9 job description or document, produce those document(s).

10 Defendants' response to the interrogatory states that Defendant Ferguson was a
11 Facility Health Administrator responsible for responding to and coordinating with medical
12 staff to address formal medical grievances and to assist with the administrative aspects of
13 the delivery of healthcare at the prison. (Doc. 76-1 at 15.) The Court finds that this
14 statement sufficiently answers Hale's interrogatory, and therefore his motion to compel an
15 answer is **denied**.

16 5. State the names, titles and duties of all Centurion Health staff and
17 officials, other than the defendants Warren and Ferguson, who have
18 duties and responsibilities regarding communicable diseases (including
19 the COVID-19 virus), and responsibilities regarding infectious disease
20 controls. If those duties and responsibilities are set forth in any job
21 description or other document, produce those document(s).

22 Defendants are unlikely to have access to the information this request seeks because
23 it seeks information from Centurion Health. Centurion Health is more likely to have access
24 to the requested information but is not party to this action. This request also seeks
25 information that is irrelevant to Hale's claim of Defendant Warren's deliberate indifference
26 in failing to prescribe Excedrin or diagnose Hale's COVID-19 symptoms, or to Hale's claim
27 of Defendant Ferguson's deliberate indifference to Hale's complaints about Defendant
28 Warren's care. For similar reasons, this interrogatory is overbroad and not proportionate to
the needs of the case because it includes information that could not support Hale's claims.
This request is therefore **denied**.

6. State the names, titles and duties of all staff members and officials at
A.S.P.C. Tucson/Whetstone Unit, other than defendants Warren and
Ferguson, who have duties and responsibilities regarding communicable

1 diseases (including the COVID-19 virus) and responsibilities regarding
2 infectious disease controls. If those duties and responsibilities are set
3 forth in any job description or other document, produce those
4 document(s).

4 Defendants are unlikely to have access to the information this request seeks because
5 it seeks information from A.S.P.C. Tucson/Whetstone Unit. A.S.P.C. Tucson/Whetstone
6 Unit is more likely to have access to the requested information but is not party to this action.
7 This request also seeks information that is irrelevant to Hale's claim of Defendant Warren's
8 deliberate indifference in failing to prescribe Excedrin or diagnose Hale's COVID-19
9 symptoms, or to Hale's claim of Defendant Ferguson's deliberate indifference to Hale's
10 complaints about Defendant Warren's care. For similar reasons, this interrogatory is
11 overbroad and not proportionate to the needs of the case because it includes information
12 that could not support Hale's claims. This request is therefore **denied**.

13 7. State the names, titles and duties of those who have responsibility, other
14 than the defendants Warren and Ferguson, regarding communicable
15 diseases (including the COVID-19 virus) and infectious disease controls,
16 insofar as to the transportation of inmates, housing of inmates, the
17 quarantining of inmates, and quarantine lockdown of A.S.P.C.
18 Tucson/Whetstone Unit. If those duties and responsibilities are set forth
19 in any job description or other document, produce those document(s).

18 Defendants are unlikely to have access to the information this request seeks because
19 it seeks information from A.S.P.C. Tucson/Whetstone Unit. A.S.P.C. Tucson/Whetstone
20 Unit is more likely to have access to the requested information but is not party to this action.
21 This request also seeks information that is irrelevant to Hale's claim of Defendant Warren's
22 deliberate indifference in failing to prescribe Excedrin or diagnose Hale's COVID-19
23 symptoms, or to Hale's claim of Defendant Ferguson's deliberate indifference to Hale's
24 complaints about Defendant Warren's care. For similar reasons, this interrogatory is
25 overbroad and not proportionate to the needs of the case because it includes information
26 that could not support Hale's claims. This request is therefore **denied**.

27 8. State the names, titles and duties of all Centurion Health staff and officials
28 who have responsibility for ensuring that inmates' request for medical
attention are responded to. If those duties are set forth in any job

1 description or other document, produce those document(s).

2 Defendants are unlikely to have access to the information this request seeks because
3 it seeks information from Centurion Health. Centurion Health is more likely to have access
4 to the requested information but is not party to this action. This request also seeks
5 information that is irrelevant to Hale's claim of Defendant Warren's deliberate indifference
6 in failing to prescribe Excedrin or diagnose Hale's COVID-19 symptoms, or to Hale's claim
7 of Defendant Ferguson's deliberate indifference to Hale's complaints about Defendant
8 Warren's care. For similar reasons, this interrogatory is overbroad and not proportionate to
9 the needs of the case because it includes information that could not support Hale's claims.
10 This request is therefore **denied**.

11 9. State the names, titles and duties of all staff and officials at A.S.P.C.
12 Tucson/Whetstone Unit, other than the defendants Warren and Ferguson,
13 who have responsibility for ensuring that that inmates' request for medical
14 attention are responded to. If those duties are set forth in any job
description or other document, produce those document(s).

15 Defendants are unlikely to have access to the information this request seeks because
16 it seeks information from A.S.P.C. Tucson/Whetstone Unit. A.S.P.C. Tucson/Whetstone
17 Unit is more likely to have access to the requested information but is not party to this action.
18 This request also seeks information that is irrelevant to Hale's claim of Defendant Warren's
19 deliberate indifference in failing to prescribe Excedrin or diagnose Hale's COVID-19
20 symptoms, or to Hale's claim of Defendant Ferguson's deliberate indifference to Hale's
21 complaints about Defendant Warren's care. For similar reasons, this interrogatory is
22 overbroad and not proportionate to the needs of the case because it includes information
23 that could not support Hale's claims. This request is therefore **denied**.

24 10. State the names, titles and duties of all staff members at A.S.P.C.
25 Tucson/Whetstone Unit who have responsibility for responding to,
26 investigating or deciding inmate medical grievances. If those duties are
set forth in any job description or other document, produce those
documents.

27 Defendants are unlikely to have access to the information this request seeks because
28 it seeks information from A.S.P.C. Tucson/Whetstone Unit. A.S.P.C. Tucson/Whetstone

1 Unit is more likely to have access to the requested information but is not party to this action.
2 This request also seeks information that is irrelevant to Hale's claim of Defendant Warren's
3 deliberate indifference in failing to prescribe Excedrin or diagnose Hale's COVID-19
4 symptoms, or to Hale's claim of Defendant Ferguson's deliberate indifference to Hale's
5 complaints about Defendant Warren's care. For similar reasons, this interrogatory is
6 overbroad and not proportionate to the needs of the case because it includes information
7 that could not support Hale's claims. This request is therefore **denied**.

8 11. State the names, titles and duties of all Centurion Health staff and
9 officials, who have responsibility for writing the policies, directives and
10 instructions regarding communicable diseases (including the COVID-19
11 virus), and infectious disease controls. If those duties are set forth in any
12 job description or other document, produce those documents.

12 Defendants are unlikely to have access to the information this request seeks because
13 it seeks information from Centurion Health. Centurion Health is more likely to have access
14 to the requested information but is not party to this action. This request also seeks
15 information that is irrelevant to Hale's claim of Defendant Warren's deliberate indifference
16 in failing to prescribe Excedrin or diagnose Hale's COVID-19 symptoms, or to Hale's claim
17 of Defendant Ferguson's deliberate indifference to Hale's complaints about Defendant
18 Warren's care. For similar reasons, this interrogatory is overbroad and not proportionate to
19 the needs of the case because it includes information that could not support Hale's claims.
20 This request is therefore **denied**.

21 12. State the names, titles and duties, other than Centurion Health staff and
22 officials who have responsibility for writing the policies, directives and
23 instructions regarding communicable diseases (including the COVID-19
24 virus), and infectious disease controls in the Arizona Department of
25 Corrections. If those duties are set forth in any job description or other
26 document, produce those document(s).

25 Defendants are unlikely to have access to the information this request seeks because
26 it seeks information from Centurion Health. Centurion Health is more likely to have access
27 to the requested information but is not party to this action. This request also seeks
28 information that is irrelevant to Hale's claim of Defendant Warren's deliberate indifference

1 in failing to prescribe Excedrin or diagnose Hale's COVID-19 symptoms, or to Hale's claim
2 of Defendant Ferguson's deliberate indifference to Hale's complaints about Defendant
3 Warren's care. For similar reasons, this interrogatory is overbroad and not proportionate to
4 the needs of the case because it includes information that could not support Hale's claims.

5 This request is therefore **denied**.

6 13. State the names, titles and duties of all Centurion Health staff and
7 officials, who have responsibility for ensuring, implementing and
8 enforcing the policies, directives, and the instructions regarding
9 communicable diseases (including the COVID-19 virus), and infectious
10 disease controls. If those duties are set forth in any job description or other
11 document, produce those document(s).

12 Defendants are unlikely to have access to the information this request seeks because
13 it seeks information from Centurion Health. Centurion Health is more likely to have access
14 to the requested information but is not party to this action. This request also seeks
15 information that is irrelevant to Hale's claim of Defendant Warren's deliberate indifference
16 in failing to prescribe Excedrin or diagnose Hale's COVID-19 symptoms, or to Hale's claim
17 of Defendant Ferguson's deliberate indifference to Hale's complaints about Defendant
18 Warren's care. For similar reasons, this interrogatory is overbroad and not proportionate to
19 the needs of the case because it includes information that could not support Hale's claims.

20 This request is therefore **denied**.

21 14. State the names, titles and duties, other than Centurion Health staff and
22 officials who have responsibility for ensuring, implementing and
23 enforcing the policies, directives, and the instructions regarding
24 communicable diseases (including the COVID-19 virus), and infectious
25 disease controls. If those duties are set forth in any job description or other
26 document, produce those document(s).

27 Defendants are unlikely to have access to the information this request seeks because
28 it seeks information from Centurion Health. Centurion Health is more likely to have access
to the requested information but is not party to this action. This request also seeks
information that is irrelevant to Hale's claim of Defendant Warren's deliberate indifference
in failing to prescribe Excedrin or diagnose Hale's COVID-19 symptoms, or to Hale's claim
of Defendant Ferguson's deliberate indifference to Hale's complaints about Defendant

1 Warren's care. For similar reasons, this interrogatory is overbroad and not proportionate to
2 the needs of the case because it includes information that could not support Hale's claims.
3 This request is therefore **denied**.

4 For these reasons,

5 **IT IS ORDERED GRANTING IN PART** Plaintiff's motion to compel requests
6 for production numbers 1– 4.

7 **IT IS FURTHER ORDERED DENYING** Plaintiff's motion to compel requests
8 for production numbers 5–13 and 16–21.

9 **IT IS FURTHER ORDERED DENYING AS MOOT** Plaintiff's motion to
10 compel requests for production numbers 14 and 15.

11 **IT IS FURTHER ORDERED DENYING** Plaintiff's motion to compel
12 interrogatories numbers 1–14.

13 Dated this 24th day of October, 2022.

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17 Honorable John C. Hinderaker
18 United States District Judge
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