IN THE DISTRICT COURT OF THE UNITED STATES FOR THE

MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

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| EDWARD BRAGGS, et al., | ) | |
| | ) | |
| Plaintiffs, | ) | |
| | ) | CIVIL ACTION NO. |
| v. | ) | 2:14cv601-MHT |
| | ) | (WO) |
| JEFFERSON S. DUNN, in his official capacity as Commissioner of the Alabama Department of Corrections, et al., | ) | |
| | ) | |
| Defendants. | ) | |

PHASE 2A ORDER AND INJUNCTION ON MENTAL-HEALTH INDIVIDUALIZED TREATMENT PLANNING REMEDY

On May 30, 2018, the parties submitted stipulations regarding individualized treatment planning. They agreed that the stipulations should be reduced to an enforceable order and further agreed to some clarifications of the stipulations during an on-the-record hearing on June 1, 2018. Accordingly, it is the ORDER, JUDGMENT, and DECREE of the court as follows:

(1) The stipulations (doc. no. 1853), as clarified during an on-the-record hearing on June 1, 2018, and as attached to this order, are approved.

(2) Defendants Jefferson Dunn and Ruth Naglich are ENJOINED and RESTRAINED from failing to comply with the attached provisions as clarified during on-the-record hearing on June 1, 2018.

DONE, this the 4th day of June, 2018.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE

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ATTACHMENT

ADOC agrees to implement the matters set forth below within one-hundred eighty (180) days of the Court's acceptance of and entry of an Order regarding these Stipulations.

1. Treatment Teams

1.1 Each inmate-patient on the mental health caseload shall have a designated treatment team.

1.2 Treatment teams shall meet at regular intervals as mandated by the inmate-patient's assigned mental health code and appropriate level of psychotherapy

in order to formulate/revise the inmate-patient's treatment plan, review progress notes, discuss the condition of the inmate-patient, and address the inmate-patient's progress.

1.3 Members of a treatment team

1.3.1 Treatment teams shall include at least the following individuals:

1.3.1.1 A Psychiatrist or CRNP (if the inmate-patient is on mental health medications);

1.3.1.2 The inmate-patient's assigned psychologist or MHP; and

1.3.1.3 The inmate-patient, unless contraindicated (see 1.4.3).

1.3.1.4 A member of the medical staff when the mental health provider determines that the presence of a primary medical provider is necessary in order to address the impact of a medical condition on

the inmate-patient's treatment plan.

1.3.2 For inmate-patients in a Residential Treatment Units (RTU), Restrictive Housing Unit (RHU), Structured Living Unit (SLU), or Intensive Stabilization Unit (SU), the treatment team shall also include the following individuals, if such a class of individuals is regularly assigned to that unit:

1.3.2.1 A mental health nurse;

1.3.2.2 An activity technician for the inmate-patient's assigned mental health unit; and

1.3.2.3 A member of the correctional staff regularly assigned to the inmate-patient's housing unit.

1.3.2.4 The senior clinician who is a part of the team (psychiatrist, CRNP, or psychologist) may add

additional members to the team if clinically indicated.

1.3.3 For inmate-patients in the SU or RTU Level 1, the Treatment Team shall include a psychiatrist.

1.3.4 Each treatment team shall be organized and chaired by the inmate-patient's assigned MHP.

1.3.5 Additional members may be added to the treatment team as the chair determines it is clinically appropriate.

1.4 Treatment team meetings

1.4.1 Treatment team meetings shall include a review of progress notes, participation in out-of-cell or out-of-housing unit activity including group therapy and activity groups, medication compliance, crisis placements, disciplinary actions, recent traumatic events, and other information as appropriate.

**1.4.2 Treatment team meetings shall occur on the following timeframes, unless otherwise indicated due to clinical necessity or a change in circumstances described in Section 2:**

**1.4.2.1 Treatment team meetings for inmate-patients on the outpatient caseload occur at intervals not to exceed nine (9) months.**

**1.4.2.2 SLU treatment team meetings shall occur at intervals not to exceed ninety (90) days.**

**1.4.2.3 For inmate-patients on the RTU Level 1, treatment team meetings shall occur at intervals not to exceed twenty-one (21) days.**

**1.4.2.4 For inmate-patients on the RTU Level 2, treatment team meetings shall occur at intervals not to exceed forty-five (45) days.**

**1.4.2.5 For inmate-patients on the RTU Level 3, treatment team meetings shall occur at intervals not to exceed sixty (60) days.**

**1.4.2.6 SU treatment team meetings shall occur at intervals not to exceed three (3) days.**

**1.4.2.7 Acute suicide watch, non-acute suicide watch, mental health observation, or any other kind of crisis placement treatment team meetings shall occur at intervals not to exceed three (3) days.**

**1.4.2.8 Commencing on December 1, 2019, the timeframes in this Section 1.4.2 shall be modified as follows:**

**1.4.2.8.1 The timeframe in 1.4.2.1 shall be six (6) months.**

1.4.2.8.2 The timeframe in 1.4.2.3 shall be seven (7) days.

1.4.2.8.3 The timeframe in 1.4.2.4 shall be fourteen (14) days.

1.4.2.8.4 The timeframe in 1.4.2.5 shall be thirty (30 ) days.

1.4.3 Inmate-patient presence

1.4.3.1 Each inmate-patient shall be allowed to attend and be allowed to participate in the treatment team meetings unless:

1.4.3.1.1 The inmate-patient poses an unreasonable risk to mental health or correctional staff; or

1.4.3.1.2 If information is to be discussed about the inmate-patient would be psychologically detrimental for the inmate-patient, then

this information may be discussed without the presence of the inmate-patient, either at the beginning or the end of the treatment team meeting.

1.4.3.2 In the event that the inmate-patient's presence is not allowed, the reason shall be documented in the inmate-patient's mental health records, and the portion of the meeting from which the inmate-patient was excluded shall be identified.

1.4.3.3 Inmate-patients shall not be disciplined for failure or refusal to attend treatment team meetings. Inmate-patients shall be encouraged, but not forced, to attend treatment team meetings.

**1.4.4 Additional treatment team member presence**

**1.4.4.1 Whenever possible, all members of the treatment team shall attend each team meeting.**

**1.4.4.2 In the event that the clinician, the inmate-patient's MHP, or the inmate-patient is unable to attend a treatment team meeting, the meeting shall be postponed and rescheduled for the next business day in which the clinician, the inmate-patient's MHP, and the inmate-patient are available. If someone other than the clinician, the inmate-patient's MHP, or the inmate-patient is unable to attend, the meeting shall occur. Any member of the team who did not attend the meeting shall review the notes of the meeting the**

lesser of twenty-one (21) days, or at least one day before the next regularly scheduled treatment team meeting, whichever is sooner, and add any additional modifications to the plan as clinically appropriate.

1.4.5 Records of each treatment team meeting shall be kept in the respective inmate-patient's mental health record and shall consist of the following:

1.4.5.1 The date of the treatment team meeting;

1.4.5.2 The attendees of the treatment team meeting;

1.4.5.3 Notes about each treatment team meeting; and

1.4.5.4 Any changes to the inmate-patient's treatment plan as a

result of the treatment team meeting.

2. Individualized Plans

2.1 Each inmate on the mental health caseload shall have a treatment plan created within the appropriate timeframe following his or her addition to the caseload. This treatment plan shall be amended and updated as necessary until the inmate-patient is either removed from the mental health caseload or leaves ADOC custody.

2.2 Initial treatment plans shall be created within the following timelines following inmate-patient's placement on the mental health caseload, unless otherwise indicated due to a clinical necessity:

2.2.1 Outpatient treatment plans shall be finalized within fourteen (14) days of placement on the mental health caseload.

2.2.2 Treatment plans shall be finalized within three (3) working days of an inmate-patient's placement in an SLU.

2.2.3 Treatment plans shall be finalized within three (3) working days of an inmate-patient's placement in an RTU, regardless of the level of placement.

2.2.4 Treatment plans shall be finalized within two (2) working days of an inmate-patient's placement in an SU.

2.2.5 Treatment plans for inmate-patients placed on acute suicide watch, non-acute suicide watch, mental health observation, or any other kind of crisis placement shall be finalized within one (1) working day of placement in a crisis or mental health observation cell.

2.3 Each treatment plan shall be individualized to each inmate-patient. Treatment plans shall reflect changes in goals, plans to achieve goals, changes

in mental health status/symptoms, and amended timeframes to reach goals. For any unmet goal, the treatment plan will identify the unmet goal and any adjustment or plan to assist the inmate-patient in reaching the unmet goal.

2.4 Treatment plans shall include the following information:

2.4.1 The inmate-patient's age, mental health code, current Earliest Possible Release Date or Minimum Eligibility Parole Date, current housing assignment type and custody level;

2.4.2 All diagnoses from the current Diagnostic and Statistical Manual of Mental Disorders, identified problems, and treatment goals in objective, measurable terms;

2.4.3 Treatment services and other institutional services designed to impact the identified problems and achieve individual treatment

objectives on both a long-term and short-term basis, as appropriate, and who is responsible for providing the service;

2.4.4 Specific structured activities and unstructured activities for the minimum number of hours provided for each treatment level, unless otherwise clinically indicated, and who is responsible for providing the service;

2.4.5 An identification of unmet treatment goals and an explanation why those treatment goals were not met;

2.4.6 Frequency and duration of services to be provided; and

2.4.7 Aftercare and clinical pre-release plans, including identification of the staff member responsible for creation of those plans.

2.5 Treatment plan amendments as a result of housing placement changes

2.5.1 Treatment teams shall meet to review and update treatment plans promptly following major events during the inmate-patient's incarceration, including, but not limited to, the following situations:

2.5.1.1 Movement in and out of an SU;

2.5.1.2 Movement in and out of an RTU;

2.5.1.3 Movement within levels of an RTU;

2.5.1.4 Movement in and out of an SLU;

2.5.1.5 Movement to and from a Restrictive Housing Unit;

2.5.1.6 Movement to and form a crisis cell;

2.5.1.7 Placement on or removal from mental health observation; or

2.5.1.8 Return from hospitalization for a mental health need.

2.5.2 Timeframes for amending treatment plans

2.5.2.1 All movements in and out of an SU shall be reflected in an amended

treatment plan within two (2) working days;

2.5.2.2 All movements in and out of an RTU shall be reflected in an amended treatment plan within three (3) working days;

2.5.2.3 All movements in and out of an SLU shall be reflected in an amended treatment plan within three (3) working days; and

2.5.2.4 All movements in and out of acute suicide watch, non-acute suicide watch, mental health observation, any other crisis cell placement, or return from mental health hospitalization shall be reflected in an amended treatment plan within two (2) working days.

2.5.3 Amendments after placement or release from these housing units shall focus on

continuing treatment, responding to the effects of the housing changes, and assisting in the inmate-patient's immediate needs, and planning for re-integration into lower level treatment if clinically appropriate.

2.5.4 Section 2.2 as it relates to acute and non-acute suicide watch, mental health observation, or any other crisis placement does not supersede the current Interim Suicide Prevention agreement approved by the Court and is not intended to foreclose any remedy the parties may agree to, or the Court may Order during the Suicide Prevention Remedial Trial.

2.6 Treatment plans shall be reviewed and amended, if necessary, contemporaneously with a change in the inmate-patient's mental health code.

2.7 Treatment plans shall be amended contemporaneously with the treatment team's decision to pursue

involuntary medication, need for emergency administration of psychotropic medications, or decision to discontinue all mental health medication. Treatment plans need not be amended in the event that the dosage or frequency of medication is changed or when some, but not all, mental health medications are discontinued. Instead, routine changes in medication, including the change in dosage and frequency, shall be addressed at periodic treatment team meetings.

2.8 Treatment plans shall be reviewed by the inmate-patient's MHP within ten (10) days of an inmate-patient's release from segregation. This timeframe shall be reduced to three (3) days on December 1, 2019.

## 3. Inmate Transfer

3.1 In order to ensure continuity of care, the inmate-patient's mental health code and condition shall be

**considered in making determinations concerning transfer.**

**3.1.1 The transfer of inmate-patients in the RTU or SU (MH Code D) will be permitted to accommodate an inmate-patient's change in level of care occasioned by an improvement or deterioration in mental health condition. Transfers to other facilities having the same level of care as the inmate-patient's current facility will not occur without approval of the treatment team. The treatment team shall weigh the reason for the transfer against concerns about continuity of care.**

**3.1.2 Decisions regarding transfer of outpatient inmate-patients (MH Code B and C) will not occur without consultation with the treatment team. The treatment team shall weigh the reason for the transfer against concerns about continuity of care.**

3.1.3 Inmate-patients with an SMI flag may only be transferred upon approval of the inmate-patient's treatment team.

3.2 In the event of a transfer of an inmate-patient on the mental health caseload, there must be a transfer note written by the inmate-patient's MHP at the transferring facility to the inmate-patient's new MHP at the receiving facility.

3.2.1 This transfer note will include a discussion of the inmate-patient's mental health background, current needs, and the next steps for treatment the transferring facility would have taken if not for the transfer.

3.2.2 The transfer note for inmate-patients receiving outpatient care must occur within five (5) business days of the inmate-patient's transfer.

3.2.3 The transfer note for inmate-patients in mental health housing units must be sent

to the receiving facility prior to the inmate-patient's transfer.

3.2.3.1 This transfer note requirement does not apply to inmate-patients being moved within the same ADOC facility or from one ADOC facility's holding cell to another ADOC facility's crisis cell under the suicide prevention interim agreement or any superseding stipulation or remedial order regarding suicide prevention.

3.2.3.2 The transfer note shall be on Form XXX. The purposes of Form XXX is to eliminate, as much as possible, disruption in the inmate-patients care.

3.2.3.3 Form XXX shall include, at a minimum, the following information:

**3.2.3.3.1 Any individualized treatment or compliance strategies that have been successful;**

**3.2.3.3.2 Individualized treatment or compliance strategies that have been unsuccessful;**

**3.2.3.3.3 Clinically relevant information about the inmate-patient's background, such as prior history of abuse, family history, or difficulties in the course of treatment or compliance; and**

**3.2.3.3.4 Any other information which may assist a new mental health provider in gaining insight and rapport with the inmate-patient.**

3.3 The treatment team at the receiving facility of an inmate-patient transfer shall meet promptly following the transfer of the inmate-patient in order to review the existing treatment plan, address the impact of a facility change on the inmate-patient, and adjust structured activity goals based on available programming in the receiving facility.

3.3.1 In the event that an inmate-patient on the outpatient caseload is transferred, the inmate-patient's new treatment team shall meet within fourteen (14) calendar days of the inmate-patient's transfer.

3.3.2 In the event that an inmate-patient housed in an SLU, RTU, or SU is transferred to a different facility, the inmate-patient's treatment team shall meet within three (3) working days of the inmate-patient's transfer.

## 4. Mental Health Progress Notes

### 4.1 Substantive nature of progress notes

4.1.1 Mental Health Progress Notes shall be made each time there is a significant clinical encounter between an inmate-patient and a member of the inmate-patient's Treatment Team or other member of the mental health staff. For purposes of Section 4.1, a "significant clinical encounter" means any communication and interaction between an inmate-patient and any member of the mental health staff involving an exchange of information used in the treatment of the inmate-patient, excluding any casual exchanges, administrative communications, or other communications which do not relate to the inmate-patient's mental condition or the ongoing mental health treatment.

4.1.2 All Mental Health Progress Notes are to be kept in the inmate-patient's mental health record and available to all other members of the inmate-patient's treatment team.

4.1.3 Notes shall be in "SOAP" (Subjective, Objective, Assessment, Plan) format, and include the following information:

4.1.3.1 Name and position of the individual making the note;

4.1.3.2 Date, start and stop time of the interaction with the inmate-patient;

4.1.3.3 Nature of the interaction;

4.1.3.4 Reason for the interaction;

4.1.3.5 Notes about the interaction;

4.1.3.6 A summary of any conclusions drawn or actions or recommendations taken as a result of the interaction; and

4.1.3.7 Any changes in mental health medication, including dosage, frequency, and prescription.

4.1.4 The person making the note shall print and sign their name on the note.

4.1.5 The note shall be sufficiently detailed so that a treating mental health provider would be able to continue treatment using the information provided in the note.

4.1.6 If the encounter is at cell-front, the progress note shall so indicate.

4.2 Correlation of mental health progress notes with treatment plans

4.2.1 Progress notes shall address one or more problems identified in the inmate-patient's treatment plan, how the encounter addressed the particular problem(s), and the progress in resolving the problem(s).

**4.2.2 All progress notes made after the most recent treatment plan or amendment shall be considered when the treatment plan is reviewed at the next treatment team meeting, or other appropriate review as discussed in Section 2 above.**

**4.2.3 All progress notes of treatment sessions or other clinical counseling encounters shall include the start and end time of each session. Start and stop times are not required when the contact is primarily concerning medication management with a provider.**

## 5. Staff Turnover

**5.1. The following provisions shall apply in the event that a member of an inmate-patient's treatment team, other than correctional staff, ends his or her employment, either voluntarily or involuntarily, with the mental health provider:**

**5.1.1. If the employee ending employment provides or is provided fourteen (14) days or more notice of termination, then the employee shall be required, to the extent possible, to prepare transfer notes on FORM XXX for any inmate-patients under his or her care. This applies to providers conducting group treatment sessions.**

**5.1.2. It shall be the responsibility of the Mental Health Manager to ensure that the requirement of Section 5.1.1 is complied with by a departing employee, including review completed Form XXXs.**

**5.1.3. Vacancies in treatment team members due to staff turnover, shall be filled on the earlier of: a) thirty (30) days, or b) at least 24 hours before the date and time of the next regularly scheduled treatment team meeting for that inmate-patient.**

**6. No Amendment to Stipulations or Remedial Orders.**

**Nothing in this Stipulation supersedes or limits the requirements of other stipulations or Remedial Orders in this matter.**