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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RALPH COLEMAN, et al.,

Plaintiffs,

v.

EDMUND G. BROWN, Jr., et al.,

Defendants.¹

Case No. Civ S 90-0520 LKK-JFM

STIPULATION AND ORDER WAIVING
STATE LAW RE: CALIFORNIA
MEDICAL FACILITY

¹ The names of Defendants currently serving and their official capacities have been substituted pursuant to Fed. R. Civ. P. 25.

1 On November 9, 2011, Defendants filed an ex parte request that this Court waive
2 state licensing requirements so that the California Department of Corrections and
3 Rehabilitation can convert 113 cells in the L-Wing at California Medical Facility into 110
4 temporary unlicensed Intermediate Care Facility level of care beds and three observation
5 and restraint rooms for high custody inmate-patients on the Salinas Valley Psychiatric
6 Program wait list.

7 The Court recognizes that it has not previously permitted Defendants to operate a
8 DMH inpatient care facility on an unlicensed basis. The Court further recognizes,
9 however, that given the urgent need by class members for access to timely inpatient
10 psychiatric care, state licensing requirements must temporarily give way on an emergency
11 basis.

12 Accordingly, Defendants will be permitted to convert and open the L-Wing
13 inpatient beds without complying with state licensing standards on an emergency,
14 temporary basis, on the expedited schedule outlined by Defendants at page 7 of their
15 October 18, 2011 Supplemental Plan to Reduce or Eliminate the Inpatient Waitlists
16 (Docket No. 4103). To the extent that any delays in complying with their proposed
17 conversion timeline are discovered, Defendants will be required to promptly notify the
18 parties, the Special Master, and the Court. Defendants are further ordered to staff the L-
19 Wing at the same nursing and clinical staffing levels as the other high custody ICF at
20 CMF, as they propose. *Id.*; Defendants' Request for Waiver of State Licensing
21 Requirements Re: California Medical Facility (Docket No. 4112) at n.1. Finally, the
22 waivers of state law ordered herein are necessary until the 432 high custody ICF beds
23 planned as part of the California Health Care Facility in Stockton are fully occupied. *See*
24 Defendants' Response re: New Activation Schedule for the Consolidated Care Center
25 (Docket No. 3794-1) at 4.

26 Furthermore, the Special Master has been consulted on this matter and he concurs
27 on this stipulation.

28 ///

1 Good cause presented to the Court and good cause appearing, the Court waives the
2 below described licensing requirements so that the California Department of Corrections
3 and Rehabilitation can convert the 113 cells in the L-Wing at California Medical Facility
4 into 110 temporary unlicensed Intermediate Care Facility beds and three observation and
5 restraint rooms.

6 IT IS HEREBY STIPULATED AND ORDERED AS FOLLOWS:

7 1. The following state licensing requirements shall be waived, on a temporary
8 and emergency basis, with the respect to the 110 temporary Intermediate Care Facility
9 beds and three observation and restraint rooms in the L-Wing at California Medical
10 Facility:

11 A. California Health and Safety Code section 1250(j); and

12 B. California Code of Regulations, Title 22, sections 79501–79861.

13 2. Defendants shall staff the L-Wing utilizing the same nursing and clinical
14 staffing patterns as the other high custody ICF unit at CMF.

15 3. Defendants shall apprise the Court promptly should any delays prevent the
16 L-Wing conversion from being completed as to L-3 by April 6, 2012, as to L-2 by April
17 30, 2012, and as to L-1 by May 31, 2012. Defendants are further required to apprise the
18 Court promptly should patient admissions not commence by April 30, 2012.

19 DATED: November 15, 2011

/s/ David Brice

David Brice
Office of the Attorney General
Attorneys for Defendants

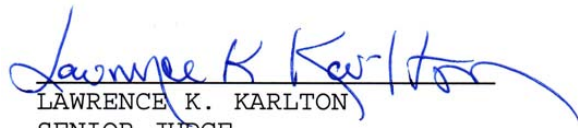
22 DATED: November 15, 2011

/s/ Aaron J. Fischer

Aaron J. Fischer
Rosen, Bien & Galvan, LLP
Attorneys for Plaintiffs

25 SO ORDERED.

26 DATED: November 16, 2011


LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT