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*DRVT is the Protection &
Advocacy System for Vermont and
our state's Mental Health Care
Ombudsman*

01 June 2016

Heidi Fox, MSN, Director of Nursing
Health Services Division
Vermont Dept of Corrections
NOB 2 South, 280 State Drive
Waterbury, Vermont 05671-2000

Re: Appeal Decision from Corrections
Executive Dated 4/12/16

Dear Ms. Fox:

Disability Rights Vermont is in receipt of your decision regarding a grievance that was originally filed on behalf of [REDACTED] on December 21, 2015. The grievance contained three specific issues: (1) the lack of timely response to sick slips when submitted, (2) lack of documentation and referral to a provider when this same prisoner consecutively missed mental health medication, and (3) lack of timely follow up by the prescriber after the prisoner was started on Effexor, an anti-depressant medication.

DRVT is concerned about your response and assertion that contract provisions and policies are not relevant when determining if the contractor, Centurion Corporation, is in compliance with the Contract for Services. You cite the least restrictive of the NCHC (National Commission on Correctional Health Care) standards instead of the ones requiring specific time frames by which to respond.

Defending and Advancing the rights of people with disabilities.

Email at info@DisabilityRightsVT.org,

On the web: www.disabilityrightsvt.org

Issue (1)

You wrote that per NCCHC Standards, sick slips indicating a person with a clinical symptom will be seen but that changes to medication and discussions with providers are not clinical symptoms, implying a response is not needed. [REDACTED] requested to speak with a mental health provider and submitted several slips, one noting physical symptoms as a result of mental health medications. It was over 30 days before she was seen by a mental health professional. Your response implied that her issues did not warrant a response by a clinician so the lack of response within the 72 hour timeframe was acceptable. This conclusion seems contrary to common sense and appropriate medical care for people without access to alternative medical care given their incarceration.

Furthermore, the handbook that is provided to prisoners at the facility states:

“If you wish to see a member of the health care staff regarding a medical, dental or mental health issue, please complete a *Sick Call Request Form*. The slips are kept in the housing units. Please place the triplicate sick slip in the white box located outside the dining hall door. Keep the pink copy for your records. Sick call slips are collected daily after midnight and triaged by medical professionals. Your sick call slip will be addressed within 48 hours during the week and within 72 hours on the weekend of the submission of your request.”

Page 73 of the NCCHC Standards for Health Services in Prisons (2008) states:

“Nonemergency requests are to be reviewed within 24 hours and the inmate seen by a qualified health care professional at sick call within the next 24 hours (72 on weekends).”

Page 40 of the Contract for Services states:

Nonemergency Health Care Requests and Services:

“In accordance with NCCHC essential standards P-E-07 and MH-E-05, the contractor shall ensure that all inmates have daily opportunities to request health, mental health, and dental care. All requests for services will be documented and reviewed for immediacy of need and interventions that are required to address the need. The Contractor shall:

- Implement a sick call system that provides inmates with unimpeded access to health services...

- During weekdays, when clinically appropriate, have a qualified health care professional see the inmate within 24 hours after the request has been triaged. Therefore, non-emergent, triaged health care requests will be seen within 48 hours.
- During weekends, make a good faith effort to meet the same standard as for weekday review and response times for non-emergency requests. Triaged requests for health care services during the weekend will be seen within 72 hours.”

Issue (2)

You stated that the missed medication form reads, “In the case of medication refusals or missed doses of essential [emphasis added] medication, documentation on the MAR will indicate the inmate refused or missed the medication.” Your response that Effexor is not on the list of “*essential medications*” so that the documentation and referral process to a prescriber does not apply is not supported by DOC Policy, NCCHC standards or the Contract for Services and is not consistent with requiring the medical contractor to comply with documentation requirements. Furthermore, the form you referenced states, “Refusals or Missed Med x3 doses must be referred to the Provider for review the next time they are on site. HOWEVER, for medications on the Essential Meds, and for ALL medications prescribed for a psychiatric diagnosis, the missed meds must be reviewed within 24 hours of 3rd consecutive missed dose...” (form DOC D-02a).

In this particular case [REDACTED] was receiving a psychotropic medication for a psychiatric diagnosis and when missing more than three medication administrations, should have been referred for follow up with the prescriber.

Department of Corrections – Medication Administration Policy No. D-02a:

10.b. The appropriate discipline or physician, nurse practitioner or physician assistant receives a referral from the medication administration staff when an inmate refuses the third consecutive dosage or has a pattern of non-compliance such as missing evening or morning doses. The Medical Director will provide the medication administration staff with a list of medications that will be reported if an inmate misses a single dose.

Contract for Services, Page 27:

“If an inmate refuses or misses medication line for a specific medication three (3) consecutive times, each refusal or miss will be documented in inmates electronic

health record and the inmate will be counseled by the nurse regarding the risk of non-adherence and required to sign a refusal form. For inmates who continue to be non-adherent, make a referral to a medical or mental health provider for counseling prior to discontinuation of the medication...”

Issue (3)

And finally, your response that the NCCHC Standards state that providers determine when patients will be seen for follow-up after being placed on a new mental health medication is contrary to the Department’s own protocol. This practice and violation of protocol places prisoners at unnecessary risk of harm.

Department of Corrections, Psychotropic Medications, Protocol 361.01.14:

V. Protocol, D. 4. The physician or psychiatric nurse practitioner initially prescribing and/or continuing to prescribe psychotropic medication must review the inmate’s condition and response to medication at clinically appropriate intervals to document said response, untoward symptoms and side effects and to adjust the medication as appropriate. (a) During the initial stage of outpatient medication administration, progress notes and follow-up visits will be made by the physician or psychiatric nurse practitioner as often as necessary and clinically indicated, but not less than: (1) bi-weekly for the first 30 days of medication administration...”

In Summary

Your response to DRVT’s concerns about the failure of providers to follow up on prisoner sick slips, medication refusals and follow up after medication is prescribed is concerning in light of the facts noted above and, if left uncorrected, represents a gross failure by DOC to enforce contract provisions and health and safety standards that will likely result in ongoing harm to prisoners in Vermont.

This grievance was denied by you, stating that this prisoner “*received care that was timely, appropriate, and provider-driven.*”

DRVT disagrees with your conclusion.

DRVT questions how the Department of Corrections can provide oversight of the contractor to assure they are meeting the requirements as set forth in the contract when your responses to clear violations of policy and the contract are dismissive. We are equally concerned about the impact that your interpretation of these duties will have on prisoners’ ability to receive timely and needed mental health and medical care in the future, especially prisoners with serious mental

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illness and other disabilities. Prior to this response the issue of sick slip response times has never been disputed or denied by the Department of Corrections.

We will continue to monitor and address violations of policies and contract requirements that are harmful to prisoners with disabilities but expect that DOC will promptly take steps to address the concerns raised in this letter.

Sincerely,

A handwritten signature in black ink that reads "Ed Paquin". The signature is written in a cursive style with a large, prominent "P" and "Q".

Ed Paquin
Executive Director

Cc: Lisa Menard, Commissioner
Kurt Kuehl, Legal Counsel