



**REPORT OF THE INDEPENDENT MONITOR OF THE
AMENDED MEMORANDUM OF AGREEMENT
BETWEEN THE UNITED STATES DEPARTMENT OF
JUSTICE AND THE STATE OF DELAWARE
REGARDING THE JAMES T. VAUGHN
CORRECTIONAL CENTER, THE HOWARD R. YOUNG
CORRECTIONAL INSTITUTION AND THE SUSSEX
CORRECTIONAL INSTITUTION**

**JOSHUA W. MARTIN III
INDEPENDENT MONITOR**

1313 N. Market Street

P. O. Box 951

Wilmington, DE 19899-0951

302-984-6000

deprisonmonitor@potteranderson.com

www.deprisonmonitor.org

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INDEPENDENT MONITORING TEAM

INDEPENDENT MONITOR

Joshua W. Martin III*
Potter Anderson & Corroon LLP
1313 North Market Street
P.O. Box 951
Wilmington, DE 19899-0951
Phone: 302-984-6000
Fax: 302-658-1192
deprisonmonitor@potteranderson.com

POTTER ANDERSON MONITORING TEAM

Suzanne Hill Holly, Esq.
Michael B. Rush, Esq.

MEDICAL AND MENTAL HEALTH CARE EXPERTS

Ronald Shansky, M.D., S.C.
Internist, consultant in correctional medicine

Roberta E. Stellman, M.D., DABPN, CCHP, DFAPA
Psychiatrist, consultant in correctional medicine

* On January 14, 2009, then Governor-elect Jack Markell appointed Joshua W. Martin III to serve as chair of the Delaware Economic and Financial Advisory Council, the State's revenue forecasting committee. DEFAC is responsible for estimating the State's Revenues and setting the limit the legislature must use to draft the next fiscal year's budget. The parties to the Amended MOA were aware of and did not object to Mr. Martin's appointment to DEFAC.

EXECUTIVE SUMMARY

On December 29, 2009, the Original MOA¹ expired by its terms. Prior to the expiration of the Original MOA, on September 29, 2009, the Monitoring Team issued the Fifth Report, which reported on monitoring conducted between April and July 2009. The Fifth Report demonstrated that the State had made a great deal of progress toward substantial compliance with the Original MOA, but that there were areas in which the State needed to continue to improve in order to come into substantial compliance. Following the issuance of the Fifth Report and the expiration of the Original MOA, the parties entered into the Amended MOA.² Then, on March 26, 2010, the Monitoring Team published the Transitional Report, which reflected monitoring that took place between August and November 2009 (with a limited follow-up visit conducted in January 2010).

This is the Monitor's final report in connection with the Amended MOA, and reflects the findings made during the Monitoring Team's visit to the Facilities³ during June 2010. Following the publication of the Transitional Report and per the terms of the Amended MOA, the Monitoring Team's role shifted to one focusing primarily on reviewing the State's own self-monitoring procedures, and providing technical assistance to the State in order to continue its progress towards achieving substantial compliance with the terms of the Amended MOA.

Effective July 1, 2010, pursuant to paragraph 57 of the Amended MOA, Phase II monitoring and reporting began. Phase II monitoring and reporting calls for the State to monitor compliance with the Amended MOA under the supervision and direction of the Monitor and Medical Experts, and to issue a report on or before January 31, 2011. After that report is issued, the Monitoring Team's duties and authority will terminate, as long as both parties to the Amended MOA consent to that termination. After the Monitoring Team's involvement has ceased, the State and its chosen Medical Experts will be entirely responsible for monitoring and

¹ The "Original MOA" refers to the Memorandum of Agreement between the United States Department of Justice ("DOJ") and the State of Delaware (the "State") regarding the Delores J. Baylor Women's Correctional Institution ("Baylor"), the Delaware Correctional Center ("DCC", now known as the James T. Vaughn Correctional Center or JTVCC), the Howard R. Young Correctional Institution ("HRYCI"), and the Sussex Correctional Institution ("SCI"), which was entered into on December 29, 2006.

² The "Amended MOA" refers to the Amended Memorandum of Agreement between the DOJ and the State regarding JTVCC, HRYCI and SCI, which was effective as of December 30, 2009. Baylor is no longer subject to monitoring.

³ The term "Facilities" refers to JTVCC, HRYCI, and SCI. Not all paragraphs of the Amended MOA are monitored at SCI. The following paragraphs of the Amended MOA do not apply to SCI: 9 (medical screening), 14 (drug and alcohol withdrawal), 15 (communicable and infectious disease management), 16 (clinic space and equipment), 19 (chronic disease management program), 20 (immunizations), 39 (communication), and 41 (observation). Additionally, all other paragraphs of the Amended MOA apply to SCI only to the extent they relate to the provision of mental health care services at SCI.

reporting on compliance with the Amended MOA until substantial compliance with the Amended MOA is achieved.

During this monitoring period, the Monitoring Team⁴ visited each of the Facilities during the week of June 21, 2010 in order to provide technical assistance and conduct monitoring. As mentioned above, however, the Monitoring Team's focus was on ensuring that the State's self-monitoring is accurate and adequate so that the State will be prepared to monitor its compliance in the future as contemplated by the Amended MOA. The parties and the Monitoring Team coordinated with respect to a monitoring plan prior to the Monitoring Team's visits to the Facilities, and this report reflects the Monitoring Team's review pursuant to that plan. In general, the State's self-monitoring used appropriate methodology and was accurate.

In conclusion, since the Monitoring Team began monitoring the State's compliance with the Original MOA, the State has made significant progress as reflected by the decreased number of areas and facilities requiring monitoring under the Amended MOA. The quality and availability of health services at the Facilities has improved over the past three years. The State still faces challenges in achieving substantial compliance with the Amended MOA, and might face some set-backs associated with the transition from its prior medical vendor, Correctional Medical Services, to its new vendors. For example, while the Monitoring Team found that it agreed in almost all cases with the State's self-monitoring assessments, the quality improvement process required by the Amended MOA still needs work, and because that process is a facility-level (as opposed to a Bureau of Correctional Healthcare Services ("BCHS")) process, the new vendors will need time to establish and improve it.

In spite of the work that remains for the State to come into substantial compliance with the Amended MOA, the Monitor is optimistic regarding the State's ability to achieve substantial compliance. The Monitoring Team found that it agreed with the State's self-assessments in most cases, which suggests that the State will succeed in monitoring its compliance with the Amended MOA. The impact of this achievement should not be underestimated. If the State is able to identify existing problems independently (and identify any new problems that might arise), then the State will be able to address those problems in a more timely and appropriate manner, without the need for outside assistance or intervention. With time, the State should be able to use that awareness to achieve substantial compliance with the Amended MOA.

⁴ The makeup of the Monitoring Team has changed. Biographies of the members of the Monitoring Team are attached hereto as Appendix I.

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INTRODUCTION

The First Semi-Annual Report of the Independent Monitor for the State of Delaware Department of Correction (“DOC”) was published on June 29, 2007, and represented a preliminary overview of the Monitor’s duties, and summaries of the Monitor’s first observations regarding the State’s compliance with the Original MOA.⁵ The Second Semi-Annual Report (the “Second Report”) was published on January 31, 2008. This report represented the Monitoring Team’s first opportunity to conduct and report on monitoring of the Facilities and was designed to serve as a baseline against which the State’s future improvement will be compared. The Third Semi-Annual Report (the “Third Report”), the Fourth Semi-Annual Report (the “Fourth Report”), and the Fifth Semi-Annual Report (the “Fifth Report”) were published on July 29, 2008, January 30, 2009, and September 29, 2009, respectively. The Transitional Report (*i.e.* the report that reflected the transitional period between the Original MOA and the Amended MOA) was published on March 26, 2010.

This is the Monitor’s final report in connection with the Amended MOA. Consistent with the intent of the Amended MOA, the Monitoring Team’s role has shifted to one focusing primarily on reviewing the State’s own self-monitoring procedures, and providing technical assistance to the State in order to continue its progress towards achieving substantial compliance with the terms of the Amended MOA. This report reflects that changed role.

As mentioned in the Executive Summary, effective July 1, 2010, Phase II monitoring and reporting began. (*See* Amended MOA, ¶ 57). Phase II monitoring and reporting calls for the State to monitor compliance with the Amended MOA under the supervision and direction of the Monitor and Medical Experts, and to issue a report on or before January 31, 2011. After that report is issued, the Monitoring Team’s duties and authority will terminate, as long as both parties to the Amended MOA consent to that termination. After the Monitoring Team’s involvement has ceased, the State and its chosen Medical Experts will monitor and report on compliance with the Amended MOA independently until substantial compliance is achieved.

As was the case in previous reports, this final report takes note of improvements made by the State since the last report and describes the hurdles the State must overcome to come into full compliance with the Amended MOA. The organization and components of this report generally are the same as prior reports, with some changes as to the substance of the review conducted by the Monitoring Team. The report consists of a review of each paragraph, followed by the Monitoring Team’s assessment of the State’s compliance with that paragraph at a given Facility, a comparison of that finding to the State’s own finding in connection with its self-monitoring, findings made by the Monitoring Team regarding either the substance of the

⁵ Previous reports can be found on the Monitor’s website, at the following address: www.deprisonmonitor.org. The website contains an overview of the Monitor’s role, and links to press releases and reports. All future reports will be posted on the website.

State's performance with respect to compliance with that paragraph at that Facility or the self-monitoring methods employed by the State in connection with its self-monitoring of that paragraph, and recommendations, if any, to assist the State in reaching substantial compliance with a given paragraph of the Amended MOA. The Monitoring Team used a consensus approach to determine the State's level of compliance.

During this monitoring period, the Monitoring Team's visits to the Facilities occurred during June 2010. The Monitoring Team visited each of the Facilities. Each visit lasted one to two days.

The Monitoring Team is not, and cannot be, a constant presence at each of the Facilities. Thus, it is important to note that the findings and assessments made in this report are made as of the date of the Monitoring Team's visit to that Facility to monitor a particular paragraph of the Amended MOA. Therefore, the findings and assessments are not necessarily an indication of the current state at each of the Facilities but rather are a "snapshot" of the state of affairs at the time of the Monitoring Team's visit.

Additionally, it is important to note that under the terms of the Amended MOA, the Monitoring Team is only given the power to review and report on the State's implementation of the Amended MOA, and to assist the State by providing technical assistance regarding compliance with the Amended MOA. The Monitoring Team has no independent authority to enforce the terms of the Amended MOA or to force the State to make certain changes. Ultimately the implementation of changes and the enforcement of the Amended MOA are the responsibility of the State and the DOJ.

Definition of Assessment Ratings

Although the role of the Monitoring Team has changed pursuant to the terms of the Amended MOA, the compliance assessments used in connection with monitoring of the State's performance under the Amended MOA have not. The Monitor is required to review and report on the State's implementation of, and assist with the State's compliance with, the Amended MOA. The Monitor must determine whether the State has complied with each requirement contained in the Amended MOA successfully at each of the Facilities. In order to make that determination, the parties must agree upon appropriate measurements and standards against which the State's performance will be compared. The following are the assessment ratings used by the Monitoring Team:

- The term "substantial compliance" shall mean that the State has satisfied the requirements of all components of the assessed Amended MOA paragraph. Under the terms of the Amended MOA, it will terminate when the State has achieved substantial compliance with all paragraphs of the Amended MOA and has maintained that substantial compliance for a period of one year. *See* Amended MOA ¶ 49. The DOJ will determine whether the State has, in fact, maintained substantial compliance for the one year period. *Id.* Additionally, under the terms of the Amended MOA, subsections of the Amended MOA that pertain to specific subject matter areas may be terminated separately and independently from the remainder of the Amended MOA. *See* Amended MOA ¶ 50.

Once again, in order for this to occur, the State bears the burden of demonstrating that it has achieved and maintained substantial compliance with a particular section of the Amended MOA for one year. *Id.* Finally, non-compliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance will not constitute failure to maintain substantial compliance. *See* Amended MOA ¶ 49. At the same time, temporary compliance during a period of sustained non-compliance shall not constitute substantial compliance. *Id.*

- The term “partial compliance” shall mean that the State has achieved less than substantial compliance with all of the components of a rated paragraph of the Amended MOA, but has made some progress toward substantial compliance on most of the key components of the rated paragraph. A partial compliance rating encompasses a wide range of performance by the State. Specifically, a partial compliance rating can signify that the State is nearly in substantial compliance, or it can mean that the State is only slightly above a non-compliance rating.
- The term “non-compliance” shall mean that the State has made negligible or no progress toward compliance with all of the components of the Amended MOA paragraphs being assessed.

For the purpose of this report, the Monitoring Team has reviewed the information available to it, and assessed the level of the State’s compliance with each Amended MOA paragraph at each of the Facilities based upon a consensus approach. This means that for each paragraph, the Monitoring Team reviews the evidence and determines whether the evidence shows substantial, partial or no compliance with a paragraph of the Amended MOA.

Overview of Report

This report, like the previous reports, generally follows the format of the Amended MOA, which is organized into three distinct substantive areas: (1) Medical and Mental Health; (2) Suicide Prevention; and (3) Quality Assurance. The report mirrors that format, and contains individual sections devoted to each of these three areas. Each Amended MOA paragraph is listed by paragraph number and is followed by some or all of the following:

- a summary of the particular Amended MOA requirements;
- discussion, as appropriate, of any applicable generally accepted professional standards which relate to the Amended MOA paragraph;⁶

⁶ In this report, the monitor has cited in some cases to two separate National Commission on Correctional Health Care (“NCCHC”) standards (or other appropriate standards). For informational purposes, this report cites to the NCCHC standards that were in effect at the time the parties entered into the Original MOA. The NCCHC published a revised version of its standards in 2008. For information about the 2008 Revisions, including summaries of the major changes to the NCCHC Standards please see

- key findings made by the Monitoring Team with regard to the State’s self-monitoring and/or substantive performance;
- an assessment of the State’s compliance with the relevant paragraph and a comparison of that assessment with the State’s own assessment (if there are separate assessments for medical and mental healthcare, it will be noted); and
- recommendations, if any, to assist the State in achieving substantial compliance with the paragraph.⁷

http://www.ncchc.org/resources/2008_standards/intro.html. The 2008 Revisions do include some substantive changes. For instance, P-E-04 now permits certain facilities to not conduct an initial health assessment on all new intakes, and instead provides an alternative. However, this revision does not comport with paragraph 11 of the Amended MOA, which requires all newly admitted inmates to receive health assessments within one or two weeks of intake, depending upon whether they have a chronic illness.

⁷ Recommendations included in this Report are in the nature of technical assistance and do not represent an obligation of the DOC pursuant to the Amended MOA. The Monitoring Team believes, however, that if the State is able to enact its recommendations, the State’s success in achieving substantial compliance with the Amended MOA will be enhanced.

MEDICAL AND MENTAL HEALTH CARE

1. Standard

A. Amended MOA Paragraph

Paragraph 1 of the Amended MOA provides:

The State shall ensure that services to address the serious medical and mental health needs of all inmates meet generally accepted professional standards.⁸

This paragraph of the Amended MOA requires that the State provide services in all of the areas set forth in the Amended MOA according to generally accepted professional standards, including but not limited to, the standards promulgated by the NCCHC for prisons and for jails. The Facilities are all used both as jails⁹ and as prisons.¹⁰ For the most part, the NCCHC standards for jails and prisons are the same; however, there are some notable

⁸ According to section II.E. of the Amended MOA, “generally accepted professional standards” means:

[T]hose industry standards accepted by a significant majority of professionals in the relevant field, and reflected in the standards of care such as those published by the National Commission on Correctional Health Care (NCCHC). DOJ acknowledges that NCCHC has established different standards for jail and prison populations, and that the relevant standard that applies under this Agreement may differ for pretrial and sentenced inmates. As used in [the Amended MOA], the terms “adequate,” “appropriate,” and “sufficient” refer to standards established by clinical guidelines in the relevant field. The Parties shall consider clinical guidelines promulgated by professional organizations in assessing whether generally accepted professional standards have been met.

⁹ A “jail” is, “a detention facility where accused persons are detained until their alleged crime is adjudicated before a jury or judge.” Joseph E. Paris, Ph.D., M.D., CCHP, FSCP, *Interaction Between Correctional Staff and Health Care Providers in the Delivery of Medical Care, in Clinical Practice in Correctional Medicine* (Michael Puisis, D.O. ed., 2006). Thus, “[f]or the most part, persons in jails are not yet convicted of a crime, although some jails also house those serving misdemeanor terms (1 year or less) as well as those serving county jail time as condition of felony probation.” *Id.*

¹⁰ A “prison” is a “facilit[y] where persons are incarcerated as punishment for crimes for which they have been convicted.” Joseph E. Paris, Ph.D., M.D., CCHP, FSCP, *Interaction Between Correctional Staff and Health Care Providers in the Delivery of Medical Care, in Clinical Practice in Correctional Medicine* (Michael Puisis, D.O. ed., 2006).

differences based upon the different functions served by a jail versus a prison, especially with regard to intake procedures. (See e.g., discussion of paragraph 9) As the DOJ has acknowledged in the Amended MOA, the NCCHC has adopted separate standards for prisons and for jails.¹¹

B. Assessment

The Monitoring Team found that the State is in partial compliance with this paragraph of the Amended MOA at all of the Facilities.

C. Findings

As the Monitoring Team has noted in past reports, this paragraph of the Amended MOA is very broad, and encompasses many different aspects of care. The Monitoring Team's assessment of this paragraph of the Amended MOA is reached by an overall assessment of the State's compliance with the other paragraphs of the Amended MOA. Similarly, the State believes that the sum total of the self-assessment data it provided to the Monitoring Team supports the requirements of this general paragraph.

The Monitoring Team notes that over time, each of the Facilities has demonstrated and sustained some improvement, but each Facility has certain challenges that remain to be met. For the specific findings regarding the paragraphs of the Amended MOA, the reader should review this report in its entirety. The assessment of the Facilities pursuant to this paragraph of the Amended MOA is based on the entirety of the State's performance.

D. Recommendations

The Monitoring Team noted that a staffing analysis that has been recommended on multiple occasions by the Monitoring Team has not been completed at any of the Facilities. The State has recently contracted with new private entities to provide health services, pharmacy services, and mental health services. The State has informed the Monitoring Team that it will conduct a review of staffing patterns after the new vendors become acclimated to the Facilities and the services they are to provide.

¹¹ Unless otherwise noted, all references in the format of "J-__-__" shall refer to standards from the *Standards for Health Services in Jails*, National Commission on Correctional Health Care (2003). Likewise, unless otherwise noted, all references in the format of "P-__-__" shall refer to standards from the *Standards for Health Services in Prisons*, National Commission on Correctional Health Care (2003).

2. Policies and Procedures

A. Amended MOA Paragraph

Paragraph 2 of the Amended MOA provides:

The State shall maintain and revise as necessary policies and procedures to ensure that adequate ongoing medical and mental health services are provided to inmates determined to need such care. Medical and mental health policies and procedures shall be readily available to relevant staff.

This paragraph of the Amended MOA requires that the State have policies¹² and procedures¹³ in place to address vital procedural steps in providing appropriate medical and mental health care for inmates, and is meant to ensure that these policies and procedures are readily available to relevant staff. According to NCCHC standards, which represent generally accepted professional standards, policies and procedures should be facility-specific. J-A-05; P-A-05.

B. Assessment

The Monitoring Team found that all of the Facilities are in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

C. Findings

The State has had a substantially complete set of policies for quite some time, which had been approved by the DOJ as of November 6, 2007. The State later implemented mental health-related policies, and those policies were approved as well. The State also has facility-specific local operating procedures.

At the time of the Monitoring Team's visit, the DOC was in the process of conducting its annual review and update of the policies, and the DOC had completed its 2010 annual review of about 36% of the policies. The DOC had been meeting regularly and completing this task in a structured manner.

In addition to conducting an annual review of policies, BCHS was reviewing any revisions that have been made to facility-specific local operating procedures. This review of changes to local operating procedures has been an important part of the BCHS's process. It

¹² A "policy" is defined by the NCCHC as "a facility's official position on a particular issue related to an organization's operations." J-A-05; P-A-05.

¹³ A "procedure" is defined by the NCCHC as "describ[ing] in detail, sometimes in sequence, how a policy is to be carried out." J-A-05; P-A-05.

allows for BCHS to be aware of significant changes to local operating procedures and ensure that the local operating procedures that have been adopted at the Facilities remain consistent with the BCHS policies.

Finally, while at SCI, the Monitoring Team reviewed several revised policies relating to mental healthcare. These policies included a Suicide Prevention Policy which had been revised to accommodate the ongoing practice of housing PCO II and III inmates in segregation units as opposed to the infirmary. This policy also took into account the current practice at SCI of retaining inmates on PCO at the site while infirmary housing is unavailable due to construction projects. Additionally, the revisions to the policy now require step-down orders to be issued by licensed mental health professionals. The prior language had specified “qualified” mental health professionals could issue such orders. Finally, the State has indicated it will require the mental health contractor to provide staffing to allow one to one and 15 minute observations as required by the policy.

The State also made changes to the Mortality and Morbidity Policy. These modifications allow the contractor to provide input into the final mortality and morbidity report, with the State issuing final recommendations. Additionally, after the report is issued, the contractor will be given the final report and a joint meeting will occur after the autopsy findings are released.

The State has formed a committee that has been tasked with the responsibility of reviewing new and revised policies. These committee meetings were disrupted in mid-April while the State focused on the selection process for new health services contractors. However, it is expected that these meetings will resume in the near future, if they have not already done so.

C. Recommendations

With respect to the revised Suicide Prevention Policy, as noted above, the policy allows step-down orders to be issued by licensed mental health professionals. The Monitoring Team recommends that downgrades and removal from PCO status be made only by an M.D. or Ph.D, since these decisions put the inmate and the State at the greatest risk of an adverse event.

Additionally, is the Monitoring Team recommended that the State implement a policy tracking tool which would allow the review committee to easily remain up-to-date with its responsibilities by easily sorting policies based on chronological sequencing of upcoming events. The State has informed the Monitoring Team that it has implemented this recommendation.

3. Record-Keeping

A. Amended MOA Paragraph

Paragraph 3 of the Amended MOA provides:

The State shall maintain a unified medical and mental health file for each inmate and all medical records, including laboratory reports, shall be timely filed in the

medical file. The medical records unit shall be adequately staffed to prevent significant lags in filing records in an inmate's medical record. The State shall maintain the medical records such that persons providing medical or mental health treatment may gain access to the record as needed. The medical record should include information from prior incarcerations.

This paragraph of the Amended MOA contains several key elements, which are either explicitly stated in the Amended MOA, or are generally accepted professional standards that are implicated by the terms of the Amended MOA. First, the State must develop and implement a unitary record-keeping system. According to the Amended MOA, a unitary record-keeping system consists of a system in which all clinically appropriate documents for an inmate's treatment are readily available to each clinician, and should include information from prior incarcerations. Although the amount and type of documentation that should be in an inmate's health record is determined by the individual inmate's medical history and condition, according to generally accepted professional standards, an inmate's health record normally should contain the following categories of documents, if applicable:

- identifying information (*e.g.*, name, identification number, date of birth, gender);
- problem list containing medical and mental health diagnoses and treatment as well as known allergies;
- receiving screening and health assessment forms (*see* discussion of paragraphs 9 and 11 of the Amended MOA);
- progress notes of all significant findings, diagnoses, treatments, and dispositions;
- provider orders for prescribed medication;
- medication administration records ("MARs");
- reports of laboratory, x-ray, and diagnostic studies;
- flow sheets;
- consent and refusal forms;
- release of information forms;
- results of specialty consultations and off-site referrals;
- discharge summaries of hospitalizations and other inpatient stays;
- special needs treatment plan;

- immunization records;
- place, date, and time of each clinical encounter; and
- signature and title of each documenter.

J-H-01; P-H-01. A health record of this magnitude will not always be established for every inmate; however, any health intervention after the receiving screening will require the initiation of a record containing some or all of the foregoing documents. *Id.*

The Amended MOA also requires that the State ensure that adequate staffing is maintained to support medical records filing. Specifically, the State should maintain sufficient staffing so that appropriate medical records are filed properly, and quickly enough so that staff can access relevant information as needed. One requirement implicit in this paragraph of the Amended MOA is that the staff performing medical record-keeping functions be adequately trained to do so.

The DOC used a paper medical records system, rather than an electronic medical records (“EMR”) system, which is consistent with generally accepted standards. Some information generated for the paper record was initially recorded in the Delaware Automated Correctional System (“DACS”). DACS contains multiple “modules,” and is used by the DOC for many non-medical tasks. Although DACS contains a medical module, the DOC reports that it was not designed to be (and has not been) used as an electronic medical record. The DACS medical module was used mostly for certain intake and scheduling tasks.

In 2009, the State studied the use of an EMR. Based upon that study, the State included the use of an EMR in its late 2009 Request for Proposals for new correctional healthcare providers. The State’s new healthcare provider will be required to establish and use an EMR system.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team was provided with a document called “Thinning of the Medical Record,” which provides guidance with regard to what types of documents should remain in the active file after it has been thinned. The Monitoring Team notes that this guidance is not being followed on a consistent basis. Also, some records contain illegible writing or are missing the date and/or time the document was placed in the record. The Monitoring Team also noted problems with the timely filing of released inmates’ records, and misfiled documents.

With respect to mental healthcare-related files, the Monitoring Team noted problems with records not being filed in chronological order. Additionally, psychiatric notes were often filed out of order, or were filed under incorrect tabs in the record. The Monitoring Team’s findings mirrored the findings made by the State’s independent review.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the material provided to it by the DOC. The Monitoring Team noted that major problems continue to persist with regard to clinicians providing a date and time for each encounter, and documents being filed under the correct tab. Also, as noted in the findings for JTVCC, the Monitoring Team found that required documents are not always retained in the files when they are thinned.

With respect to mental healthcare-related files, the Monitoring Team noted that records appeared to be filed out of order, incomplete or misfiled in many cases. When reviewing this paragraph, the Monitoring Team considers incomplete records to be untimely because the totality of required information was not present. Additionally, the Monitoring Team observed medical records that were illegible in some instances.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team noted that in most cases the “Problem List” included at the beginning of individual charts did not contain mental health diagnoses or concerns. Additionally, the Monitoring Team noted that mental health forms often appeared blurry to the point of being illegible because of frequent recopying of routine forms.

E. Recommendations

At all of the Facilities, the Monitoring Team recommends that the State assign individuals the task of returning illegible or incomplete records to the provider for correction. This should be done on a timely basis so the corrections can be made while the information is fresh on the provider’s mind.

At JTVCC, the Monitoring Team recommends that the DOC (i) perform a quality improvement study on records that have been thinned to determine whether there is compliance with the “Thinning of Medical Record” procedure; and (ii) work with the clinicians in order to improve their documentation legibility and the date and time recording of all clinical encounters.

At HRYCI, the Monitoring Team recommends that the regional medical records director perform a study of thinned medical records to determine whether the active record contains the required documents as indicated in the “Thinning the Record” procedure.

4. Medication and Laboratory Orders

A. Amended MOA Paragraph

Paragraph 4 of the Amended MOA provides:

The State shall maintain policies, procedures, and practices consistent with generally accepted professional standards to ensure timely responses to orders for medications and laboratory tests. Such policies, procedures, and practices shall be periodically evaluated to ensure that delays in inmates’ timely receipt of medications and laboratory tests are prevented.

The Amended MOA requires that the State develop policies, procedures, and practices consistent with generally accepted professional standards to ensure timely responses to orders for medications and laboratory tests. The State has adopted policies consistent with this requirement of the Amended MOA. (See State Policy D-02 and D-04.) The State’s implementation of this policy should ensure that inmates do not experience unnecessary delays and interruptions to care due to provider orders for medications and laboratory tests not being timely performed. (See J-E-12; P-E-12.) Finally, the Amended MOA requires that the policies, procedures, and practices be periodically evaluated to ensure that delays in inmates’ timely receipt of medications and laboratory tests are prevented. The Monitoring Team recommends that the State include this periodic review as a part of the CQI Program. (See discussion of paragraph 45 of the Amended MOA).

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the methodology used by the DOC to self-monitor this paragraph of the Amended MOA, and agreed with the methodology the DOC used and the resulting findings. There has been clear improvement over time with regard to the

timeliness of ordering and reviewing critical healthcare information. There continues to be a problem with regard to the timeliness of transcription of orders, and the completeness of medication orders.

One timeliness requirement that the State imposes is that patients on verified psychotropic medications must have medication ordered within 24 hours of intake. The Monitoring Team believes that the requirement should be changed to allow for medication to be administered within a different time frame if there is a documented clinical determination that an alternate strategy is preferable for the patient. This could improve the State's compliance level.

With respect to mental healthcare-related medication and laboratory orders, the Monitoring Team reviewed the results of an audit completed by the State. The result of the audit showed non-compliant rates of patients who entered the facility on verified psychotropic medications having their medications ordered within 24 hours of intake; timely implementation of laboratory orders; timely transcription of laboratory orders; and documented communication of laboratory test results to inmates. The audit results did reflect a good performance with respect to completion of appropriate laboratory testing on patients on psychotropic medications.

While concerned by the results of the audit described above, the Monitoring Team believes that with one exception, the indicators for this audit are effective and adequately track the components of the process being monitored. The one exception is that, as discussed with respect to HRYCI as well, the Monitoring Team is concerned that the State's audit tool only requires the monitoring of medication blood levels every 90 days. The Monitoring Team believes it is important that clinicians track the levels of certain drugs, such as lithium, from the moment the medication is initially placed in the blood until the blood levels reach a steady state. Once stable levels are reached, tracking at 90 day intervals is appropriate.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the materials produced by the DOC and found the State's methodology to be appropriate and its reviews to be comprehensive. There continue to be problems with signature legibility, clinicians documenting the time on orders, and results being communicated to the patient. There continues to be some delay in laboratory orders being implemented on a timely basis. Overall, there has been substantial improvement from previous reviews. Transcription of medication orders was done timely more often than in the past, which clearly is an improvement, but is still an area for which further attention is needed.

With respect to mental healthcare-related medication and laboratory orders, the Monitoring Team reviewed the results of an audit completed by the State. This audit

demonstrated less than compliant performance with respect to patients who entered the facility on verified psychotropic medications having their medications ordered within 24 hours of intake; appropriate laboratory testing for patients on psychotropic medications; timely implementation of laboratory orders; and timely transcription of laboratory orders. The audit did show fairly good performance with respect to accurate transcription of laboratory orders.

In reviewing the audit completed by the State, the Monitoring Team noted several problems. First, the Monitoring Team found that results of laboratory studies were infrequently communicated to the inmate. Additionally, laboratory orders were not repeated every quarter as is required by standards established by the State very often. The Monitoring Team noted additional problems with the State's audit tool as it only requires the monitoring of medication blood levels every 90 days. The Monitoring Team believes it is important that clinicians track the levels of certain drugs, such as lithium, from the moment the medication is initially placed in the blood until the blood levels reach a steady state. Once stable levels are reached, tracking at 90 day intervals is appropriate.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the results of an audit completed by the State. This audit demonstrated problems with applicable patients who entered the facility on verified psychotropic medications having their medications ordered within 24 hours of intake, and the documented communication of laboratory test results to inmates. Additionally, the audit demonstrated excellent performance with respect to the completion of appropriate laboratory testing for patients on psychotropic medications.

Overall, the Monitoring Team believes the staff at SCI is doing an excellent job of transcribing medication orders and laboratory studies. The main problems, as noted above, are with the communication of results to the inmates.

E. Recommendations

At JTVCC, the Monitoring Team recommends that the State: (i) change the criteria regarding receipt of psychotropic medications at time of intake to allow for documented alternative strategies for patients; (ii) continue to work on transcription timeliness by the nursing staff to ensure that it occurs within one shift; and, (iii) with regard to lab orders, explore different strategies that facilitate communication of results between the clinician and the patient.

At HRYCI, the Monitoring Team recommends that the State continue its reviews and provide feedback to the facility.

With respect to the mental healthcare-related aspects of this paragraph of the Amended MOA, the Monitoring Team recommends that the State track blood levels of medications at more frequent intervals than 90 days for certain drugs until the levels reach a stable level; and that the State develop a plan or tracking tool to address the failure to transcribe orders and problems with inaccurate transcription.

STAFFING AND TRAINING

5. Staffing

A. Amended MOA Paragraph

Paragraph 5 of the Amended MOA provides:

The State shall maintain sufficient staffing levels of qualified medical staff and mental health professionals (including psychiatrists) to provide care for inmates' serious medical and mental health needs that meets generally accepted professional standards.

One way to evaluate the adequacy and effectiveness of a facility's staffing plan is the facility's ability to meet the health needs of the inmate population. J-C-07; P-C-07. Various factors can be examined to determine the number and type of health care professionals required at a facility, such as the: (i) size of the facility; (ii) types and scope of health services delivered; (iii) needs of the inmate population at the particular facility, and (iv) organizational structure of the facility. *Id.* In addition, two other factors of significance in evaluating the sufficiency of staffing levels are whether a prescribing provider¹⁴ is available for a sufficient amount of time so as to avoid any unreasonable delay in patients receiving necessary care, and if physician time¹⁵ is sufficient to meet both clinical¹⁶ and administrative responsibilities.¹⁷ *Id.*

The Monitoring Team has recommended that the State conduct a detailed staffing analysis at all of the Facilities to make the determination as to whether staffing needs are met. In addition, such a staffing analysis should occur on an annual basis. Otherwise, the State will be unable to identify its staffing needs as populations change, and to accommodate security constraints (or lack thereof).

¹⁴ A "prescribing provider" is defined as "a licensed individual, such as a medical doctor, doctor of osteopathy, nurse practitioner, or physician's assistant, authorized to write prescriptions. J-C-07; P-C-07.

¹⁵ Typically, 3.5 hours of physician time per week per 100 inmates housed at a facility is regarded as the minimum acceptable physician time. J-C-07; P-C-07. Nurse practitioners or physician's assistants may substitute for a portion of the physician's time seeing patients, but must do so under the supervision of a physician. *Id.*; *see generally*, 24 *Del. C.* § 1772.

¹⁶ Clinical responsibilities include conducting physical examinations, evaluating and managing parties in clinics, monitoring other providers by reviewing and co-signing records, reviewing laboratory and other diagnostic test results, and developing individual treatment plans. J-C-07; P-C-07.

¹⁷ Administrative responsibilities include reviewing and approving policies, procedures, protocols, and guidelines, participating in staff meetings, conducting in-service training program, and participating in quality improvement and infection control programs. J-C-07; P-C-07.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

In April, 2010, there was a decrease in the shifts being filled in the maximum security units. The Monitoring Team believes that this could be a reflection of transition from one vendor to another. The State will need to continue to review this area closely during the immediate transition period. Overall, the program has maintained itself about as well as could be expected under the circumstances.

With respect to mental healthcare staffing, the Monitoring Team was informed that there were significant staffing shortages on the maximum security side of JTVCC. The Monitoring Team notes that the primary staffing deficiencies occur in an area of the facility where there have been a large number of people maintained on PCO status II and III in segregation units, as well as a medium/maximum security special needs unit, now known as structured housing.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

From the data provided by the DOC, it appears that there has not been any recent deterioration in the total number of shifts covered. In general, the figure has stayed in the 85-90% range. The Monitoring Team is concerned about the possibility of disruption in staffing levels with the change in vendors because this area is most subject to transition instability. Therefore, the State should continue to monitor staffing levels closely for the next several months through the transition period. So far, the Monitoring Team is encouraged by the overall stability at HRYCI.

With respect to mental healthcare staffing, the Monitoring Team was informed that there has been no mental health director at HRYCI since approximately February 2010. In addition, one clinician position has been vacant since March 2010.

Additionally, the Monitoring Team notes that there is evidence of clinical shortages at HRYCI. This is based on a review of staffing percentages provided by the State.

With respect to these percentages, the Monitoring Team observed that these percentages refer to the degree of filled Full-Time Equivalent (“FTE”) positions, as opposed to the actual number of hours per month that are functionally filled. As a result, the percentages provided should be viewed as the maximum amount of time potentially available by professional staff. Due to vacations and other personal leave, it is more likely than not that the functionally filled percentages would be lower.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

During the Monitoring Team’s June 2010 visit, information was made available that one psychiatrist was actually on site 16 out of the allocated 24 hours per week for the previous month. Based on the manner in which the State is tracking staffing levels, this work schedule would still show 100% staffing of that position because the reports are not of actual hours completed but rather positions hired. Additionally, two mental health professionals left two weeks ago prior to the Monitoring Team’s visit, thereby leaving the facility short 2.5 counselors (approximately 50% of allocated positions) and one mental health director.

E. Recommendations

At JTVCC, the Monitoring Team recommends that the State work with the new vendor to ensure that, to the maximum extent possible, all shifts are filled.

At HRYCI, the Monitoring Team recommends that the State continue to focus on this area to ensure that staffing requirements are met.

With respect to mental healthcare care-related aspects of this paragraph of the MOA, as mentioned in the discussion of Paragraph 1, and as recommended in prior reports, the Monitoring Team recommends that the State conduct a detailed staffing analysis to determine what amount of staffing is needed.

6. Medical and Mental Health Staff Management

A. Amended MOA Paragraph

Paragraph 6 of the Amended MOA provides:

The State shall ensure that a full-time medical director is responsible for managing the medical program. The State shall also provide a director of nursing and adequate administrative medical and mental health management. In addition, the State shall ensure that a designated clinical director shall supervise inmates' mental health treatment at the Facilities. These positions may be filled either by State employees, by independent contractors retained by the State, or pursuant to the State's contract with a correctional health care vendor.

According to NCHC Standards for both jails and prisons (which dictate the generally accepted professional standard in this case), each of the Facilities should have a designated health authority responsible for health care services and, as provided in the Amended MOA, each of the Facilities should have another responsible health authority for mental health services. J-A-02; P-A-02. According to the State's Action Plan, positions that the State made plans to fill in order to meet this requirement are a statewide full-time medical director, statewide director of nursing, a statewide full-time mental health director as well as additional administrative management staff to assist the foregoing state-level positions. (*See* Section 7 of the State's Action Plan.) In addition, there is a position allocated at each of the Facilities for a clinical director of mental health, an HSA, medical director and DON. For a Facility to be in substantial compliance with this paragraph of the Amended MOA, the Monitoring Team needs to find that there has been stable and quality leadership at the Facility. Thus, simply hiring a person to fill a position will not be adequate.

B. JTVCC

1. Assessment

With respect to the medical care-related aspects of this paragraph of the Amended MOA, the Monitoring Team found that JTVCC is in partial compliance, which is consistent with the DOC self-assessment.

With respect to mental healthcare-related aspects of this paragraph of the Amended MOA, the Monitoring Team found that JTVCC is in substantial compliance, which is consistent with the DOC self-assessment.

2. Findings

As the Monitoring Team understands, during the transition, the new vendor will attempt to retain all individuals who currently fill leadership positions if it is appropriate. This is a positive commitment. Currently, there are a few vacant leadership positions for which

recruiting is ongoing. One of those is the associate medical director position. This sort of vacancy negatively impacts a site's internal ability to monitor and provide effective feedback to the clinician staff regarding their performance. The same problem exists at this site with regard to nursing services.

The Monitoring Team notes that the Mental Health Director has been in his position since December 2009, and that is the basis for the substantial compliance rating regarding the mental healthcare aspects of this paragraph of the Amended MOA.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

Due to the transition period from one vendor to another, this is an area that warrants close scrutiny by the State. Both the Health Services Administrator ("HAS") and the Associate HSA have been in their positions more than a year and the Medical Director has been in his position as an HRYCI physician a little less than a year, but has been Medical Director for a few months. The Associate Medical Director has been in her position for seven months and the Director of Nursing ("DON"), three months. The Mental Health Director position is currently vacant. Although several of the leadership staff has remained in place for a significant amount of time, leadership at this facility still lacks the necessary stability.

The State informed the Monitoring Team that the Mental Health Director position at HRYCI has been vacant for several months and there is no clear leadership at the site. There are some systemic deficiencies in the mental health services and process at the site. The Mental Health Director from Baylor has been spending some time at HRYCI but she has been providing clinical coverage in addition to performing leadership responsibilities. She also has been tasked with reviewing the mental health processes at the site to try to improve mental health services at the site but all mental health issues are supposed to be directed towards the new Regional Mental Health Director. The Regional Mental Health Director is rarely onsite and appears to be providing minimal leadership at the site.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team notes that the Mental Health Director position has been vacant since April 2010. However, a new director was scheduled to begin work on July 1, 2010 (after the Monitoring Team had completed its visit to the site). In the interim, the State had appointed an acting director who had been providing effective leadership. The rating of substantial compliance is based on the presence of stable central office leadership and the prospect of effective leadership beginning in July 2010. The assessment will not be able to remain in substantial compliance if the State is unable to maintain this stability in leadership.

E. Recommendations

At JTVCC, the Monitoring Team recommends that, both for clinician staff and nursing staff, the State should implement a professional performance enhancement program that provides ongoing feedback and measures performance intensively until performance is satisfactory and after that, on a regularly determined interval.

At HRYCI, the Monitoring Team recommends that the State ensure that the vendor provides strong regional nursing supervision to insure that the new nursing leadership team is able to successfully perform in their roles. Similarly, the Medical Director will also need a great deal of support.

With respect to the mental healthcare-related aspects of this paragraph at all of the Facilities, the Monitoring Team recommends that the BCHS continue to increase its own internal development and continue to enhance its own team model to more effectively oversee the clinical operations at the sites.

7. Medical and Mental Health Staff Training

A. Amended MOA Paragraph

Paragraph 7 of the Amended MOA provides:

The State shall ensure that all medical staff and mental health professionals are adequately trained to meet the serious medical and mental health needs of inmates. All such staff shall receive documented orientation and in-service training in accordance with their job classifications, and training topics shall include suicide prevention and the identification and care of inmates with mental disorders.

Generally accepted professional standards dictate that adequate training for medical and mental health staff includes an immediate basic orientation¹⁸ and all full-time staff

¹⁸ A “basic orientation” is one that “is provided on the first day of employment, includes information necessary for the health staff member (*e.g.*, full-time, part-time, consultant, per

must complete a formal in-depth orientation¹⁹ to the health services program at a facility. J-C-09; P-C-09. In reviewing this paragraph of the Amended MOA, the Monitoring Team also reviewed whether medical and mental health staff has received suicide prevention training, as required by paragraph 35 of the Amended MOA.

The Original MOA paragraph pertaining to medical and mental health staffing required that all newly hired people be trained by January 31, 2008. The Original MOA was silent on the timeline for newly hired people to receive their training after January 31, 2008. During the previous monitoring period, the Monitoring Team raised this issue with the parties for resolution. The parties agreed that the paragraph of the Original MOA corresponding to this paragraph of the Amended MOA should be interpreted to require training for newly hired medical and mental health staff members to be completed within six months of the date that they begin their employment. Consistent with its treatment of this paragraph in the Original MOA, the Monitoring Team will continue to use an employee's start date to determine if the employee has completed training on a timely basis.

In addition, with respect to the requirement that staff members receive suicide training, during a prior monitoring period, the Monitoring Team recommended that psychiatrists be required to take a two-hour course as opposed to the normal eight-hour course that other medical and mental health staff members are required to take. The reason for this recommendation was that psychiatrists already have the qualifications necessary to deal with suicidal inmates. Thus, this module comprises the required suicide training for psychiatrists.

diem) to function safely in the institution.” J-C-09-; P-C-09. At a minimum, the basic orientation should include relevant security and health services policies and procedures, response to facility emergency situations, the staff member's functional position description, and inmate-staff relationships. *Id.*

¹⁹ An “in-depth orientation” should occur within 90 days of employment, and includes “a full familiarization with the health services delivery system at the facility, and focuses on the similarities as well as the differences between providing health care in the in community and in a correctional setting.” J-C-09-; P-C-09. Specifically, at a minimum, the curriculum of the in-depth orientation should include all health services policies and procedures not addressed in the basic orientation, health and age-specific needs of the inmate population, infection control including use of standard precautions, and confidentiality of records and health information. *Id.* In addition to these essential topics, a formal orientation program could include the following topics: (i) security, including classification of inmates; (ii) health care needs of the inmate population; (iii) the inmate social system; (iv) the organization of health services at the facility; and (v) infection control. *Id.* For nursing staff, topics could also include: (i) assessment and sick-call triage; (ii) emergency triage and management; (iii) resource utilization outside the facility; (iv) procedures for release of information; (v) expected documentation practices; (vi) isolation procedures; and (vii) professional boundaries. *Id.*

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

From the data the Monitoring Team reviewed, it appears that the completion rate of training exceeds 90% with regard to both new orientation and refresher training.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

From the materials the Monitoring Team reviewed, it appears that the completion rate of training exceeds 90% with regard to both new orientation and refresher training.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The State informed the Monitoring Team that almost all staff at the site had completed the Initial Suicide Prevention Training. Two of the employees who have not taken the initial suicide training are PRN (“as-needed”) employees and one is a part-time employee. Additionally, the vast majority of all employees are up-to-date on the annual refresher

All mental health staff has completed the required training.

8. Security Staff Training

A. Amended MOA Paragraph

Paragraph 8 of the Amended MOA provides:

The State shall ensure that security staff is adequately trained in the identification, timely referral, and proper supervision of inmates with serious medical or mental health needs. The State shall ensure that security staff assigned to mental health units receives additional training related to the proper supervision of inmates suffering from mental illness.

According to generally accepted professional standards, adequate training for security staff should occur at least every two years, and include, at a minimum, the following topics: (i) the administration of first aid; (ii) recognizing the need for emergency care and intervention in life-threatening situations (*e.g.* a heart attack); (iii) recognizing acute manifestations of certain chronic illnesses, intoxication and withdrawal, and adverse reactions to medications; (iv) recognizing signs and symptoms of mental illness; (v) procedures for suicide prevention; (vi) procedures for appropriate referral of inmates with health complaints to health staff; (vii) precautions and procedures with respect to infectious and communicable diseases; and (viii) CPR. J-C-04; P-C-04. Generally accepted professional standards require that, at any given time, at least 75% of the security staff present should be current with their health-related training. *Id.* The Facilities should maintain a certificate or other evidence of security staff's training, and an outline of the course content and the length of the course for the Monitoring Team's review to assess the appropriateness of the health-related training. *Id.*

While reviewing the State's compliance with this paragraph of the Amended MOA, the Monitoring Team also reviewed whether security staff members had received the training required by paragraph 35 of the Amended MOA.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team found that more than the vast majority of staff have received the required training. The only exception is the employees in the special mental health unit, where the additional training that is required has only been received as documented by very few of the staff.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

From the data reviewed, both new orientation and refresher training have been adequately provided. There is a concern about special training for the mental health unit correctional staff.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The State informed the Monitoring Team that all of security staff had completed the required Suicide Prevention Basic course, and all of security staff had completed the refresher course.

E. Recommendations

At JTVCC, the Monitoring Team recommends that, in order to achieve better than 90% compliance for staff working in the specialized mental health unit, the State should provide quarterly special mental health training until it has achieved those satisfactory levels.

At HRYCI, the Monitoring Team recommends that the State ensure that officers who are assigned to any unit where patients on the mental health caseload are housed receive the required additional training. Also, the State should ensure that the individual(s) responsible for scheduling security officers' shifts know which officers have had the special training and only assign those officers to the units implicated.

SCREENING AND TREATMENT

9. Medical Screening

A. Amended MOA Paragraph

Paragraph 9 of the Amended MOA provides:

The State shall ensure that all inmates receive an appropriate and timely medical screening by a medical staff member upon arrival at a Facility. The State shall ensure that such screening enables staff to identify individuals with serious medical or mental health conditions, including acute medical needs, infectious diseases, chronic conditions, physical disabilities, mental illness, suicide risk, and drug and/or alcohol withdrawal. Separate mental health screening shall be provided as described in Paragraph 28.

According to generally accepted professional standards, timely receiving screening²⁰ means that the screening is performed on inmates immediately upon arrival at the respective intake facility, and is performed by a qualified health care professional or a health-trained person. J-E-02; P-E-02. The policies adopted by the State provide that such receiving screening will be initiated within two hours of arrival into a facility and will be the responsibility of the nursing healthcare staff. *See* State Policy E-02. If a receiving screening is completed within three to four hours of arrival to a Facility, the Monitoring Team believes that is reasonable and consistent with generally accepted professional standards. Thus, the State's policy of completing the screening within two hours exceeds generally accepted professional standards.

The Amended MOA requires that the State ensure that the receiving screening “enables staff to identify individuals with serious medical or mental health conditions, including acute medical needs, infectious diseases, chronic conditions, physical disabilities, mental illness, suicide risk, and drug and/or alcohol withdrawal.” In order to comply with this requirement, the

²⁰ A “receiving screening” is

[A] process of structured inquiry and observation designed to prevent newly arrived inmates who pose a threat to their own or others' health or safety from being admitted to the facility's general population, and to get them rapid medical care. It is intended to identify potential emergency situations among new arrivals to the facility, and also to ensure that those patients with known illnesses and currently on medications are identified for further assessment and continued treatment.

J-E-02; P-E-02. In sum, the purpose of a receiving screening is to (i) identify and meet any urgent health needs of those admitted; (ii) identify and meet any known or easily identifiable health needs that require medical intervention before the health assessment (*see infra*); and (iii) identify and isolate inmates who appear potentially contagious. *Id.*

State should ensure that receiving personnel are making consistent and complete inquiries and observations. Generally accepted professional standards required that reception personnel should use a checklist to ensure that they inquire about the following important information:

- current and past illnesses, health conditions, or special health requirements (*e.g.* dietary needs);
- past serious infectious disease(s);
- recent communicable illness symptoms (*e.g.* chronic cough, coughing up blood, lethargy, weakness, weight loss, loss of appetite, fever, night sweats);
- past or current mental illness, including hospitalizations;
- history of or current suicidal ideation;
- dental problems;
- allergies;
- legal and illegal drug use (including the last time of use);
- drug withdrawal symptoms;
- current or recent pregnancy; and
- other health problems that the State should decide to include on its form.

J-E-02; P-E-02. In addition, reception personnel should note on the receiving screening form observations about newly arrived inmates such as:

- appearance (*e.g.* sweating, tremors, anxious, disheveled);
- behavior (*e.g.*, disorderly, appropriate, insensible);
- state of consciousness (*e.g.*, alert, responsive, lethargic);²¹

²¹ Persons who are unconscious, semi-conscious, bleeding, mentally unstable, or otherwise urgently in need of medical attention upon arriving at a Facility should be referred immediately for care. J-E-02; P-E-02. Such an immediate referral upon arrival at a Facility should be noted on the receiving screening form. *Id.* In addition, if the inmate is referred to a community hospital for care of the emergency condition and is returned to the Facility, the Facility should require a written medical clearance from the community hospital. *Id.*

- ease of movement (*e.g.* body deformities, gait);
- breathing (*e.g.* persistent cough, hyperventilation); and
- skin (*e.g.* lesions, jaundice, rashes, infestations, bruises, scars, tattoos, and needle marks or other indications of drug abuse).

Id. The disposition of the inmate (*i.e.*, if the inmate was immediately referred for medical care, or placed in general population, etc.) should be indicated on the receiving screening form. *Id.* Once the receiving screening form has been completed, it should include the date and time of completion, and the signature and title of the person completing the form. *Id.* Finally, the receiving screening should allow for all immediate health needs to be identified and addressed, and potentially infectious inmates to be isolated. *Id.*

As noted above, the State has created a policy stating that a receiving screening will be initiated within two hours of arrival to a Facility. (*See* State Policy E-02). This policy further provides that inmates will be screened in a manner consistent with the generally accepted professional standards cited above. *Id.* Also, the State will record the findings of the screenings in DACS, and the screenings will include a history and observations based on a health screening form. *Id.* The Monitoring Team previously found that the screening form supplied by the State was adequate, but needed some progress notes to be attached and cross-referenced in the case of positive answers to questions that require follow-up.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2 Findings

The Monitoring Team reviewed 10 of the records that the DOC had selected for intake screening. The Monitoring Team’s findings are consistent with the DOC findings. The tuberculosis (“TB”) screening is working, the nursing screen is performed timely, and, in the sample that the Monitoring Team reviewed, the quality of the screens was adequate. The Monitoring Team reviewed the screens of some patients who appeared to have minimal problems, and one patient who refused the screen. The Monitoring Team also found that when an LPN performed the screen, an RN had always reviewed and countersigned the screen.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2 Findings

The Monitoring Team reviewed 10 records of those selected by the DOC and found, in general, that screening was done timely and that the quality of the screens was acceptable. The Monitoring Team found that when LPNs conducted the screen, an RN reviewed and countersigned the screen. The Monitoring Team also found that, when indicated, there was referral to an advanced level provider.

The Monitoring Team found that the State's methods of choosing was more random selected from the chronic care list than would yield the most constructive results. records

D. Recommendations

At JTVCC, the Monitoring Team recommends that the methodology be altered so that records of patients with known chronic problems can be selected, since those are a much better test of the responsiveness of the program.

At HRYCI, the Monitoring Team recommends that the State ensure its record selection (for both the screening and the health assessment paragraphs) includes records of recent entrants who are known to have chronic problems.

10. Privacy

A. Amended MOA Paragraph²²

Paragraph 10 of the Amended MOA provides:

The State shall make reasonable efforts to ensure inmate privacy when conducting medical and mental health screening, assessments, and treatment. However, maintaining inmate privacy shall be subject to legitimate security concerns and emergency situations.

The Amended MOA requires that the State make "reasonable efforts" to ensure inmate privacy when conducting medical and mental health screening, assessments, and treatment, subject to legitimate security concerns and emergency situations. This paragraph of the Amended MOA differs somewhat from the NCCHC standards, which provide for clinical encounters²³ to be conducted in private, without being observed or overheard by security personnel unless the patient poses a probable risk to the safety of the health care provider or

²² Additional, related observations regarding clinic space and equipment can be found in the discussion of paragraph 16 of the Amended MOA below.

²³ "Clinical encounters" are defined as "interactions between inmates and health care providers that involve a treatment and/or an exchange of confidential information." J-A-09; P-A-09.

others. J-A-09; P-A-09.²⁴ The Amended MOA does not require an individual correctional officer to make an independent assessment of the security risk of an individual inmate. Rather, the State can set the procedures for correctional officers to follow to ensure that privacy is afforded in accordance with this paragraph of the Amended MOA.

The policies adopted by the State call for healthcare to be provided with consideration of inmate dignity and feelings. *See* State Policy A-09. Further, healthcare encounters are to be carried out in a manner and location that promotes confidentiality within the dictates of security and safety. *Id.* The State's policy calls for security staff or interpreters who may be present during healthcare encounters to be informed and educated regarding the need for confidentiality. *Id.* Finally, the State's policy provides for a female escort to be provided for encounters with a female inmate by a male healthcare provider. *Id.*

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the methodology utilized by the DOC and found the methodology to be appropriate. The Monitoring Team concurs that in some medical areas the use of a privacy screen may be required to enhance visual privacy. The Monitoring Team also thinks that for visits in the Special Needs Unit ("SNU") and the infirmary, strategies should be considered to enhance privacy afforded during mental health encounters.

The Monitoring Team was informed that mental health routine visits are conducted in a private manner. The State reported that inmates in the SNU and infirmary often had their visits occur cell-side, which offered little privacy. The Monitoring Team was informed during its June 2010 review that infirmary inmates are regularly seen in private settings, utilizing the telephone interview rooms in the psychiatrist's office.

²⁴ Further, NCCHC standards provide that, in cases in which it is necessary for security personnel to overhear clinical encounters, security personnel should be instructed regarding the maintenance of confidentiality of health information. *Id.* Such privacy is not feasible under all circumstances, such as instances in which health staff is dealing with an inmate's health concern at the inmate's cell, or in Facilities in which space issues do not allow for privacy as described above. Under such circumstances, if safety is a concern and full visual privacy cannot be afforded, the NCCHC recommends that alternative strategies for partial privacy, such as a privacy screen, be used. *Id.*

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

With respect to the mental healthcare-related aspects of this paragraph of the Amended MOA, the Monitoring Team found that the State is in partial compliance with this paragraph. This assessment is consistent with the DOC's self-assessment.

2. Findings

The Monitoring Team reviewed the data provided by the DOC and walked through several of the medical areas. In general, the Monitoring Team felt that there was adequate auditory and visual privacy, with the possible exception of the east side clinic. The east side clinic has a room in which both a clinician and a nurse were separately seeing patients. There is a white noise machine and a curtain separates the two clinic spaces within the room. While not ideal, this constitutes a reasonable effort on the State's part to afford privacy.

With respect to the State's efforts to provide privacy in the context of administering mental healthcare, the State informed the Monitoring Team that routine mental health visits occur in enclosed spaces on the units. In the infirmary, there is an interview room. Auditory privacy is maintained in both settings.

After its June 2010 visit, the State supplied the Monitoring Team with additional information about privacy in the east side dormitory area. This area consists of a single large room where inmates both reside and participate in group activities. The State is conducting mental health interviews in this room as well. The State has made an effort to provide some privacy for these interviews by constructing cubicles at one end of the room. Based on the fact that anyone in the room could observe these interviews, however, the Monitoring Team does not consider this effort to be reasonable.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The State's audit reflected a lack of privacy at SCI, which has been a consistent problem. The State anticipates that with the completion of the new infirmary, the mental health building will be available to clinicians and psychiatrists for individual counseling and medication

review for the compound. Finally, the State noted that the Pre-Trial area, Boot Camp and the Key Building also have private counseling rooms for clinicians to see inmates.

During its June 2010 visit, the Monitoring Team noted that there is one room available in the future mental health building to accommodate inmates currently housed in the medium security building where privacy has been a significant issue. The mental health professional will have to share the space with the psychiatrist. There has been no time study to determine how much access the mental health professional has to this office space. It is anticipated that as of mid-July the medical staff will move out of the new building which was constructed to permanently house mental health offices.

Additionally, after reviewing charts, the Monitoring Team observed that many of the PCO visits are documented as occurring cell-side, which is a setting that does not afford adequate privacy.

E. Recommendations

At JTVCC, the Monitoring Team recommends that the State continue to look at strategies to enhance visual and auditory privacy during medical encounters, and, for mental health visits in the SNU and infirmary, the State should develop strategies to increase privacy for those encounters.

11. Health Assessments

A. Amended MOA Paragraph

Paragraph 11 of the Amended MOA provides:

The State shall ensure that all inmates receive timely medical and mental health assessments. Upon intake, the State shall ensure that a medical professional identifies those persons who have chronic illness. Those persons with chronic illness shall receive a full health assessment within seven (7) days of intake, depending on their physical condition. Persons without chronic illness should receive a full health assessment within fourteen (14) days of intake. The State will ensure that inmates with chronic illnesses will be tracked in a standardized fashion. A readmitted inmate or an inmate transferred from another facility who has received a documented full health assessment within the previous twelve (12) months, and whose receiving screening shows no change in health status, need not receive a new full medical and mental health assessment. For such inmates, medical staff and mental health professionals shall review prior records and update tests and examinations as needed.

The Amended MOA provides for timely and adequate medical and mental health assessments²⁵ to occur. Generally accepted professional standards differ with respect to timeliness of a health assessment (*compare* J-E-04 and P-E-04 (stating that health assessments in jails take place “[a]s soon as possible, but no later than 14 days...” and in prisons, “[a]s soon as possible, but no later than 7 days...”), but the Amended MOA requires that the State adhere to the standard for jails, which is 14 days.²⁶ An adequate health assessment should include at least:

- A review of receiving screening results;
- The collection of additional data to complete the medical, dental, and mental health histories;
- A recording of vital signs;
- A physical examination (an objective, hands-on evaluation of an individual, involving the inspection, palpation, auscultation, and percussion of a patient’s body to determine the presence or absence of physical signs of disease);
- Laboratory and/or diagnostic tests for communicable diseases including sexually transmitted diseases;
- A test for TB; and
- Initiation of therapy and immunizations when appropriate.

See NCCHC J-E-04; P-E-04. The hands-on portion of the health assessment should be performed by a physician, physician assistant, or NP, and the health history and vital signs should be collected by a qualified health care professional.²⁷ *Id.* When significant findings are present as the result of the hands-on portion of the health assessment, and it is done by a health professional other than a physician, the physician should document his or her review of the health professional’s health assessment in the inmate’s medical record.

With respect to mental healthcare, this paragraph requires the State to conduct mental health assessments for newly admitted inmates. With respect to readmitted inmates, this paragraph only requires the State to review the health records of that individual instead of

²⁵ A “health assessment” is defined as “the process whereby the health status of an individual is evaluated, including questioning the patient regarding symptoms.” J-E-04; P-E-04.

²⁶ The State’s policy adopts the 7-day standard applicable to prisons for timeliness of health assessments. *See* State Policy E-04.

²⁷ The hands-on portion of the health assessment may be performed by an RN when (i) the nurse completes appropriate training, approved or provided by the responsible physician; and (ii) the responsible physician documents his or her review of all health assessments. J-E-04; P-E-04.

conducting a full assessment. The State has chosen to conduct assessments on all admitted inmates, regardless of whether they have been previously incarcerated or not. As such, the Parties have agreed that as long as the State continues to conduct full assessments, review of health records of readmitted individuals is not necessary because the State is exceeding this standard by conducting full assessments on all inmates.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed 10 records of patients who entered the facility within the six months preceding the Monitoring Team's visit. In general, the Monitoring Team found that the assessments were being performed on a timely basis. However, the quality of the assessments was not satisfactory. The Monitoring Team did not find adequate histories, particularly with regard to elaborating on positive responses identified during the patient's medical screen. The Monitoring Team also did not find adequate histories being taken with regard to identified chronic diseases, and there were not always adequate initial problem lists and plans. Each of these areas should be emphasized in any quality improvement activities.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team sampled 10 records that had been reviewed by the DOC. The Monitoring Team found that many (but not enough to be in substantial compliance) of the health assessments were completed within the required time. The Monitoring Team found that some of the histories that were taken were not adequate, and noted in particular that clinicians are not elaborating on positive responses identified during the nurse screen. In addition, the Monitoring Team found that there are not sufficient history details with regard to patients with chronic diseases. Finally, there were problems with completing the problem list and plans.

The Monitoring Team's concern remains with regard to the record selection process utilized by the DOC. The Monitoring Team has agreed with the Medical Director that future reviews will focus on record selection that using lists of patients with known chronic diseases so that as many aspects of the intake process as possible can be reviewed with a smaller sample of records.

D. SCI

1. Assessment

See Assessment for Paragraph 29 of the Amended MOA.

2. Findings

See Findings for Paragraph 29 of the Amended MOA.

E. Recommendations

At JTVCC, the Monitoring Team recommends that the State: (i) implement intensive review and feedback for all professionals performing the initial health assessments in order to improve their performance; (ii) implement a re-monitoring strategy on a regular basis when the performance of professionals performing initial health assessments is determined to be acceptable; and (iii) ensure that the record selection criteria for the State's self-monitoring include only patients with chronic or other problems.

At HRYCI, the Monitoring Team recommends that the State: (i) ensure that the record selection process includes only patients with known problems; and (ii) ensure that all clinicians who perform assessments are trained to take an adequate history that elaborates on all positive responses given during the nurse screen as well as creating a comprehensive problem list and set of plans.

12. Referrals for Specialty Care

A. Amended MOA Paragraph

Paragraph 12 of the Amended MOA provides:

The State shall ensure that: a) inmates whose serious medical or mental health needs exceed the services available at their Facility shall be referred in a timely manner to appropriate medical or mental health care professionals; b) the findings and recommendations of such professionals are tracked and documented in inmates' medical files; and c) treatment recommendations are followed, as clinically indicated and as appropriate in a correctional setting.

The Amended MOA requires that the State ensure that inmates whose medical or mental health needs exceed the services available at the Facility shall be referred in a timely manner to appropriate medical and mental health care professionals. For routine referrals, generally accepted professional standards would permit a timely referral to be defined as being seen by a specialist within 40 days, unless that inmate is seen by the primary care physician at the Facility every 30 days until the specialist appointment occurs. In any event, the appointment with the specialist should not occur more than 100 days after the initial request. For urgent

consultations, the process should occur within 14 days. In addition, the Amended MOA requires that once an inmate has seen the appropriate medical or mental health professional, the findings and recommendations are tracked and documented in inmates' files, and the patients are seen in follow-up by their primary care physician at the Facility.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed 10 records of patients sent offsite for either consultations or procedures. The Monitoring Team found that the services rendered were indicated received in a timely fashion, and follow up with an onsite clinician occurred on a timely basis. Overall, performance in this area is satisfactory.

With respect to offsite services for mental healthcare, the Monitoring Team was informed that JTVCC had three inmates who required transfer to the Delaware Psychiatric Center ("DPC"). In all three cases a Treatment Review Committee ("TRC") meeting was held and the inmates were transferred to DPC as soon as a bed was available. The TRC meeting was conducted as outlined in DOC policy.

The Monitoring Team concluded that the State has consistently followed its transfer procedures in these cases.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed 10 records of patients with either offsite consultations or procedures. The Monitoring Team found that in general the request for service was appropriate, the services were received in a timely fashion, and the follow up occurred timely in a timely fashion. Thus, this process has shown dramatic improvements over time.

With respect to offsite mental healthcare, the Monitoring Team was informed that HRYCI had two inmates who required special care and needed to be transferred to DPC. Each time, a TRC meeting was conducted as outlined DOC policy. In both cases, a TRC meeting was held and the inmates were transferred to DPC as soon as a bed was available.

The Monitoring Team concluded that the State has consistently followed its transfer procedures in these cases.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

With respect to offsite services for mental healthcare, the Monitoring Team was informed that SCI had one DPC referral this year. A TRC meeting was held, and the transfer to DPC took place in less than one week.

The Monitoring Team concluded that the State followed its transfer procedures in this case.

E. Recommendations

The Monitoring Team recommends that each of the Facilities maintain a log of inmates in crisis who need to be transferred to DPC.

13. Treatment or Accommodation Plans

A. Amended MOA Paragraph

Paragraph 13 of the Amended MOA provides:

Inmates with special needs shall have special needs plans. For inmates with special needs who have been at the Facility for thirty (30) days, this shall include appropriate discharge planning. The DOJ acknowledges that for sentenced inmates with special needs, such discharge planning shall be developed in relation to the anticipated date of release.²⁸

Generally accepted professional standards require a treatment plan for a special needs inmate to include, at a minimum:

²⁸ According to Section II.H. of the MOA, “inmates with special needs” are,

[I]nmates who are identified as suicidal, mentally ill, developmentally disabled, seriously or chronically ill, who are physically disabled, who have trouble performing activities of daily living, or who are a danger to themselves.

- The frequency of follow-up for medical evaluation and adjustment of the treatment modality;
- The type and frequency of diagnostic testing and therapeutic regimens; and
- When appropriate, instructions about diet, exercise, adaptation to the correctional environment, and medication.

J-G-01; P-G-01. Further, each Facility should maintain a list of special needs inmates for tracking purposes. *Id.* With respect to discharge planning, in cases of a *planned* discharge, (i) the health staff of a Facility should arrange for a sufficient supply of current medications to last until the inmate can be seen by a community health care provider; and (ii) for inmates with critical medical or mental health needs, arrangements or referrals should be made for follow-up services with community providers. J-E-13; P-E-13.

The list of special needs inmates should include individuals with both serious medical problems, and, in many instances, behavioral problems. The Facilities should forward the list to the BCHS on a monthly basis. For any patient on the list, the patient's health record should reflect that a multidisciplinary treatment team meeting has taken place, and there should be documentation containing a summary of the meeting, and all plans in place for the patient. In order to ensure improved outcomes for the patients, the plans should indicate when follow-up multidisciplinary meetings should occur.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

With respect to the mental healthcare-related aspects of this paragraph of the Amended MOA, the Monitoring Team found that JTVCC is in partial compliance, which is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed three records of patients who had both a serious medical problem and serious behavioral issues which potentially inhibited their ability to achieve the necessary outcomes. In these three records, patients were seen on a regular basis by a multi-disciplinary team. Overall, the patients who have these types of special needs, are being appropriately identified.

With respect to the mental healthcare-related aspects of this paragraph of the Amended MOA, the Monitoring Team incorporates its findings described under the heading for HRYCI for this Amended MOA paragraph. The Monitoring Team reviewed the records of three

inmates who were being discharged. Of these three, only one had acceptable discharge planning. The other two were either missing plans or those plans were inadequate.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed three records of patients that were part of the special needs program. The Monitoring Team noted that the meetings are not always multidisciplinary in nature, and the selection of patients may not have been appropriate. The Monitoring Team is aware that this particular item requires specific understanding of what the Monitoring Team is looking for, which is a program that deals with patients who have serious medical problems as well as behavioral problems which can compromise their medical outcomes. The Monitoring Team has previously indicated how these meetings should be documented. The Monitoring Team strongly encourages that the State Medical Director or his designee to mentor the facility leadership with regard to this program. The DOC is in concurrence and has made these recommendations as well.

With respect to the mental healthcare-related aspects of this paragraph of the Amended MOA, under the agreed-upon methodology between the State and the Monitoring Team, the State should have completed a five chart audit and the Monitoring Team was supposed to review 60% of that sample. The State informed the Monitoring Team that it completed this audit, but the Monitoring Team has not reviewed it.

The Monitoring Team observed that, at the time of the Monitoring Team's visit, there was currently no focused audit for mental health discharge planning review, other than looking at the mental health treatment planning form's discharge section. However, this is not the final discharge planning package utilized by the facilities.

Similarly, the State is not monitoring the discharge planning for the delivery of a 30 day supply of medications to inmates. The BCHS Medical Director has talked to the new contractor and requested that psychiatrists review pharmacy orders prior to release for psychotropic medications.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The State informed the Monitoring Team that discharge planning is performed for all offenders with serious medical and mental health needs that were housed in a DOC facility for a minimum of 30 days. Additionally, there is a process in place that ensures patients sign a receipt of medication for a 30-day supply at the time of release. This receipt is placed in the inmate's medical record. A copy of this receipt is kept on file in the discharge log housed in the DON's office. At the time of the Monitoring Team's visit, current mental health staff utilized a separate log that documented patients with mental health needs who were pending release with referrals as needed for community resources and a referring medication list for Pharmacy. Finally, staff has begun working on compiling a log to capture notification of release, medication review and orders, as well as community referrals as needed.

The Monitoring Team reviewed three discharge plans which were selected from the discharge log. All were exemplary in their level of completeness.

E. Recommendations

At JTVCC, the State Medical Director should continue to monitor the performance in this area, and, when possible, attend special needs meetings.

At HRYCI, the Monitoring Team recommends that the DOC Medical Director or his designee should mentor site leadership on this program.

With respect to mental healthcare-related aspects of this paragraph of the Amended MOA at all of the facilities, the Monitoring Team recommends that the State develop and institute a CQI process that will track inmates being released from the facility and demonstrate reliability in their ability to obtain discharge medications and to develop accommodation plans that include, at minimum, follow-up treatment, entitlements, housing, and transitions medications. Such a study should include the DOC counselors' and the mental health professionals' efforts to capture all the components of discharge planning occurring within the facility.

14. Drug and Alcohol Withdrawal

A. Amended MOA Paragraph

Paragraph 14 of the Amended MOA provides:

The State shall maintain appropriate written policies, protocols, and practices, consistent with standards of appropriate medical care, to identify, monitor, and treat inmates at risk for, or who are experiencing, drug or alcohol withdrawal. The State shall maintain appropriate withdrawal and detoxification programs.

This paragraph of the Amended MOA requires that the State develop and implement appropriate written policies, protocols, and practices, consistent with standards of

appropriate medical care, to identify, monitor, and treat inmates at risk for, or who are experiencing, drug and alcohol withdrawal. The State has developed a policy with respect to drug and alcohol withdrawal that conforms to generally accepted professional standards. *See* State Policy G-06.

Further, established protocols regarding the treatment and observation of individuals manifesting symptoms of intoxication or withdrawal should be followed in order to complete successful implementation of the policies. J-G-06; P-G-06. According to generally accepted professional standards, inmates experiencing severe, life-threatening intoxication (overdose) or withdrawal should be transferred immediately to a licensed acute care facility. *Id.* Individuals at risk for progression to more severe levels of intoxication withdrawal should be kept under constant observation by qualified health care professionals or health-trained correctional staff, and whenever severe withdrawal symptoms are observed, a physician should be consulted promptly. *Id.*

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

Although there has been some slight improvement, there continues to be a problem with nurses consistently performing their assessments on each shift. The Monitoring Team also found, as did the DOC, that physician notification is not always occurring when indicated. It is really these two problems that form the basis for the compliance assessment.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed five records of patients under this program and had concerns with regard to two items. The first is the consistency with which the nurses are documenting, on each shift, their assessments and the second is the adherence by the nurses to the requirement to contact the physician when scores exceed the indicated level.

D. Recommendations

At JTVCC and HRYCI, the Monitoring Team recommends that the quality improvement program monitor the performance of the nursing staff, both with regard to (i) performing assessments on every shift where it is required, and (ii) promptly notifying the clinician when in fact the assessment score requires such notification.

15. Communicable and Infectious Disease Management

A. Amended MOA Paragraph

Paragraph 15 of the Amended MOA provides:

The State shall adequately maintain statistical information regarding contagious disease screening programs and other relevant statistical data necessary to adequately identify, treat, and control infectious diseases.

The NCCHC recommends that facilities with populations over 500 inmates should have a committee to oversee infection control practices. P-B-01. The infection control committee should consist of representation from the facility's administration, the responsible physician or designee, nursing and dental services, and other appropriate professional personnel involved in sanitation or disease control. *Id.* Further, facilities should follow a Tuberculosis ("TB") control plan that is consistent with current published guidelines from the Centers for Disease Control.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

1. Findings

The Monitoring Team reviewed the monitoring performed by the DOC and found it to be comprehensive and consistent with the Monitoring Team's previous findings. The Monitoring Team also concurs with and adopts the DOC recommendations.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the materials provided by the DOC. They appear to be comprehensive and cover all of the areas required. This particular program remains in substantial compliance.

16. Clinic Space and Equipment

A. Amended MOA Paragraph

Paragraph 16 of the Amended MOA provides:

The State shall ensure that all face-to-face nursing and medical professional examinations occur in settings that provide appropriate privacy and permit a proper clinical evaluation, including an adequately-sized examination room that contains an examination table, an operable sink for hand-washing, adequate lighting, and adequate equipment. The amount of privacy required to satisfy this provision shall take security needs into account. Each clinic shall have at least one microscope available for diagnostic evaluations.

An adequately sized examination room is one that is large enough to accommodate the necessary equipment, supplies, and fixtures, and to permit privacy during clinical encounters. J-D-03; P-D-03. According generally accepted professional standards, Facilities should have, at a minimum, the following equipment, supplies, and materials for the examination and treatment of patients:

- hand-washing facilities or appropriate alternate means of hand sanitization;
- examination tables;
- a light capable of providing direct illumination;
- scales;
- thermometers;
- blood pressure monitoring equipment;
- stethoscope;
- ophthalmoscope;
- otoscope;
- transportation equipment (*e.g.* wheelchair, stretcher);

- trash containers for biohazardous materials and sharps; and
- equipment and supplies for pelvic examinations if female inmates are housed in the facility.

Id.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the methodology used by the DOC and find the methodology to be both appropriate and comprehensive. The Monitoring Team has no recommendations for this area.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the data provided by the DOC and found it to be quite comprehensive. The Monitoring Team also toured a few of the exam spaces and found those to be in appropriate order.

ACCESS TO CARE

17. Access to Medical and Mental Health Services

A. Amended MOA Paragraph

Paragraph 17 of the Amended MOA provides:

The State shall ensure that all inmates have adequate opportunity to request and receive medical and mental health care. Appropriate medical staff shall screen all written requests for medical and/or mental health care within twenty-four (24) hours of submission, and see patients within the next seventy-two (72) hours, or sooner if medically appropriate. The State shall maintain sufficient security staff to ensure that inmates requiring treatment are escorted in a timely manner to treatment areas. The State shall maintain a sick call policy and procedure that includes an explanation of the order in which to schedule patients, a procedure for scheduling patients, where patients should be treated, the requirements for clinical evaluations, and the maintenance of a sick call log. Treatment of inmates in response to a sick call slip should occur in a clinical setting.

Generally accepted professional standards require that inmates have access to care to meet their serious medical, dental, and mental health needs, and that unreasonable barriers to inmates' access to health services are to be avoided.²⁹ J-E-01; P-E-01. The Amended MOA provides the requirements for the Facilities' sick call process, which is a large part of affording inmates access to care. The Amended MOA requires that appropriate medical staff screen³⁰ all written requests for medical and/or mental health care within 24 hours of submission, and see patients within the next 72 hours, or sooner if medically appropriate. Further, the Amended MOA sets forth the required elements of the State's policies and procedures relating to the sick call process. Those elements are (i) an explanation of the order in which to schedule patients; (ii) a procedure for scheduling patients; (iii) where patients should be treated; (iv) the requirements for clinical evaluations; and (v) the maintenance of a sick call log. With respect to patient scheduling, not every sick call slip requires an appointment; however, when a sick call

²⁹ "Access to care" means that in a timely manner, a patient can be seen by a clinician, be given a professional clinical judgment, and receive care that is ordered. J-E-01; P-E-01. The NCCHC provides the following examples of unreasonable barriers to inmate health care regarding (i) punishing inmates for seeking care for their serious health needs; (ii) assessing excessive co-pays; and (iii) deterring inmates from seeking care for their serious health needs, such as by holding sick call at 2:00 a.m., when the practice is not reasonably related to the needs of the institution. *Id.*

³⁰ The process of screening the written requests for medical or mental health care is referred to as "triage." The NCCHC defines "triage" as "the sorting and classifying of inmates' health requests to determine priority of need and the proper place for health care to be rendered." J-E-07; P-E-07.

slip describes a clinical symptom, a face-to-face encounter between the inmate and a health professional is required. J-E-07; P-E-07. The sick call encounters should take place in a clinical setting (*i.e.*, an examination or treatment room appropriately supplied and equipped to address the patient's health care needs). *Id.*

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed 10 records. The Monitoring Team looked at the timeliness of access to care with the nurse, and the timeliness of follow-up based on referral. The Monitoring Team's findings were, in essence, consistent with the findings of the DOC.

The Monitoring Team found at least one instance in which the nurse on triage did not see the patient at all, but instead referred the patient directly to a clinician who did not see the patient until eight days later. The Monitoring Team also saw an instance in which the patient did not have all of his issues addressed by the nurse. The problem of nurses skipping the face-to-face assessment under the assumption that the patient will need an advanced level provider visit continues to be a concern. The applicability policy requires that if the nurse face-to-face assessment is going to be skipped, then the clinician face-to-face assessment must occur within the same time constraints as the nursing face-to-face assessment. The Monitoring Team also found another nursing assessment that was not comprehensive in its approach to the patient's documented complaints. There has been some improvement in both timeliness and quality, but a lot of work remains with regard to this area.

With respect to access to mental healthcare, The Monitoring Team reviewed the results of the State's audit, as well as 10 of the audited charts. In its audit, the State noted problems with sick call requests not being time stamped, which makes it difficult to track timeliness of the responses. Additionally, the State noted delays in referrals to psychiatrists. According to the State, there are also frequent delays in triaging the sick call requests, and properly addressing the complaints in the requests.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed 10 records of the sample reviewed by the DOC. In essence, the Monitoring Team's review confirmed the findings identified by the DOC. Problem areas included timeliness.³¹ The Monitoring Team was informed that recently HRYCI has been trying to have the patients seen within 24 hours; however, the Monitoring Team was not able to obtain data yet that would demonstrate compliance. Also, there was a push with the patients for whom a referral was made to an advanced level provider being seen within five business days. In addition, there were referrals to mid-level that were never seen at all. The review by the DOC did not address the appropriateness/quality of the nursing assessments. This clearly is an important part of the review, which will require the reviews to be performed by a BCHS clinician.

With respect to access to mental healthcare, the Monitoring Team reviewed the results of the State's audit, as well as 10 of the audited charts. In its audit, the State noted problems with patients whose sick call requests included symptoms being seen within 72 hours; dispositions were not documented on the sick call request. Additionally, the State noted significant delays in referrals to the psychiatrist (patients are supposed to be seen within five business days).

The Monitoring Team noted several problems with the State's audit. First, the audit tool prompts for a "provider visit date," which the State appears to be interpreting as a "psychiatrist visit." Additionally, in 50 of the charts, there was a lack of concurrence for the audit prompt disposition noted on slip. The State appears to have interpreted this prompt as questioning whether or not the inmate had written a description of his complaint. However, the Monitoring Team believes that this prompt refers to the documentation of a plan of action to address the sick call complaint.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

With respect to access to mental healthcare, the Monitoring Team reviewed the results of this audit, as well as 10 of the State's audit charts. In its audit, the State noted problems with requests for mental health services being forwarded to mental health staff on the same day they investigated.

³¹ Patients who request assessments for symptoms are supposed to be seen in a face-to-face encounter within 72 hours or sooner.

The Monitoring Team reviewed the results of the State’s audit and found that access to mental health services and timeliness of responses were well within the acceptable limits at SCI.

E. Recommendations:

At JTVCC, the Monitoring Team recommends that: (i) the quality improvement program monitor both the timeliness and quality of nursing face-to-face assessments; (ii) the State inform nurses that if they are skipping their face-to-face encounter, the referral must be scheduled within the timeframe required of a nursing face-to-face encounter; and (iii) the quality improvement program monitor the professional performance of the advanced level providers with regard to their clinical assessments and the timeliness of their assessments.

At HRYCI, the Monitoring Team recommends that a central office clinician: (i) reviews the sick call process with regard to the appropriateness/quality of the nursing assessments; and (ii) attempt to identify, by studying outliers, what contributes to patients not being seen at all, either by the nurse or by the advanced level provider.

18. Isolation Rounds

A. Relevant Amended MOA Paragraph

Paragraph 18 of the Amended MOA provides:

The State shall ensure that medical staff³² make daily sick call rounds in the isolation areas, and that nursing staff³³ make rounds at least three times a week, to give inmates in isolation³⁴ adequate opportunities to contact and discuss health

³² According to the Amended MOA, the term “medical staff” includes “medical professionals, nursing staff, and certified medical assistants.” *See* Amended MOA II.L. The term “medical professionals” includes “a licensed physician, licensed physician assistant, or a licensed nurse practitioner providing services at a facility and currently licensed to the extent required by the State of Delaware to deliver those health services he or she has undertaken to provide” *See* Amended MOA II.M.

³³ According to the Amended MOA, “Nursing Staff” means “registered nurses, licensed practical nurses, and licensed vocational nurses providing services at a facility and currently licensed to the extent required by the State of Delaware to deliver those health services he or she has undertaken to provide.” *See* Amended MOA II.Q.

³⁴ According to the Amended MOA, “isolation” means “the placement of an individual alone in a locked room or cell, except that it does not refer to adults single celled in general population.” *See* Amended MOA II.I.

and mental health concerns with medical staff and mental health professionals³⁵ in a setting that affords as much privacy as security will allow.

The purpose of this Amended MOA paragraph is to ensure that inmates placed in isolation maintain their medical and mental health while physically and socially isolated from the rest of the inmate population.³⁶ J-E-09; P-E-09. Generally accepted professional standards require that, upon notification that an inmate is placed in segregation,³⁷ a qualified health care professional review the inmate's health record to determine whether existing medical, dental, or mental health needs contraindicate the placement or require accommodation, and that such an evaluation should be placed in the inmate's medical record. *Id.*

The parties have previously agreed that this paragraph of the Original MOA imposed requirements relating only to monitoring of inmates in isolation (as defined by the Original and Amended MOA; *see* above) by medical staff for medical and mental health issues, and paragraph 28 imposes requirements relating to monitoring of inmates in isolation by mental health staff. Until told otherwise, the Monitoring Team understands that this agreement will apply to monitoring under the Amended MOA. Ultimately, this Amended MOA paragraph requires that medical staff make daily sick call rounds, and nursing staff make sick call rounds three times per week.

The sick call rounds performed pursuant to this paragraph of the Amended MOA should ensure that each isolated inmate has the opportunity to request care for medical or mental health problems and allow staff to ascertain the inmate's general medical and mental health status. *Id.* Generally accepted professional standards require that documentation of isolation rounds be made on individual logs or cell cards,³⁸ or in an inmate's health record and include: (1) the date and time of the contact; and (2) the signature or initials of the health staff member making the rounds. *Id.* Finally, any significant health findings should be documented in the inmate's health record. *Id.*

³⁵ "Mental Health Professionals" means "an individual with a minimum of a master's-level education and training in psychiatry, psychology, counseling, psychiatric social work, activity therapy, recreational therapy or psychiatric nursing, currently licensed to the extent required by the State of Delaware to deliver those mental health services he or she has undertaken to provide." *See* Amended MOA II.N.

³⁶ As this NCCHC standard applies to the Amended MOA, it is more pertinent to Amended MOA paragraph 33. Paragraph 18 of the Amended MOA, is directed more towards ensuring that inmates in isolation have adequate access to care in general.

³⁷ A "segregated" inmate is one who is isolated from the general population and who receives services and activities apart from other inmates. J-E-09; P-E-09. Such segregation could include administrative segregation, protective custody, disciplinary segregation, or a SHU tier. *Id.*

³⁸ The applicable NCCHC standard also states that when the cards or logs are filled, they are filed in the inmates' health record.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the DOC findings and was concerned that the State relied on interviews for information regarding the timeliness of initial nurse assessments by performing on inmates entering segregation. Interviews can be a helpful source of information but is not as effective a methodology as in fact reviewing the records of people who have been housed in segregation to determine that there is a documented note by a nurse indicating an initial record review. The Monitoring Team also concurs with the DOC finding of missing daily rounds documented in the log.

With respect to the mental healthcare-related aspects of this paragraph of the Amended MOA, the State conducted an audit and shared the results of that audit with the Monitoring Team. Most of the charts reviewed by the State had segregation mental health progress notes for each week the inmate was in segregation. A noncompliant note was missing one week of documentation on the progress notes. However, only one of the charts contained a mental health evaluation when an inmate on the mental health roster was placed in segregation. The psychologist reported that nursing staff does not always communicate the admission of inmates to segregation. Additionally, there is not an adequate system in place to track these admissions and ensure that the requirements are being met.

The Monitoring Team notes that little, if any, progress has been made in this area. The problems with identifying inmates moved to segregation has been mentioned in several previous reports. The State's means of tracking inmates moved to segregation is not yet fully effective although the State's electronic data system does allow a print out of inmates entering segregation, and SCI has effectively implemented a tracking log and that process appears to work.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the documentation provided by the DOC. From that data, it was clear that there were problems with documentation by the nurses of a number of inmates' charts upon admission to the segregation units. Less than a substantially compliant

number of the charts had segregation progress notes. The policy requires documentation in the record of a review prior to placement. In addition, when patients are seen there must be documentation, either in the record or on a log sheet, that the patient was contacted.

With respect to the mental healthcare-related aspects of the Amended MOA, the State reported that mental health rounds occurred at least three times per week. The audit revealed issues concerning progress notes being completed, and documentation of nursing review of charts when an inmate is placed in segregation or when a mental health evaluation is completed. For those mental health evaluations that were documented, all of them were completed within 24 hours.

The Monitoring Team notes that segregation rounds and proper documentation of these rounds has not been a problem at HRYCI until recently. The Monitoring Team believes the recent problems are due to staffing shortages and the fact that clinicians have been forced to cover multiple areas of the facility.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

With respect to the mental healthcare-related aspects of this provision of the Amended MOA, the State informed the Monitoring Team that all segregation admissions reviewed had progress notes documenting the required review for inmates on the mental health roster. However, half of the charts reviewed did not contain a required initial mental health evaluation.

The Monitoring Team believes the State is doing a good job of documenting progress notes and identifying inmates moved to segregation. The Monitoring Team believes it is likely that problems completing the initial mental health evaluation are due to staff shortages at SCI.

E. Recommendations

At JTVCC, the Monitoring Team recommends that the quality improvement program insures that there is a methodology (i) to verify that nursing rounds and assessments are done both at the time of admission and daily; and (ii) must rely on documentation in the records and log books as opposed to interviews.

At HRYCI, the Monitoring Team recommends that the State continue to have the quality improvement program internally review compliance with the policies regarding isolation rounds on a monthly basis until performance meets the requirements.

CHRONIC DISEASE CARE

19. Chronic Disease Management Program

A. Amended MOA Paragraph

Paragraph 19 of the Amended MOA provides:

The State shall maintain a written chronic care disease management program, consistent with generally accepted professional standards, which provides inmates suffering from chronic illnesses with appropriate diagnosis, treatment, monitoring, and continuity of care. As part of this program, the State shall maintain a registry of inmates with chronic diseases.

According to generally accepted professional standards, an adequate chronic disease³⁹ management program should identify patients with chronic diseases with the goal of decreasing the frequency and severity of symptoms, including preventing disease progression and fostering improvement in function. J-G-02; P-G-02. A chronic disease program should incorporate a treatment plan and regular clinic visits, according to the needs of the patient, and the generally accepted professional standards for the chronic disease(s) suffered by the patient.⁴⁰ *Id.* The clinician responsible should monitor the patient's progress during clinic visits and, when necessary, change the treatment. *Id.* The program should also include patient education for symptom management. *Id.*

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

³⁹ A "chronic disease" is defined as "an illness or condition that affects an individual's well-being for an extended interval, usually (at least) 6 months, and generally is not curable but can be managed to provide optimum functioning within any limitations the condition imposes on the individual. J-G-02; P-G-02. Examples of a chronic disease include asthma, diabetes, high blood cholesterol, HIV, hypertension, seizure disorder, and TB. *Id.*

⁴⁰ Each chronic disease has a separate set of clinical guidelines that apply to appropriate treatment and control of the disease. For example, the generally accepted professional standards for the treatment of TB can be found at the website for the Centers for Disease Control: http://www.cdc.gov/tb/pubs/PDA_TBGuidelines/default.htm.

2. Findings

The Monitoring Team reviewed eight records of patients with a variety of diseases including diabetes, hepatitis C, HIV disease, hypertension and coronary artery disease as well as hyperlipidemia. In reviewing the methodology utilized by the DOC, the Monitoring Team was able to determine that, within the chronic disease lists, patients were selected randomly instead of attempting to select for patients whose diseases might not be well controlled, as demonstrated by laboratory parameters, medication lists, etc. The Monitoring Team reviewed with the DOC the advantage of selecting to use a sicker patient's methodology. The Monitoring Team did review the record of one patient who refused his chronic care program but made this refusal to a clerk. He never discussed the matter with the clinician staff, which the Monitoring Team believes is critical, so that they understand the risks and benefits. Although there clearly has been some improvement in the chronic care program the Monitoring Team believes that this is an area on which the BCHS will need to pay special attention going forward.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed 10 records of the records selected by the DOC and the Monitoring Team's findings are in accordance with the DOC's findings. However, the DOC did not use a record selection process that was designed to select patients whose disease was least likely to be in good control nor did they look at the appropriateness of the clinical intervention if the patient's disease was not in good control. The Monitoring Team would strongly encourage the DOC to use this approach, and believe that after the Monitoring Team's discussion they will do so in order to provide more useful feedback to the programs

D. Recommendations

At JTVCC, the Monitoring Team recommends that the DOC implement the following methodology for its self-monitoring of this paragraph: (i) when conducting a review by disease, use parameters that allow looking at the sickest of patients if possible; (ii) when reviewing the sickest of patients, look carefully at whether the clinician intervention was appropriate; and (iii) determine whether the clinician practice is consistent with national guidelines for that disease.

At HRYCI, the Monitoring Team recommends that the DOC implement the following methodology for its self-monitoring of this paragraph: (i) where possible, use a chart selection methodology that attempts to select patients whose disease is most likely least well controlled. The Monitoring Team has discussed how this can be done; (ii) in reviewing the records, evaluate the appropriateness of the intervention when the disease assessment is less than

good control, as well as whether the disease assessment is consistent with published definitions of disease control; and (iii) encourage the facilities to treat anticoagulation as a special chronic disease requiring consistent assessments and management.

20. Immunizations

A. Amended MOA Paragraph

Paragraph 20 of the Amended MOA provides:

The State shall make reasonable efforts to obtain immunization records for all juveniles⁴¹ who are detained at the Facilities for more than one (1) month. The State shall ensure that medical staff updates immunizations for such juveniles in accordance with nationally recognized guidelines and state school admission requirements. The physicians who determine that the vaccination of a juvenile or adult inmate is medically inappropriate shall properly record such determination in the inmate's medical record. The State shall continue implementing policies to ensure that inmates for whom influenza, pneumonia and Hepatitis A and B vaccines are medically indicated are offered these vaccines.

This paragraph of the Amended MOA requires that the State make reasonable efforts to obtain immunization records for all juveniles who are detained at the Facilities for more than one month. This requirement means that the State will need a system to track which juveniles have been detained for more than one month. Although there are no official guidelines available to determine what reasonable efforts would be under these circumstances, the Monitoring Team believes that reasonable efforts would consist of an attempt to acquire the juvenile's school records, and records from any health care providers in the community that have provided care to the juvenile that the State is able to identify after asking the juvenile. The Amended MOA further requires that, for juveniles, the State ensure that medical staff members update immunizations for such juveniles in accordance with nationally recognized guidelines and state school admission requirements. Those guidelines and admission requirements were attached to the Second Report as Appendix III.

This paragraph of the Amended MOA also requires that the State develop procedures to ensure that inmates for whom Influenza, pneumonia and Hepatitis A and B vaccines are medically indicated are offered these vaccines. For example, Influenza vaccine is recommended to be administered in adults aged 50 and older unless there is evidence of immunity or prior vaccination. *See* <http://www.cdc.gov/mmwr/pdf/wk/mm5641-Immunization.pdf>. Further, if a physician determines that vaccination of a juvenile or adult inmate is medically inappropriate, the physician shall properly record such determination in the inmate's medical record.

⁴¹ The term "juveniles" means "individuals detained at a facility who are under the age of eighteen (18)." *See* Amended MOA II.J.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the methodology of the DOC and found it appropriate. Since JTVCC does not house a juvenile population, this item only deals with high risk patients, such as those with certain chronic diseases and although this can be improved, there is substantial compliance.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the material presented by the DOC and agrees that, in general, this program is achieving substantial compliance. The use of the school immunization records is very good.

D. Recommendations

At HRYCI, the Monitoring Team recommends that the State have the clinicians document on the immunization sheet whether the patient's immunizations are up to date and if not, what immunizations need to be ordered for this admission.

MEDICATION

21. Medication Administration

A. Amended MOA Paragraph

Paragraph 21 of the Amended MOA provides:

The State shall ensure that all medications, including psychotropic medications, are prescribed appropriately and administered in a timely manner to adequately address the serious medical and mental health needs of inmates. The State shall ensure that inmates who are prescribed medications for chronic illnesses that are not used on a routine schedule, including inhalers for the treatment of asthma, have access to those medications as medically appropriate. The State shall maintain and implement adequate policies and procedures for medication administration and adherence. The State shall ensure that the prescribing practitioner is notified if a patient misses a medication dose on three (3) consecutive days, and shall document that notice. The State's formulary shall not unduly restrict medications. The State shall review its medication administration policies and procedures and make any appropriate revisions. The State shall ensure that medication administration records ("MARs") are appropriately completed and maintained in each inmate's medical record. As part of the quality assurance program set forth in Section V of this Agreement, a qualified medical professional or registered nurse supervisor shall review MARs on a periodic basis to determine whether policies and procedures are being followed.

Medications are appropriately prescribed if they are prescribed upon the order of a physician, dentist, or other legally authorized individual, and only when clinically indicated. J-D-02; P-D-02. Administration of medications should be done in a manner that complies with federal and State of Delaware laws. J-D-01; P-D-01. Generally accepted professional standards require that institutions maintain a self-medication or KOP program,⁴² which permits inmates to carry medications necessary for the emergency management of a condition as appropriate. J-D-01; P-D-01.

This paragraph of the Amended MOA further requires that the State develop and implement policies and procedures for medication administration and adherence. Also, the State shall review its medication administration policies and procedures and make any appropriate revisions. The Monitoring Team finds that the State has adopted appropriate policies. *See* State Policy D-02.

⁴² "Self-medication programs" are programs which "permit responsible inmates to carry and administer their own medications." J-D-02; P-D-02.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

In reviewing the data from the DOC, the Monitoring Team had a few concerns. It was not clear to the Monitoring Team that the data available was comprehensive. Medication pass for the main unit indicated that these results will be available during the onsite interview, but the Monitor never received that information.

Even so, there were real performance problems with regard to signatures being legible on the MARs, credentials present for each signature, and an effort being made to look at the area of three missed doses in a row. In addition, there appeared to be problems with medication renewal orders being written timely, a measure that will prevent lapses in medications. This is clearly an area that requires ongoing work and a major focus of the nursing department. It is also important that the DOC review look at and determine the timeliness of the documentation of medication administration in the MAR, and this was not always commented on.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the DOC's materials, which provided a great deal of detail with regard to the medication passes on the first floor west side, second floor west side and on the east side. There is a great deal of description with regard to the nursing process and it appears that in general the nurses were quite conscientious. An area that was not addressed was the timeliness of the documentation in relation to the medication administration itself. There were problems with documentation of whether each dose that should have been given was given or an explanation of why it was not given. Not enough medication administration records satisfied this requirement. There were also problems with signatures being present on the medication administration records. This is an area that requires ongoing monitoring and watchfulness and needs to be continually supervised by the onsite supervisory staff.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The State provided a great deal of information regarding medication passes and the quality of medication administration records. The State observed that medication administration records were generally legible and properly documented the administration of medications. Moreover, the medication administration records generally contained all required signatures and were located in the inmate's charts. Finally, during the actual administration of medications, the process seems to run smoothly and adequately.

E. Recommendations

At JTVCC, the Monitoring Team recommends that the quality improvement program and the DOC should, over time, document a review of each med pass in each area on the required shifts so that the work of each nurse has at some point been reviewed; and the DOC should document for each area and shift reviewed the timeliness of the nursing documentation after administration.

At HRYCI, the Monitoring Team recommends that the State include in the DOC review the observation as to whether documentation in the medication administration record occurs as close to the administration itself as possible; and on a regular basis, the Regional Nursing Director should be reviewing a med pass on each shift in each unit for completeness of MAR documentation.

22. Continuity of Medication

A. Amended MOA Paragraph

Paragraph 22 of the Amended MOA provides:

The State shall ensure that arriving inmates who report that they have been prescribed medications shall receive the same or comparable medication as soon as is reasonably possible, unless a medical professional determines such medication is inconsistent with generally accepted professional standards. If the inmate's reported medication is ordered discontinued or changed by a medical professional, a medical professional shall conduct a face-to-face evaluation of the inmate as medically appropriate.

This paragraph of the Amended MOA is meant to ensure continuity of care from the entry of an inmate into a facility. J-E-12; P-E-12. Further, this paragraph can assist with

preventing adverse patient outcomes, which are more likely to happen with respect to medication services practices when a provider frequently changes orders, the provider fails to review patient medication histories, or treating staff are unaware of each other's prescribing behaviors. J-D-02; P-D-02.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the audit materials presented by the DOC, and accepted the audit methodology. The Monitoring Team had a concern about the requirement for bridging independent of assessments documenting the need for an alternative strategy. The data from the DOC suggests that the timeliness of medication renewal orders and lapses in medication are still problematic and need to be addressed. The State has created a corrective action plan with regard to this item.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the data presented by the DOC and were impressed with the high number of medication orders that were written in a timely manner for chronic care medications. Administration of the renewal order was timely with no lapse in medication much of the time. However, with regard to medication bridging at the time of entry, relatively few of the charts reflected that medications were bridged in a timely manner. This was primarily due to the medication delivery system since most bridging medications were ordered timely. This is an area that needs to be looked at closely.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The State conducted a review of eight charts, and reported its findings to the Monitoring Team. The State's review demonstrated that there are problems with inmates arriving at the facility who reported they had been prescribed psychotropic medications receiving the same or comparable medication within 24 hours. In one case, however, the State attempted to verify medications with the pharmacy and discovered that the inmate was not on the reported medication. When medications were unable to be verified with the pharmacy, verbal orders were sought in four of the five charts. In one case, the on-call provider never responded.

The State's audit should have contained a comprehensive review of nine charts, but only eight were mentioned in the DOC assessment. The ninth chart, which was not considered by the State was for an inmate on a benzodiazepine. The State apparently assumed this medication would not be bridged, and therefore, was not relevant to the State's self-assessment. However, this case should have been reviewed to ensure the inmate was assessed for the potential for a withdrawal syndrome from this medication and that an appropriate medication was considered to cover him should he have been at risk.

The DOC assessment did not mention an issue with regard to when only the general medical provider was contacted in relation to a patient's medication issue, but there was no documentation of any attempt to consult the psychiatrist on call. This resulted in a significant lapse in medications. Another example exists where another inmate had a significant lapse in medication and it was not mentioned.

E. Recommendations

At JTVCC, the Monitoring Team recommends that the quality improvement program utilizes studies of medication continuity and tracks the percentage of the sample reviewed whose meds were continued without disruption; and with regard to bridging, the criteria used should be that all psychotropic medications are bridged unless there is a documented explanation for implementing an alternative strategy.

At HRYCI, the Monitoring Team recommends that the State change the criteria so that the requirement for medications to be administered within 24 hours after verification be changed to "unless there is documentation for the basis of an alternate strategy"; and, when reviewing the medication continuity of the chronically ill, measure the percent of patients whose medications were continued as indicated, without disruption.

At SCI, the Monitoring Team recommends that the State's audit tool reviews for whether medications are verified and, if they are not verified, whether the person is seen by a physician within 24 hours. The audit tool should also contain an indicator to determine if the physician/psychiatrist was actually called, and whether the nurse documented a doctor's decision not to bridge that particular medication.

23. Medication Management

A. Amended MOA Paragraph

Paragraph 23 of the Amended MOA provides:

The State shall maintain and implement guidelines and controls regarding the access to, and storage of, medications as well as the safe and appropriate disposal of medication and medical waste.

According to generally accepted professional standards, the guidelines and controls developed by the State should include the following components:

- The facility complies with all applicable state and federal regulations with regard to prescribing, dispensing, administering, and procuring pharmaceuticals;
- The facility maintains a formulary for providers;
- The facility maintains procedures for the timely procurement, dispensing, distribution, accounting, and disposal of pharmaceuticals;
- The facility maintains records as necessary to ensure adequate control of and accountability for all medications;
- The facility maintains maximum security storage of, and accountability by use for, Drug Enforcement Agency (“DEA”)-controlled substances;
- The facility has an adequate method for notifying the responsible practitioner of the impending expiration of a drug order, so that the practitioner can determine whether the drug administration is to be continued or altered;
- Medications are kept under the control of appropriate staff members;
- Inmates do not prepare, dispense, or administer medication except for self-medication programs approved by the facility administrator and responsible physician (*e.g.*, “keep-on-person” programs). Inmates are permitted to carry medications necessary for the emergency management of a condition when ordered by a clinician;
- Drug storage and medication areas are devoid of outdated, discontinued, or recalled medications;
- Where there is no staff pharmacist, a consulting pharmacist is used for documented inspections and consultation on a regular basis, not less than quarterly;

- All medications are stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security. Antiseptics, other medications for external use, and disinfectants are stored separately for internal and injectable medications. Medications requiring special storage for stability (*e.g.*, medications that need refrigeration are so stored);
- An adequate and proper supply of antidotes and other emergency medications, and related information (including posting of the poison control telephone number in areas where overdoses or toxicological emergencies are likely) are readily available to the staff.

J-D-01; P-D-01.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the methodology of the DOC and found it to be appropriate and comprehensive. There has been great improvement in the management of the medication rooms and for this the DOC is to be commended.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the data presented by the DOC and it appears that their review was quite thorough. The medication rooms are apparently being managed quite well currently. The Monitoring Team is pleased at the improvements that have occurred in this area over time.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. **Findings**

With respect to mental healthcare, the State conducted an audit of this paragraph. The results of this audit were largely positive and demonstrated that the State is doing an adequate job of properly storing medications. For instance, prescriptions are dispensed in containers containing the inmate's name and identification information, medications are securely stored, and pharmacy rooms are well-lit, organized, and clean. Perhaps the only negative noted in the audit, was an observation that there was no way to currently guarantee no expired medications were stored. However, a random sampling showed that no expired medications appeared to be currently stored.

EMERGENCY CARE

24. Access to Emergency Care

A. Amended MOA Paragraph

Paragraph 24 of the Amended MOA provides:

The State shall ensure that inmates with emergency medical or mental health needs receive timely and appropriate care, including prompt referrals and transports for outside care when medically necessary.

The NCCHC recommends the provision of 24-hour emergency medical, mental health, and dental services. J-E-08; P-E-08. In order to ensure timely and appropriate emergency services, the NCCHC recommends that institutions have a written plan including arrangements for emergency transport of the patient from the facility, use of an emergency medical vehicle, use of one or more designated hospital emergency departments or other appropriate facilities, emergency on-call physician, mental health, and dental services when the emergency health care facility is not located nearby, security procedures for the immediate transfer of patients for emergency medical care, and notification to the person legally responsible for the facility. *Id.* Further, emergency drugs, supplies, and medical equipment should be regularly maintained. *Id.*⁴³

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed five records of patients who had onsite emergencies. In general, the response was both timely and appropriate. The Monitoring Team did have a couple of specific clinical recommendations to improve the quality of the response. The first is that when shortness of breath and asthma are the determination with regard to an urgent problem, a peak flow study should be performed, both before and after treatment. The second one is when dizziness is the chief complaint, orthostatic vital signs should be performed by the nurse.

⁴³ In the case of access to emergency care, there is no set period of time that will *per se* be reasonable. The period of time that is appropriate will be that period of time which meets the needs of a patient under the circumstances.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed five records of patients seen onsite and in general, the care was both timely and appropriate.

D. SCI

1. Assessment

See Assessment for Paragraph 43 of the Amended MOA.

2. Findings

See Findings for Paragraph 43 of the Amended MOA.

MENTAL HEALTH CARE

25. Treatment

A. Amended MOA Paragraph

Paragraph 25 of the Amended MOA provides:

The State shall ensure that qualified mental health professionals provide timely, adequate, and appropriate screening, assessment, evaluation, treatment and structured therapeutic activities to inmates requesting mental health services, inmates who become suicidal, and inmates who enter with serious mental health needs or develop serious mental health needs while incarcerated.

This paragraph of the Amended MOA is an overall standard governing the timeliness and appropriateness of the following components of mental health care to be provided at the Facilities:

- mental health screening;
- assessment;
- evaluation;
- treatment; and
- structured therapeutic activities.

The NCCHC recommends that there be mental health services⁴⁴ available for all inmates who require them. J-G-04; P-G-04. The Amended MOA, on the other hand, requires that mental health services be available to all inmates *requesting* them, inmates who become suicidal, and inmates who enter with serious mental health needs or develop serious mental health needs while incarcerated. The NCCHC standards state that mental health treatment is more than prescribing psychotropic medications; treatment goals include the development of self-understanding, self-improvement, and development of skills to cope with and overcome disabilities associated with various mental disorders. J-G-04; P-G-04. The NCCHC provides that facilities housing significant numbers of patients with mental health problems who have longer sentences are expected to offer more extensive mental health programming. *Id.* Correctional facilities that provide for the needs of patients requiring psychiatric hospitalization levels of care are expected to mirror treatment provided in inpatient settings in the community. *Id.*

⁴⁴ “Mental health services” includes “the use of a variety of psychosocial and pharmacological therapies, either individual or group, including biological, psychological, and social, to alleviate symptoms, attain appropriate functions, and prevent relapse.”

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

In assessing this paragraph, the Monitoring Team reviewed the results of an audit completed by the State. The State found that while inmates in Special Needs Unit T-1 are receiving group programming, community meetings and activities, inmates in 23-D are not receiving activities due to the lack of staffing that the State's audit identified. Similarly, structured activities are presently taking place in the T-1 unit, but not the 23-D unit. Finally, the State noted there is a lack of programming in general population.

The Monitoring Team is concerned with the State's work plan in response to the findings described in the preceding paragraph. In response to its findings that inadequate programming is occurring, the State provided a recommendation that stated: "[r]eview policy for special needs inmates to assure inmates are receiving required programming." The Monitoring Team believes that this recommendation does not adequately address the lack of structured activities of both the special needs area and general population. Simply reviewing a policy does not address the problem, and this can only be done by taking specific and measurable steps as well as continued data collection to guarantee success. The State reports that its plan consists of more specific and active steps than the recommendation that was shared with the Monitoring Team.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

In assessing this paragraph, the Monitoring Team reviewed the results of an audit completed by the State. While the State found that inmates in the Transition Unit are receiving group programming, the Monitoring Team is concerned by the fact that the State has not been tracking programming for proof of practice that a minimum of ten hours per week is occurring. From previous visits, the Monitoring Team observed that group programming was frequently cancelled when the unit officer was pulled to cover other things.

The Monitoring Team believes that the State's current methodology used to track this paragraph is inadequate because it relies completely on interviews with the mental health

staff. Interviews are a good source of information, but should not be the only source. The State should develop sources of independent data, such as logs maintained by custody officers on the unit where group programming occurs.

Finally, the State needs to approve and monitor a tracking tool to assess whether required programming is actually delivered especially for those inmates with serious mental illness. The State has yet to develop the capacity for programming provided to those inmates housed for more than several days on PCO status particularly due to a mental illness and not a risk of harm to self or others.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

In assessing this paragraph, the Monitoring Team reviewed the results of an audit completed by the State. The State noted that at the time of the Monitoring Team's visit in June 2010, there was a lack of programming for the entire facility. Due to staff shortages, all groups have been put on hold until staff vacancies are filled. In developing a plan to remedy these problems, the State acknowledges that remedying these issues begins with filling the vacant staffing positions so that the required services can be provided. Once this is in place, the plan is for the Mental Health Director to track and review treatment plans to ensure they are being completed.

The Monitoring Team concurs with the State's findings and its plan for remediation.

E. Recommendations

HRYCI has begun housing high-security inmates on PCO II and III status in clean cells on the segregation unit. All inmates in this area have access to the recreation yard under direct observation by an officer and individually. The mental health service may wish to consider allowing clinicians the option of ordering continued recreation to inmates in this unit while on psychiatric close observation because they are under 1:1 custody observation while in the recreation yard.

At JTVCC, the Monitoring Team recommends that the State develop a specific plan and ensure that there is adequate programming for those inmates with serious mental illness. Staffing on the medium/maximum side has been seriously deficient since February of 2010. More attempts to balance programming for both special needs units could have been made. A chronic lack of staff for one unit while the other entertains full staffing and no evidence of attempts at cross coverage does not show a reasonable effort to remedy the situation. It is the

role of the Warden and Treatment Services Director, working in conjunction with the contractor's directors, to develop interim plans to allow for balance and coverage between multiple areas until staff can be hired. Segregated inmates should also receive priority since they have less access to other facility programming such as education, recreation, employment and prison industries.

26. Psychiatrist Staffing

A. Amended MOA Paragraph

Paragraph 26 of the Amended MOA provides:

The State shall retain sufficient psychiatrists to enable the Facilities to address the serious mental health needs of all inmates with timely and appropriate mental health care consistent with generally accepted professional standards. This shall include retaining appropriately licensed and qualified psychiatrists for a sufficient number of hours per week to see patients, prescribe and adequately monitor psychotropic medications, participate in the development of individualized treatment plans for inmates with serious mental health needs, review charts in the context of rendering appropriate mental health care, review and respond to the results of diagnostic and laboratory tests, and be familiar with and follow policies, procedures, and protocols.

This paragraph of the Amended MOA does not differ significantly from the standards applicable to paragraph 5 of the Amended MOA with respect to the requirement for sufficient psychiatrist staffing, and therefore, the Monitoring Team refers to the standards set forth with respect to that paragraph. *See* J-C-07; P-C-07. Also, this paragraph of the Amended MOA requires that the psychiatrist collaborate with the chief psychologist in mental health services management as well as clinical treatment, shall communicate problems and resource needs to the Warden and chief psychologist, shall have medically appropriate autonomy for clinical decisions at the facility, and shall supervise and oversee the treatment team.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. This assessment is not consistent with the DOC's less favorable self-assessment, which was partial compliance.

2. Findings

The State provided data to the Monitoring Team showing that all of the positions at JTVCC were filled between January and April 2010. Based on the fact that the State has

maintained a 100% staffing rate, the Monitoring Team assessed the State as being in substantial compliance.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is not consistent with the DOC's less favorable self-assessment, which was partial compliance.

2. Findings

The State provided data to the Monitoring Team showing that 100% of positions at SCI were filled between January and April 2010. Based on the fact that the State has maintained a 100% staffing rate, the Monitoring Team assessed the State as being in substantial compliance.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is not consistent with the DOC's less favorable self-assessment, which was partial compliance.

2. Findings

The State provided data to the Monitoring Team showing that 100% of positions at SCI were filled between January and April 2010. Based on the fact that the State has maintained a 100% staffing rate, the Monitoring Team assessed the State as being in substantial compliance.

E. Recommendations

The Monitoring Team notes that the 100% rates described above refer to the number of positions that are actually filled, and not the actual number of hours of care delivered per month. This latter number could be significantly less based on employees taking sick or personal leave. For instance, during the Monitoring Team's visit, it was reported that one mental health employee at a facility had missed 33% of his workdays in the previous month. Thus, while the position is filled, the absenteeism could impact the delivery of care.

27. Psychiatrist Duties and Authority.

A. Relevant Amended MOA Paragraph

Paragraph 27 of the Amended MOA provides:

The psychiatrist shall collaborate with the chief psychologist in mental health services management as well as clinical treatment, shall communicate problems and resource needs to the Warden and chief psychologist, and shall have medically appropriate autonomy for clinical decisions at the Facility. The psychiatrist shall supervise and oversee the treatment team.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. This assessment is not consistent with the DOC's less favorable self-assessment, which was partial compliance.

2. Findings

The State reported that the psychiatrist's duties included: bridging orders for inmates who have verified medications upon intake, providing initial assessments for medication as well as medication renewal; care of all PCO inmates, including downgrading and discharging from PCO; overseeing on-call and crisis management; and attending all treatment review meetings.

The Monitoring Team observed that the psychiatrist and mental health professionals do treatment plans in a simultaneous visit for inmates in the structured care units. Treatment plans are signed by both professionals for most inmates on the caseload.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is not consistent with the DOC's less favorable self-assessment, which was partial compliance.

2. Findings

The State reported that the psychiatrist's duties included: bridging orders for inmates who have verified medications upon intake, providing initial assessments for medication as well as medication renewal; care of all PCO inmates, including downgrading and discharging

from PCO; overseeing on-call and crisis management; and attending all treatment review meetings.

The Monitoring Team noted that the State has implemented a treatment review committee for the structured care unit. Committee meetings are attended by the psychologist, the psychiatrist, the clinician on the unit, and a representative from custody staff. The DOC treatment services director receives minutes from the meetings and has attended such meetings at JTVCC and SCI, but does not appear to have attended meetings at HRYCI. The Monitoring Team does not have information stating how often these meetings occur.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is not consistent with the DOC's less favorable self-assessment.

2. Findings

The State reported that the psychiatrist's duties included: bridging orders for inmates who have verified medications upon intake, providing initial assessments for medication as well as medication renewal; care of all PCO inmates, including downgrading and discharging from PCO; overseeing on-call and crisis management; and attending all treatment review meetings.

E. Recommendations

The Monitoring Team believes the State should require documentation from its contractor to ensure these practices are occurring and should further monitor these documents for quality and completeness. The State should not simply rely on staff interviews.

28. Mental Health Screening

A. Amended MOA Paragraph

Paragraph 28 of the Amended MOA provides:

The State shall maintain and implement adequate policies, procedures, and practices consistent with generally accepted correctional mental health care standards to ensure that all inmates receive an adequate initial mental health screening by appropriately trained staff within twenty-four (24) hours after intake. Such screening shall include an individual private (consistent with security limitations) interview of each incoming inmate, including whether the inmate has a history of mental illness, is currently receiving or has received psychotropic medications, has attempted suicide, or has suicidal propensities. Documentation

of the screening shall be maintained in the appropriate medical record. Inmates who have been on psychotropic medications prior to intake will be assessed by a psychiatrist as to the need to continue those medications in a timely manner, no later than seven to ten (7-10) days after intake or sooner if clinically appropriate. These inmates shall remain on previously prescribed psychotropic medications pending psychiatrist assessment. Incoming inmates who are in need of emergency mental health services shall receive such care immediately after intake. Incoming inmates who require resumption of psychotropic medications shall be seen by a psychiatrist as soon as clinically appropriate.

The NCCHC recommends that individuals conducting the receiving screening (*see* discussion of paragraph 9 of the Amended MOA) make adequate efforts to explore the potential for suicide. J-E-02; P-E-02. Both reviewing with an inmate any history of suicidal behavior and visually observing the inmate's behavior (delusions, hallucinations, communication difficulties, speech and posture, impaired level of consciousness, disorganization, memory defects, depression, or evidence of self-mutilation) should be done at the screening. *Id.*

Within 24 hours after the intake screening takes place, the initial mental health screening should take place and include a structured interview with inquiries into:

- a history of:
 - psychiatric hospitalization and outpatient treatment;
 - suicidal behavior;
 - violent behavior;
 - victimization;
 - special education placement;
 - cerebral trauma or seizures, and
 - sex offenses; and
- the current status of:
 - psychotropic medications;
 - suicidal ideation;
 - drug or alcohol use, and
 - orientation to person, place, and time;
- emotional response to incarceration; and
- a screening for intellectual functions (*i.e.*, mental retardation, developmental disability, learning disability).

J-E-05; P-E-05. The NCCHC further recommends that the inmate's health record contains results of the initial screening. *Id.*

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team and the State agreed upon a methodology under which the State reviewed 20 charts to check compliance with this Paragraph, and the Monitoring Team independently reviewed ten of these records.

In reviewing the ten records, the Monitoring Team reached similar conclusions as the State with respect to 7 of the 10 charts. In fact, the Monitoring Team found more favorable results than the State did with respect to two of the 10 files. The Monitoring Team found less favorable results with respect to one of the files because the inmate had not seen a psychiatrist. The State failed to note this problem in its review of the file. Generally, the Monitoring Team believes that mental health screenings are occurring in a timely manner.

The State also looked at six records regarding bridging orders. The State's review demonstrated that most of the files had the presence of a release of information and at least one attempt to contact the pharmacy to verify medications. Problems with bridging medications were noted.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team and the State had agreed upon a methodology under which the State would review 20 charts to check compliance with this Paragraph, and the Monitoring Team would then independently review ten of those records.

The Monitoring Team notes that the State only reviewed 13 charts. Additionally, of these 13, two should not have been included in the sample because they did not include inmates with mental health histories. As a result, the sample chosen by the State was smaller than of the agreed upon number.

With respect to the ten charts the Monitoring Team reviewed, a significant number of the inmates in the sample were not seen by a psychiatrist within 10 days of intake referral. The review again revealed problems with bridging medications.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team and the State agreed upon a methodology under which the State would review 20 charts to check compliance with this Paragraph, and the Monitoring Team would then independently review ten of those records. However, the State reviewed only 12 charts.

The Monitoring Team independently reviewed ten of these charts and upgraded the ratings of two charts. However, a third record was downgraded because it demonstrated an unacceptable delay in receipt of care, and poor clinical treatment.

Additionally, nine charts were reviewed by the Department for timeliness of psychiatric medication bridging. This audit was reviewed and revealed some problems with the timeliness of medication bridging.

The Monitoring Team is concerned by the fact that while SCI had full psychiatric staffing, less than half of inmates referred to a psychiatrist after a mental health evaluation receive a psychiatric evaluation within 10 days. This indicates that there is either insufficient psychiatric time allocated to the site, or there are other problems with the process.

E. Recommendations

At SCI, the State needs to develop a work plan to address the issue of why inmates are not receiving timely psychiatric evaluations despite the fact that the facility is fully staffed. The State reports that it has created the work plan. The Monitoring Team believes that the work plan the State has created needs to contain a more specific layout of the steps that must be taken rather than more general aspirational statements.

Additionally, at all Facilities, the bridging audit tool is not fully reflective of the process being monitored. In some cases, the medication was ordered even though the medication wasn't verified. This is found in a narrative but is not reflected in the percentages obtained from the audit columns. The state should revise this tool.

29. Mental Health Assessment and Referral

A. Relevant Amended MOA Paragraph

Paragraph 29 of the Amended MOA provides:

The State shall maintain and implement adequate policies, procedures, and practices consistent with generally accepted professional standards to ensure timely and appropriate mental health assessments by qualified mental health professionals for those inmates whose mental health histories, or whose responses to initial screening questions, indicate a need for such an assessment. Such assessments shall occur within seventy-two (72) hours of the inmate's mental health screening or the identification of the need for such assessment, whichever is later. The State shall also ensure that inmates have access to a confidential self-referral system by which they may request mental health care without revealing the substance of their request to security staff. Written requests for mental health services shall be forwarded to a qualified mental health professional and timely evaluated by him or her. The State shall ensure adequate and timely treatment for inmates whose assessments reveal serious mental illness, including timely and appropriate referrals for specialty care and regularly scheduled visits with qualified mental health professionals.

Any inmates with positive screenings for mental health problems should be referred to qualified mental health professionals for further evaluation. J-G-04; P-G-04. The health record should contain the results of the evaluations with documentation of referral or initiation of treatment when indicated. *Id.* Patients with needs that require acute mental health services beyond those available at the facility are transferred to an appropriate facility. *Id.*

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team and the State agreed upon a methodology under which the State would review 20 charts to check compliance with this Paragraph, and the Monitoring Team would then independently review ten of those records.

The Monitoring Team found that it agreed with the State's finding with respect to 7 out of the 10 charts. The Monitoring Team upgraded two charts, but one downgrade occurred in a case where the inmate was rated as having seen the psychiatrist within 10 days but had never actually seen the psychiatrist.

With respect to the frequency of mental health visits, the Monitoring Team found that it agreed with the State's finding with respect to 7 out of the 10 charts. In one case, the Monitoring Team downgraded the findings on the indicator of "seen by psychiatrist every 90 days" because even though the inmate was seen every 90 days, that timeframe was not in compliance with the physician's order.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team and the State had agreed upon a methodology under which the State would review 20 charts to check compliance with this Paragraph, and the Monitoring Team would then independently review ten of these records. However, with respect to mental health initial assessments the State only reviewed 13 charts, instead of 20. With respect to mental health services, the State reviewed 22 records.

The review of the charts reflected problems with the receipt of a comprehensive evaluation within 72 hours of an inmate's mental health screening, documentation that the clinician conducted a routine mental health visit with the inmate every 30 days as required, and psychiatrists seeing inmates on the mental health caseload every 90 days. The Monitoring Team's independent review confirmed these findings.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team and the State agreed upon a methodology under which the State would review 20 charts to check compliance with this Paragraph, and the Monitoring Team would then independently review ten of these records.

The Monitoring Team agreed with most of the State's findings. The State's review found that mental health referrals are being made upon intake, and, in many cases (but not enough to be substantially compliant), inmates are seen by a mental health clinician and the comprehensive evaluation is completed within 72 hours. There are cases, however, when the comprehensive evaluation is partially completed or not completed at all.

The review also found that, due to the decrease in psychiatrist hours, inmates are not being seen in a timely manner. Inmates in pre-trial are not receiving treatment plans within 30 days of medication being ordered, most inmates are not being seen by a mental health clinician at least every 30 days, but most inmates do see a psychiatrist at least every 90 days.

E. Recommendations

The Monitoring Team believes that the State should follow the agreed upon methodology regarding sample sizes. Additionally, with respect to timeliness of psychiatrist visits, the audit tool indicator states “Seen within 10 days of intake.” The Monitoring Team recommends that the State edit this to state “Seen within 10 days of referral to the M.D.” Additionally, the Monitoring Team recommends adjusting the audit tool to track whether physician’s orders are actually complied with.

At SCI, the Monitoring Team believes the problems with the frequency of mental health visits is likely connected to staffing shortages at the site. Therefore, the State should defer performing a detailed corrective action plan until these staffing levels are sufficient.

30. Mental Health Treatment Plans

A. Amended MOA Paragraph

Paragraph 30 of the Amended MOA provides:

The State shall ensure that a qualified mental health professional prepares in a timely manner and regularly updates an individual mental health treatment plan for each inmate who requires mental health services. The State shall also ensure that the plan is timely and consistently implemented. Implementation of and any changes to the plan shall be documented in the inmate's medical/mental health record.

A mental health treatment plan should include, at a minimum, a description of: (i) the frequency of follow-up for medical evaluation and adjustment of treatment modality; (ii) the type and frequency of diagnostic testing and therapeutic regimens; and (iii) when appropriate, instructions about diet, exercise, adaptation to the correctional environment, and medication. J-G-01; P-G-01. Further, the plans should include ways to address the patients’ problems and enhance their strengths, involve patients in their development, and include relapse prevention risk management strategies, which should describe signs and symptoms associated with relapse or recurring difficulties, how the patient thinks that a relapse can be averted, and how best to help him or her manage crises that occur. *Id.*

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team and the State agreed upon a methodology under which the State would review 20 charts to check compliance with this Paragraph, and the Monitoring Team independently reviewed ten of these charts.

The State found that most of the charts included treatment plans, and most of those were updated every six months or more frequently if clinical presentation has changed. The Monitoring Team's review of ten of these same charts did not agree with the State's finding. The Monitoring Team found three records where no treatment plan was included. It is unclear why this number differs.

With respect to the charts that did include treatment plans, the State made findings that the Monitoring Team agrees with. The State's audit demonstrated that there are problems with the following elements of the treatment plans: frequency of follow-up for psychiatric evaluation, adjustment of treatment modality, discharge planning (both the presence of plans and the quality of the plans), measurable goals, instruction on relevant issues (e.g., diet, exercise, adjustment, medication), relapse prevention risk management strategies. There were some elements of the treatment plans that fared better, but still are not in substantial compliance: individualized goals, identified problems, identified strengths, complete history, including recent PCO status, and patient is involved in the development of their treatment plan as indicated through signature on the treatment plan.

Additionally, the Monitoring Team found that inmates in structured therapeutic housing (unit T-1) are now being seen by the psychiatrist and mental health professional simultaneously. This has allowed the staff to implement a multidisciplinary process in developing treatment plans with the inmate. However it defeats the purpose of providing the individual with a separate monthly routine mental health visits.

Finally, mental health professionals do consult with custody prior to meeting with the psychiatrist in developing a treatment plan. Currently one of the two officers permanently assigned to the structured care team in the general population is on military leave and due to return in August. Staff is hopeful that after that time they can move to a more directly inclusive treatment team process.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team and the State had agreed upon a methodology under which the State would review 20 charts to check compliance with this Paragraph. However, the State only reviewed 18 charts.

The State's review revealed that many charts do not have treatment plans, and in those charts that had treatment plans, there no evidence that the treatment plans had been updated every six months, or more frequently if required. With respect to the treatment plans reviewed, the Monitoring Team agreed with the State's findings that there were problems with the following elements of the treatment plans: frequency of follow-up for psychiatric evaluation, and adjustment of treatment modality, adjustment of treatment modality, instruction on relevant issues (e.g., diet, exercise, adjustment, medication), and relapse prevention risk management strategies. Some elements of the treatment plans fared better, although they still were not in substantial compliance: individualized goals, measurable goals, identified problems, identified strengths, complete history, including recent PCO status, and patient is involved in the development of their treatment plan as indicated through signature on the treatment plan.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team and the State had agreed upon a methodology under which the State would review 20 charts to check compliance with this Paragraph, and the Monitoring Team independently reviewed ten of these charts.

The State's review showed that less than half of the charts included treatment plans, and even fewer were updated every six months or more frequently if clinical presentation has changed. With respect to the charts that did include treatment plans, the State found problems with (and the Monitoring Team agrees) the following elements of the treatment plans: frequency of follow-up for psychiatric evaluation and adjustment of treatment modality, discharge planning, adjustment of treatment modality, individualized goals; measurable goals, instruction on relevant issues (e.g., diet, exercise, adjustment, medication), identified problems, identified strengths, relapse prevention risk management strategies, complete history, including

recent PCO status, and patient is involved in the development of their treatment plan as indicated through signature on the treatment plan.

E. Recommendations

At all Facilities, the Monitoring Team agrees with the State’s plan to implement a system to track all individuals on the mental health roster to ensure that treatment plans are completed on a timely basis. Additionally, the State plans to have the Mental Health Director review every treatment plan to assist in the quality of those plans. The Monitoring Team further recommends creating a log to note the quality of individual plans. This could help to keep the drafters of the plans more accountable for their work.

31. Crisis Services

A. Amended MOA Paragraph

Paragraph 31 of the Amended MOA provides:

The State shall ensure an adequate array of crisis services to appropriately manage psychiatric emergencies. Crisis services shall not be limited to administrative/disciplinary isolation or observation status. Inmates shall have access to in-patient psychiatric care when clinically appropriate.

An adequate array of crisis services should include not only observation beds, but also some form of a crisis intervention specialist or team.

B. Assessment

The Monitoring Team found that all of the Facilities are in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

C. Findings

The Monitoring Team incorporates its findings with respect to MOA paragraphs 12 and 37-42.

32. Review of Disciplinary Charges for Mental Illness Symptoms

A. Amended MOA Paragraph

Paragraph 32 of the Amended MOA provides:

The State shall ensure that disciplinary charges against inmates with serious mental illness who are placed in Isolation are reviewed by a qualified mental health professional to determine the extent to which the charge may have been

related to serious mental illness, and to determine whether an inmate's serious mental illness should be considered by the State as a mitigating factor when punishment is imposed on inmates with a serious mental illness.

This paragraph of the Amended MOA will assist the State with providing continuity of mental health care, and provides a complete general standard against which to assess the State's compliance with this paragraph of the Amended MOA. To the extent that further clarification of appropriate standards is necessary, such clarification will be stated in the findings.

As part of this paragraph, the State is required to conduct two separate assessments when inmates with serious mental health illnesses are placed in isolation. First, the State must conduct an initial assessment when the inmate is placed in isolation to ensure that the placement will not be harmful to the inmate as a result of their illness. Second, the State must conduct a disciplinary assessment to determine whether the inmate's mental health illness was a contributory factor in the incident that gave rise to the inmate being placed in isolation.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The State informed the Monitoring Team that charts very rarely contain the required documentation. The State further noted that it was reported that not all inmates in segregation were there for disciplinary charges, which might eliminate the need for documentation of mental health input. However, there is no way to determine this from the charts.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The State reviewed eight charts of inmates placed in segregation who were on the mental health caseload. Very rarely do the charts contain documentation that disciplinary charges were reviewed by mental health staff. The Monitoring Team reviewed the notes that did exist and found them to be completely filled out and contained descriptions of whether the inmate's mental health condition was a mitigating factor.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The State informed the Monitoring Team that mental health staff maintains a binder with documentation of staff's review of disciplinary charges. The mental health clerk was confident that all disciplinary charges are reviewed in a timely manner and that security is diligent about communicating with mental health.

E. Recommendations

The Monitoring Team agrees that the State should provide education to all applicable staff members on the requirements for mental health services that are to be provided to inmates in segregation. Additionally, the State should create a tool to track the actual effect of mental health input into the disciplinary process.

33. Procedures for Mentally Ill Inmates in Isolation or Observation Status

A. Amended MOA Paragraph

Paragraph 33 of the Amended MOA provides:

The State shall maintain policies, procedures, and practices consistent with generally accepted professional standards to ensure that all mentally ill inmates on the Facility's mental health caseload who are housed in Isolation receive timely and appropriate treatment, including completion and documentation of regular rounds in the Isolation units at least once per week by qualified mental health professionals in order to assess the serious mental health needs of those inmates. Inmates with serious mental illness who are placed in Isolation shall be evaluated by a qualified mental health professional within twenty- four (24) hours and regularly thereafter to determine the inmate's mental health status, which shall include an assessment of the potential effect of the Isolation on the inmate's mental health. During these regular evaluations, the State shall evaluate whether continued Isolation is appropriate for that inmate, considering the assessment of the qualified mental health professional, or whether the inmate would be appropriate for graduated alternatives. The State shall adequately document all admissions to, and discharges from, Isolation, including a review of treatment by a psychiatrist. The State shall provide adequate facilities for observation, with no more than two inmates per room.

This paragraph of the Amended MOA makes clear that those inmates already on the mental health caseload must receive appropriate and timely treatment, regardless of their status as being in isolation. This means that these inmates must have adequate access to mental health care. *See* J-E-07; P-E-07. According to this Amended MOA language, this treatment includes, but is not limited to, weekly rounds in the isolation units. *See* discussion of Amended MOA paragraph 18 above.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team found that segregation assessments are rarely done based on the samples measured. No evaluations were completed within 24 hours. This is similar to the situation with respect to review of disciplinary charges. This rating of partial compliance is on the very low end of that rating.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The State noted and the Monitoring Team confirmed that there is no segregation log maintained at HRYCI. Additionally, that segregation notes have not been maintained on a weekly basis since January 2010. This rating of partial compliance is on the very low end of that rating.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team independently reviewed 12 records that had been reviewed by the State. All mental health contacts were timely and completed in a private setting. Additionally, the facility has a log that documents all assessments and rounds in isolation.

34. Mental Health Services Logs and Documentation

A. Amended MOA Paragraph

Paragraph 34 of the Amended MOA provides:

The State shall ensure that the State maintains an updated log of inmates receiving mental health services, which shall include both those inmates who receive counseling and those who receive medication. The log shall include each inmate's name, diagnosis or complaint, and next scheduled appointment. Each clinician shall have ready access to a current log listing any prescribed medication(s) and dosages for inmates on psychotropic medications. In addition, inmate's files shall contain current and accurate information regarding any medication changes ordered in at least the past year.

This paragraph of the Amended MOA will assist the State with providing continuity of mental health care, and provides a complete general standard against which to assess the State's compliance with this paragraph of the Amended MOA. To the extent that further clarification of appropriate standards is necessary, such clarification will be stated in the findings.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the log maintained at JTVCC and observed that it contained all components that are required by this paragraph.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is not consistent with the DOC's less favorable self-assessment, which was partial compliance.

2. Findings

The Monitoring Team reviewed the log maintained at HRYCI and observed that it contained all components that are required by this paragraph.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the log maintained at SCI and observed that it contained all components that are required by this paragraph.

SUICIDE PREVENTION

35. Staff Training

A. Amended MOA Paragraph

Paragraph 35 of the Amended MOA provides:

The State shall ensure that all existing and newly hired correctional, medical, and mental health staff receives an initial eight-hour training on suicide prevention curriculum described above.⁴⁵ Following completion of the initial training, the State shall ensure that a minimum of two (2) hours of refresher training are completed by all correctional care, medical, and mental health staff each year.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

Although newly-hired people have been receiving the requisite training and most staff is receiving the requisite follow up training, there is a problem with officers working on the mental health inpatient units not receiving the additional training required of them. Relatively few of the officers working on the mental health unit have been documented as having received the required additional training.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

⁴⁵ In the Original MOA, the word “above” referenced Original MOA Paragraph 42 which described the topics the suicide prevention training curriculum was required to include. In the Original MOA, Paragraph 42 listed the topics of the curriculum, while Paragraph 43 required that staff be trained with respect to that curriculum. Amended MOA Paragraph 35 addresses the requirement that this training occur, but inclusion of the word “above” appears to have been made in error. For purposes of this report, the Monitoring Team understands the word “above” to reference Original MOA Paragraph 42 and the topics listed therein.

2. Findings

This area includes the special training required for staff who work on the inpatient mental health units. The data from the DOC revealed that relatively few of the staff working on these units had received the additional special training required for people who work on these units. The Department must consider whether to provide this training to everybody or at least to enough people so that those positions on the mental health inpatient units are always filled with people who have had the special training. This is a problem that will need to be addressed.

D. SCI

1. Assessment

See Assessment for paragraphs 7 and 8 of the Amended MOA.

2. Findings

See Findings for paragraphs 7 and 8 of the Amended MOA.

E. Recommendations

At JTVCC, the Monitoring Team recommends that the State either provide the special training for people who work on mental health units to a larger percentage of the staff or ensure that people who have received the training are not moved off the unit and only those who have received the training fill in to work on those units.

HRYCI

At HRYCI, the Monitoring Team recommends that the State develop a strategy that ensures that staff who work on the mental health inpatient units have all had the special training that is required for them to work on the units.

36. Mental Health Records

A. Amended MOA Paragraph

Paragraph 36 of the Amended MOA provides:

Upon admission, the State shall immediately request all pertinent mental health records regarding the inmate's prior hospitalization, court-ordered evaluations, medication, and other treatment. DOJ acknowledges that the State's ability to obtain such records depends on the inmate's consent to the release of such records and the cooperation of health care providers at non-DOC facilities.

This paragraph of the Amended MOA provides a complete general standard against which to assess the State's compliance with this paragraph of the Amended MOA. To

the extent that further clarification of appropriate standards is necessary, such clarification will be stated in the findings.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed six records and observed that releases for information were signed by the inmate 100% of the time. However, the Monitoring Team notes that it is impossible to tell, absent a complete chart review, whether the release of information was for pertinent mental health records or simply a release to a pharmacy to verify medications.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The State informed the Monitoring Team that documentation exists to show that attempts are being made to verify medications upon intake, but noted that medication is not always verified in a timely manner.

The Monitoring Team reviewed eight releases provided to inmates, and found that three of those releases were not signed by inmates. It is unclear from the review of these records whether this is due to inmate refusal or something else. The Monitoring Team notes that it is impossible to tell, absent a complete chart review, whether the release of information was for pertinent mental health records or simply a release to a pharmacy to verify medications.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

While the State indicated that attempts to verify medications upon an inmate's intake were being made, no documentation to this effect was provided. The psychotropic bridging order audit initially submitted by the State did not include a prompt for releases of information. A modified form was sent after the site visit which contained a prompt for release of information. The column for Release of Information was blank.

37. Identification of Inmates at Risk of Suicide

A. Amended MOA Paragraph

Paragraph 37 of the Amended MOA provides:

Inmates at risk for suicide shall be placed on suicide precautions until they can be assessed by qualified mental health personnel. Inmates at risk of suicide include those who are actively suicidal, either threatening or engaging in self-injurious behavior; inmates who are not actively suicidal, but express suicidal ideation (*e.g.*, expressing a wish to die without a specific threat or plan) and/or have a recent prior history of self-destructive behavior; and inmates who deny suicidal ideation or do not threaten suicide, but demonstrate other concerning behavior (through actions, current circumstances, or recent history) indicating the potential for self-injury.

The Amended MOA requires that the State place any inmate at risk for suicide⁴⁶ on suicide precautions until qualified mental health personnel can assess them. Suicide precautions refer to the housing and observation requirements set forth in paragraphs 40 through 42 below. The State has developed a policy that suicide precautions will consist of placing the inmate under constant observation by correctional staff in a safe cell while an order for placement on psychiatric observation is obtained from the appropriate medical or mental health personnel. G-05. The Monitoring Team finds that this policy conforms to generally accepted professional standards. *See* J-G-05; P-G-05. As set forth in paragraph 38 below, the assessment by qualified mental health personnel should be performed within 24 hours of the initiation of suicide precautions.

⁴⁶ The Amended MOA defines an "inmate at risk for suicide" as one who is (i) actively suicidal by threatening or engaging in self-injurious behavior; (ii) not actively suicidal, but expresses suicidal ideation; and/or has a recent prior history of self-destructive behavior; and (iii) who denies suicidal ideation or does not threaten suicide, but demonstrates other concerning behavior indicating the potential for self-injury.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team independently reviewed the records initially reviewed by the State. In all twenty records, inmates were downgraded by a licensed psychologist or psychiatrist. Additionally, in all cases an initial suicide assessment was completed by a qualified professional.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The State's internal audit revealed that inmates were occasionally downgraded from PCO status without a Suicide Risk Assessment being completed by a licensed professional. The Monitoring Team's review of the same files indicated that more than half of the inmates were downgraded by unlicensed clinicians. The word choice of occasionally was not appropriate in this instance.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The State informed the Monitoring Team that because of infirmary renovations at SCI, most PCO I referrals have been transferred to JTVCC. The Mental Health Director reports that those who are on PCO I and stay at SCI have been and continue to be under constant observation at the site. However, the Monitoring Team observed that less than half of the inmates on PCO status since March 2010 have been transferred to JTVCC.

The Monitoring Team is further concerned about the State's ability to provide constant observation of these inmates given the lack of stable mental health leadership and full staffing at SCI.

38. Suicide Risk Assessment

A. Amended MOA Paragraph

Paragraph 38 of the Amended MOA provides:

The State shall ensure that a formalized suicide risk assessment by a qualified mental health professional is performed within an appropriate time not to exceed twenty-four (24) hours of the initiation of suicide precautions. The assessment of suicide risk by qualified mental health professionals shall include, but not be limited to, the following: description of the antecedent events and precipitating factors; suicidal indicators; mental status examination; previous psychiatric and suicide risk history, level of lethality; current medication and diagnosis; and recommendations/treatment plan. Findings from the assessment shall be documented on both the assessment form and health care record.

This paragraph of the Amended MOA requires a formalized suicide risk assessment to be performed by a qualified mental health professional⁴⁷ within an appropriate period of time, which, in any event, is not to exceed 24 hours of the initiation of suicide precautions as described above in relation to paragraph 37 of the Amended MOA. The formalized suicide risk assessment should designate the individual's level of suicide risk, level of supervision needed, and the need for transfer to an inpatient mental health facility or program. J-G-05; P-G-05. In addition, the Amended MOA provides that the assessment of the individual's level of suicide risk should include at least: (i) a description of the antecedent events and precipitating factors; (ii) suicidal indicators; (iii) mental status examination; (iv) previous psychiatric and suicide risk history, (v) level of lethality; (vi) current medication and diagnosis; and (vii) recommendations/treatment plan.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

⁴⁷ The State has developed a policy that a mental health staff (*i.e.*, an employee with a master's degree or greater level of certification) is qualified for the purposes of initiating an order for psychiatric observation, but that only a psychologist with a Ph.D., or a psychiatrist may discharge or downgrade an inmate's level of risk while on psychiatric observation. *See* State Policy G-05. The Monitoring Team found that policy to be adequate.

2. Findings

The State reviewed 20 charts in connection with its review of this paragraph. The Monitoring Team independently reviewed ten of these same charts. The Monitoring Team's review largely confirmed the State's findings.

With respect to the State's findings above, the Monitoring Team downgraded the State's findings in 50% of the cases. For example, in one case, the history of a prior suicide attempt is only mentioned in the nursing screen, and is not detailed by mental health in their notes.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The State reviewed 18 charts in connection with its review of this paragraph. The Monitoring Team independently reviewed nine of these same charts. While the Monitoring Team's review confirmed the State's findings, this was a confirmation of very poor results regarding the quality of care.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The State reviewed 9 charts in connection with its review of this paragraph. The Monitoring Team independently reviewed all of these same charts. The Monitoring Team's review largely confirmed the State's findings.

39. Communication

A. Amended MOA Paragraph

Paragraph 39 of the Amended MOA provides:

The State shall ensure that any staff member who places an inmate on suicide precautions shall document the initiation of the precautions, level of observation,

housing location, and conditions of the precautions. The State shall maintain and implement policies and procedures to ensure that the documentation described above is provided to mental health staff and that in-person contact is made with mental health staff to alert them of the placement of an inmate on suicide precautions. The State shall ensure that mental health staff thoroughly reviews an inmate's health care record for documentation of any prior suicidal behavior. The State shall maintain a policy requiring mental health to utilize progress notes to document each interaction and/or assessment of a suicidal inmate. The decision to upgrade, downgrade, discharge, or maintain an inmate on suicide precautions shall be fully justified in each progress note. An inmate shall not be downgraded or discharged from suicide precautions until the responsible mental health staff has thoroughly reviewed the inmate's health care record, as well as conferred with correctional personnel regarding the inmate's stability. Multidisciplinary case management team meetings (to include Facility officials and available medical and mental health personnel) shall occur on a weekly basis to discuss the status of inmates on suicide precautions.

This paragraph of the Amended MOA provides a complete general standard against which to assess the State's compliance with this paragraph of the Amended MOA. To the extent that further clarification of appropriate standards is necessary, such clarification will be stated in the findings.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team confirmed the State's findings that mental health staff was being notified in a timely manner when individuals were put on PCO status. Additionally, licensed psychologists or psychiatrists were the individuals writing orders to downgrade or discontinue PCO. Finally, regular multidisciplinary meetings were being held at the facility to discuss mental health inmates.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team observed that multidisciplinary meetings continue to occur on a regular basis. Although the State informed the Monitoring Team that licensed psychologists or psychiatrists are writing orders to downgrade or discontinue an inmate's PCO status, the Monitoring Team observed that in the majority of charts it reviewed, this decision was made by an unlicensed mental health professional.

40. Housing

A. Amended MOA Paragraph

Paragraph 40 of the Amended MOA provides:

The State shall ensure that all inmates placed on suicide precautions are housed in suicide-resistant cells (*i.e.*, cells without protrusions that would enable inmates to hang themselves). The location of the cells shall provide full visibility to staff. At the time of placement on suicide precautions, medical or mental health staff shall write orders setting forth the conditions of the observation, including but not limited to allowable clothing, property, and utensils, and orders addressing continuation of privileges, such as showers, telephone, visiting, recreation, etc., commensurate with the inmate's security level. Removal of an inmate's prison jumpsuit (excluding belts and shoelaces) and the use of any restraints shall be avoided whenever possible, and used only as a last resort when the inmate is engaging in self-destructive behavior. The Parties recognize that security and mental health staff are working towards the common goal of protecting inmates from self-injury and from harm inflicted by other inmates. Such orders must therefore take into account all relevant security concerns, which can include issues relating to the commingling of certain prison populations and the smuggling of contraband. Mental health staff shall give due consideration to such factors when setting forth the conditions of the observation, and any disputes over the privileges that are appropriate shall be resolved by the Warden or his or her designee. Scheduled court hearings shall not be cancelled because an inmate is on suicide precautions.

This paragraph of the Amended MOA provides a complete general standard against which to assess the State's compliance with this paragraph of the Amended MOA. To the extent that further clarification of appropriate standards is necessary, such clarification will be stated in the findings. The State has developed a policy that addresses these issues with more specificity. *See* State Policy G-05. The State's policy classifies differing levels of suicide risk as Levels I through III.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team was able to confirm the State's findings that the PCO Order form has all of the required elements and these are routinely placed on the outside of the cells when housing an inmate on PCO. There were no instances found when the cell did not have this order posted. Similarly, the Monitoring Team confirmed that inmates are placed in Suicide resistant housing in the infirmary and in one of the housing pods. Cells have been inspected by the State for safety and provide full visibility to staff.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team was able to confirm the State's findings that the PCO Order form has all of the required elements and these are routinely placed on the outside of the cells when housing an inmate on PCO. There were no instances found when the cell did not have this order posted. Similarly, the Monitoring Team confirmed that inmates are placed in Suicide resistant housing in the infirmary and in one of the housing pods. Cells have been inspected by the State for safety and provide full visibility to staff.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team was able to confirm the State's findings that the PCO Order form has all of the required elements and these are routinely placed on the outside of the cells when housing an inmate on PCO. There were no instances found when the cell did not have this order posted. Similarly, the Monitoring Team confirmed that inmates are placed in

Suicide resistant housing in the infirmary and in one of the housing pods. Cells have been inspected by the State for safety and provide full visibility to staff.

E. Recommendations

At all three facilities, the Monitoring Team recommends that the State individualize property and privilege lists for inmates on PCO status in accordance with the Amended MOA requirement that the order placing an inmate on PCO list allowable items. For instance, during its visit, the Monitoring Team was informed of situations where inmates on lower levels of PCO status were denied access to materials that clinicians considered appropriate. It is not clear as to whether this is an issue with the PCO order not listing specific items allowed the inmate, or a PCO order containing such a list not being followed.

41. Observation

A. Amended MOA Paragraph

Paragraph 41 of the Amended MOA provides:

The State shall maintain and implement policies and procedures pertaining to observation of suicidal inmates, whereby an inmate who is not actively suicidal, but expresses suicidal ideation (*e.g.*, expressing a wish to die without a specific threat or plan) and/or has a recent prior history of self-destructive behavior, or an inmate who denies suicidal ideation or does not threaten suicide, but demonstrates other concerning behavior (through actions, current circumstances, or recent history) indicating the potential for self-injury, shall be placed under close observation status and observed by staff at staggered intervals not to exceed every 15 minutes (*e.g.*, 5, 10, 7 minutes). An inmate who is actively suicidal, either threatening or engaging in self-injurious behavior, shall be placed on constant observation status and observed by staff on a continuous, uninterrupted basis. Mental health staff shall assess and interact with (not just observe) inmates on suicide precautions on a daily basis.

This paragraph of the Amended MOA provides a complete general standard against which to assess the State's compliance with this paragraph of the Amended MOA. To the extent that further clarification of appropriate standards is necessary, such clarification will be stated in the findings.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team confirmed the State's findings that a majority of inmates on PCO are seen daily by mental health staff. The Monitoring Team was informed that security staff provides the observation for all PCO levels and maintains these observation logs. However, it is advisable that these logs be placed into the inmate's medical records as required by the security policy.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team confirmed the State's findings that the majority of inmates on PCO are seen daily by mental health staff. The Monitoring Team inspected two cells that have been put into use on the segregation unit for PCO status, and both are considered safe for this type of use. The partial compliance assessment is being given due to the fact daily mental health visits are not occurring regularly enough.

42. "Step-Down Observation"

A. Amended MOA Paragraph

Paragraph 42 of the Amended MOA provides:

The State shall maintain and implement a "step-down" level of observation whereby inmates on suicide precaution are released gradually from more restrictive levels of supervision to less restrictive levels for an appropriate period of time prior to their discharge from suicide precautions. The State shall ensure that all inmates discharged from suicide precautions continue to receive follow-up assessment in accordance with a treatment plan developed by a qualified mental health professional.

This paragraph of the Amended MOA provides a complete general standard against which to assess the State's compliance with this paragraph of the Amended MOA. To the extent that further clarification of appropriate standards is necessary, such clarification will be stated in the findings.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The State reported to the Monitoring Team the results of its audit. With respect to the 24 hour post-PCO visit, the State reported this occurred in the majority of charts it reviewed. Similarly, with respect to the 7 day post-PCO visit, this also only occurred in all of the charts the State reviewed. Finally, with respect to the 30 day post-PCO visit, the majority of charts demonstrated this had happened.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The State reported to the Monitoring Team the results of its audit which demonstrated very poor results with respect to this Paragraph. With respect to the 24 hour post-PCO visit, the State reported this occurred in less than half of charts it reviewed. Similarly, with respect to the 7 day post-PCO visit, this also only occurred in less than half of charts the State reviewed. Finally, with respect to the 30 day post-PCO visit, none of the charts demonstrated this had happened. In response to these problems, the State's work plan consists of performing a CQI study to determine the barriers to compliance and implement effective strategies to address deficiencies. The Monitoring Team believes the State needs to develop a quicker fix to these problems than waiting for the time it will take to develop and implement a CQI study.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The State reported to the Monitoring Team the results of its audit. With respect to the 24 hour post-PCO visit, the State reported this occurred in the vast majority of charts it reviewed. Similarly, with respect to the 7 day post-PCO visit, this also only occurred in vast

majority of charts the State reviewed. Finally, with respect to the 30 day post-PCO visit, all of the charts demonstrated this had happened.

43. Intervention

A. Amended MOA Paragraph

Paragraph 43 of the Amended MOA provides:

The State shall maintain and implement an intervention policy to ensure that all staff who come into contact with inmates are trained in standard first aid and cardiopulmonary resuscitation; all staff who come into contact with inmates participate in annual "mock drill" training to ensure a prompt emergency response to all suicide attempts; and shall ensure that an emergency response bag that includes appropriate equipment, including a first aid kit and emergency rescue tool, shall be in close proximity to all housing units. All staff that comes into regular contact with inmates shall know the location of this emergency response bag and be trained in its use.

As provided by the Amended MOA, all staff coming into contact with the inmate should be trained in standard first aid procedures and CPR. Further, the "mock drill" training should include training for staff coming into contact with inmates regarding what to do when coming into contact with an inmate engaging in self-harm, or who has engaged in self-harm. Lindsay M. Hayes, *Guide to Developing and Revising Suicide Prevention Protocols*, included as Appendix C to the NCCHC Standards cited above. The staff member coming upon an inmate engaging in self-harm should immediately survey the scene to assess the severity of the emergency, alert other staff to call for medical personnel if necessary, and to start first aid and/or CPR as necessary, even if the inmate appears to have died until relieved by arriving medical personnel. *Id.* The emergency response equipment available to staff should be checked on a daily basis to determine that it is in working order. Finally, all suicide attempts, regardless of their severity should result in an immediate intervention and assessment by mental health staff. *Id.*

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. Although the DOC completed an audit of this paragraph of the Amended MOA, the DOC did not provide a specific compliance assessment.

2. Findings

Although the State did not make an assessment, the State reviewed this paragraph. The State provided information to the Monitoring Team which was independently confirmed.

This information related to the steps taken by the State to ensure staff is trained in accordance with this Paragraph. Specifically, the information provided by the State includes the following:

- At JTVCC, there is a staff training log documenting that staff are trained in both CPR and First Aid training.
- While the site regularly conducts disaster drills every quarter, none at this time have been for a suicide attempt.
- A “Man Down” drill is practiced, at each site, at least once a year on each shift staffed with healthcare personnel. A critique of the drill is documented and discussed with all staff involved. The last disaster drill was held in October 2009; documentation of the drill is held on-site.
- The emergency response equipment that is available to staff is checked on a daily basis to determine that it is in proper working order. This equipment is located in all medical units.
- Any suicide attempt that occurs during the day is seen immediately by medical staff for evaluation and potential transport to the hospital. Once the patient is deemed to be “medically stable,” the patient is placed on PCO level and is seen by mental health staff.
- The on-site Disaster Box is located in the Emergency Treatment Room of the main clinic area.
- All of the contents, with expiration dates are contained in the emergency supply box. At JTVCC, there are three automated external defibrillators (AEDs) to ensure compliance with statewide policy. However, there is not an AED in the Infirmary on the Main Compound.
- Emergency equipment, medications and supplies are checked to ensure that they are in proper working order. An equipment checklist is maintained documenting health care staff inspects equipment, supplies and expiration dates daily.
- All health care staff are trained regarding emergency response. The disaster drill binder documents the last three emergency drills and one disaster drill, with appropriate feedback.
- The facility has a man down/disaster drill binder that includes evaluations of man down/disaster drills and staff debriefing notes as well as signatures sheets.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in substantial compliance with this paragraph of the Amended MOA. Although the DOC audited this paragraph of the Amended MOA, the DOC did not provide a specific compliance assessment.

2. Findings

The State provided information to the Monitoring Team which was independently confirmed. This information related to the steps taken by the State to ensure staff is trained in accordance with this Paragraph. Specifically, the information provided by the State includes the following:

- At HRYCI, there is a requirement that all staff, including non-clinical staff are trained in both CPR and First Aid training.
- As documented in the disaster drill binder, all staff in the facilities who come into contact with offenders participate in annual mock drill training to ensure a prompt emergency response to all suicide attempts regarding what to do when coming into contact with an inmate engaging in self-harm, or who has engaged in self-harm.
- As evidenced in the man down binder, a “Man Down” drill is practiced, at each site, at least once a year on each shift staffed with healthcare personnel. A critique of the drill is documented and discussed with all staff involved.
- The emergency response equipment that is available to staff is checked on a daily basis to determine that it is in proper working order.
- According to site medical management, all suicide attempts, regardless of their severity, result in an immediate intervention and assessment by mental health staff.
- The on-site Disaster Box is now located in the EP room just outside of Primary control. In the event of a disaster, either security staff or medical has access to retrieve the box and bring it to the designated triage location.
- All of the contents, with expiration dates are contained in the emergency supply box. At HRYCI, there are four automated external defibrillators (AEDs) to ensure compliance with statewide policy.
- Emergency equipment, medications and supplies are checked to ensure that they are in proper working order. An equipment checklist is maintained documenting health care staff inspects equipment, supplies and expiration dates daily.
- The disaster drill binder documents the last three emergency drills and one disaster drill, with appropriate feedback.
- The facility has a man down/disaster drill binder that includes evaluations of man down/disaster drills, disaster committee meetings and staff debriefing notes as well as signatures sheets.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in substantial compliance with this paragraph of the Amended MOA. This DOC did not provide an assessment.

2. Findings

Although the State did not make an assessment, the State reviewed this paragraph. The State provided information to the Monitoring Team which was independently confirmed. This information related to the steps taken by the State to ensure staff is trained in accordance with this Paragraph. Notably, the information provided with respect to SCI is significantly less than at the other two facilities. Specifically, the information provided by the State includes the following:

- While the site regularly conducts disaster drills every quarter, none at this time have been for a suicide attempt.
- Any suicide attempt that occurs during the day, is seen by a mental health clinician immediately as there are mental health clinicians onsite until 8 pm Mondays through Fridays and until 4:30 pm on the weekends. However, if the incident occurred during off-shifts a mental health clinician would not see the individual until the next morning, which could be as long as eight hours from the event. All individuals who attempt suicide are placed immediately on PCO until they can be adequately assessed or are transferred to the hospital.

E. Recommendations

The State should conduct emergency drills that incorporate the response to a suicide attempt. Such drills should be performed at least once per year at each site.

44. Mortality and Morbidity Review

A. Amended MOA Paragraph

Paragraph 44 of the Amended MOA provides:

The State shall maintain and implement policies, procedures, and practices to ensure that a multidisciplinary review is established to review all suicides and serious suicide attempts (*e.g.*, those incidents requiring hospitalization for medical treatment). At a minimum, the review shall comprise an inquiry of: a) circumstances surrounding the incident; b) Facility procedures relevant to the incident; c) all relevant training received by involved staff; d) pertinent medical and mental health services/reports involving the victim; e) possible precipitating factors leading to the suicide; and f) recommendations, if any, for changes in

policy, training, physical plant, medical or mental health services, and operational procedures. When appropriate, the review team shall develop a written plan (and timetable) to address areas that require corrective action.

An appropriate procedure in the event of an inmate death from suicide or a serious suicide attempt is one in which the State determines the appropriateness of clinical care that was provided to the inmate, ascertains whether corrective action in the State's policies, procedures, or practices is warranted; and identifies trends that require further study. J-A-10; P-A-10. If the inmate has committed suicide, the State should immediately notify the State of Delaware medical examiner, and, within 30 days of the suicide, conduct a clinical mortality review⁴⁸ and a psychological autopsy⁴⁹ in a manner consistent with this Amended MOA paragraph, which provides the minimum inquiries necessary for these studies. J-A-10; P-A-10.

The Monitoring Team found that the Mortality and Morbidity review ("M&M") process designed by the State is adequate, and applies to all inmate deaths, not just those due to suicide. The M&M process consists of a review of inmate's record by a physician on site within 24 hours of the inmate's death. In addition, the State refers the inmate's death to the Medical Society, which performs a review of the circumstances of the inmate's death within 30 days. The inmate is sent to the State Medical Examiner for a review of the inmate's body. The next step in the process is that each Facility's M&M Committee, which consists of a physician and nursing staff, and local and regional committee members, convenes a meeting to review the Medical Society report, 24-hour report, and, if available, the Medical Examiner's report and death certificate of the inmate.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the deaths of all people who had died since the Monitoring Team's last visit and in general the reviews appear to be complete and in some instances, they did address potentially significant issues. The Monitoring Team's major concern was that not all of the meetings that should have included a clinical leader from the BCHS

⁴⁸ A "clinical mortality review" is "an assessment of the clinical care provided and the circumstances leading up to the death" in order to "identify any areas of patient care or the system's policies and procedures that can be improved." J-A-10; P-A-10.

⁴⁹ A "psychological autopsy" is "usually conducted by a psychologist or other qualified mental health professional" and consists of "a written reconstruction of an individual's life with an emphasis on factors that may have contributed to the individual's death." J-A-10; P-A-10.

actually included such a person, which the Monitoring Team believes is crucial to insure the productiveness of these meetings.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

There were only a few deaths since the Monitoring Team's last visit and the committee process appears to be working well.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in substantial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

With respect to mental healthcare, the State informed the Monitoring Team that current policy requires that a Mortality and Morbidity review be completed in the event of a completed suicide, death, or serious suicide attempt (one which results in the inmate being sent off-site for emergency care). The State is in the process of revising its policies to better document corrective actions taken as a result of these reviews.

During 2010, there has only been serious suicide attempt at SCI, but the review had not been completed at the time of the Monitoring Team's visit. There has been one death at SCI this year for which a review has been completed. The Monitoring Team reviewed that and found that current policies and procedures have been followed.

E. Recommendations

At JTVCC, the Monitoring Team recommends that the State insure that the DOC State Medical Director or his designee with appropriate clinical training attend each of the morbidity and mortality sessions. This is particularly important for all deaths that are unexpected, medical, i.e., non-suicide deaths.

At HRYCI, the Monitoring Team recommends that the BCHS insure that the State Medical Director or his designee (a clinically trained and licensed staff person) always attend, at a minimum, those unexpected medical deaths. The State reports that the Medical Director has been attending these meetings.

QUALITY ASSURANCE

45. Policies and Procedures

A. Amended MOA Paragraph

Paragraph 45 of the Amended MOA provides:

The State shall maintain and implement written quality assurance policies and procedures to regularly assess and ensure compliance with the terms of this Agreement. These policies and procedures should include, at a minimum: provisions requiring an annual quality management plan and annual evaluation; quantitative performance measurement; tracking and trending of data; creation of a multidisciplinary team; morbidity and mortality reviews with self-critical analysis, and periodic review of emergency room visits and hospitalizations for ambulatory-sensitive conditions.

The Facilities should create a comprehensive CQI program⁵⁰ that performs the following functions in a fashion that complements the requirements contained in this paragraph of the Amended MOA in order to comply with generally accepted professional standards:

- establishes a multidisciplinary quality improvement committee⁵¹ that meets at least quarterly and designs quality improvement monitoring activities, discusses the results, and implements corrective action;
- reviews, at least annually, access to care, receiving screening, health assessment, continuity of care (sick call, chronic disease management, discharge planning), infirmary care, nursing care, pharmacy services, diagnostic services, mental health care, dental care, emergency care, and hospitalizations, adverse patient occurrences including all deaths, critiques of disaster drills, environmental inspection reports, inmate grievances, and infection control;
- completes an annual review of the effectiveness of the CQI program by reviewing minutes of its committee meetings;

⁵⁰ A “comprehensive CQI program” is defined as including, “a multidisciplinary quality improvement committee, monitoring of the areas specified in the compliance indicators, and an annual review of the effectiveness of the CQI program itself.” J-A-06; P-A-06. “CQI” means “continuous quality improvement.”

⁵¹ A “multidisciplinary quality improvement committee” is defined as “a group of health staff from various disciplines that designs quality improvement monitoring activities, discusses the results, and implements corrective action. J-A-06; P-A-06.

- performs at least one process quality improvement study⁵² a year; and
- performs at least one outcome quality improvement study⁵³ a year.

J-A-06; P-A-06.

B. JTVCC

1. Assessment

The Monitoring Team found that JTVCC is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The Monitoring Team reviewed the documents presented by the DOC, and concluded that the CQI program is still a work in progress. The new leadership people potentially will be participating in that work in progress through the transition of vendors. Hopefully, this will have a positive impact on the quality improvement committee and its work.

The Monitoring Team continues to have concerns that what is learned at the CQI committee meetings is only learned by the people participating in those meetings. This information needs to be disseminated to all staff. In addition, any staff who identifies what may be a system problem should be strongly encouraged to bring these problems to the attention of the committee.

C. HRYCI

1. Assessment

The Monitoring Team found that HRYCI is in partial compliance with this paragraph of the Amended MOA. This assessment is consistent with the DOC self-assessment.

2. Findings

The quality assurance program data has been reviewed and the program continues to grow. The Monitoring Team believes that areas that require strengthening beyond the attention to process improvements include professional performance improvements with regard

⁵² “Process quality improvement studies” are studies that “examine the effectiveness of the health care delivery process.” J-A-06; P-A-06.

⁵³ “Outcome quality improvement studies” are studies that “examine whether expected outcomes of patient care were achieved.” J-A-06; P-A-06.

to both the clinician staff as well as the nursing staff. Only ongoing review and feedback will result in satisfactory performance with regard to both the clinician assessments, the clinician performance with regard to chronic care and the nursing performance with regard to the access to care issues. These areas need to be addressed in a systematic and educational manner. Additionally, it is important for the things learned at the quality improvement committee meetings--especially those that result in policy or procedure changes--be disseminated to the entire staff so that the entire staff learns not only what is being changed but why things are being changed. This is critical to performance improvement overall.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in partial compliance with this paragraph of the Amended MOA. Although the DOC audited this paragraph of the Amended MOA, the DOC did not provide a specific compliance assessment.

2. Findings

With respect to mental healthcare at SCI, the State reported the following occurs with respect to this paragraph of the Amended MOA:

- After reviewing the Procedural Guidelines regarding the Comprehensive Quality Improvement Program, SCI has in place a monthly committee to discuss compliance with the terms of the Amended MOA.
- The procedure does make mention of a quarterly Quality Improvement Report which would address the issues in the written Quality Improvement Program and Calendar. An annual review of activities will be prepared in order to summarize areas that need to be addresses or revisited.
- Although the procedure discusses the Quality Improvement Report, the Monitoring Team did not have copies of this documentation in order to ensure the report is generated. This lack of documentation makes it difficult to assess whether the tracking and trending of data is occurring and what follow up has been suggested to address problematic areas.
- According to the procedure at SCI, the site Comprehensive Quality Improvement Committee will meet monthly and will be comprised of multi-disciplinary staff. The procedure does not mention the committee assisting in developing quality improvement monitoring activities; rather it appears to operate as an oversight committee.
- Although Morbidity and Mortality reviews will be discussed during the monthly meetings, it is not written into the procedure to hold a periodic review of emergency room visits and hospitalizations for ambulatory-sensitive conditions.

- The procedure reflects that, in accordance with NCCHC the site will complete two process studies and 2 outcomes studies annually.

E. Recommendations

At JTVCC, the Monitoring Team recommends that the State identify ways to disseminate CQI findings to all staff, and encourage all staff to bring what they view as potential system problems to the CQI program.

At HRYCI, the Monitoring Team recommends that the State strengthen the professional performance enhancement review programs, both for clinicians and nurses; disseminate CQI findings to all staff; and encourage all staff to take problems that they believe may result from system issues to the quality improvement committee meetings.

At SCI, the Monitoring Team recommends that the State should develop better integration between site CQI and the total quality program for the correctional system, especially when deficiencies are detected at multiple sites with the same process. The Monitoring Team notes that the report provided by the State lacks a general description of BCHS's role in overseeing the CQI process from a centralized perspective. There is also little integration between the site CQI process and the data gathered by the BCHS during its system wide auditing.

46. Corrective Action Plans

A. Amended MOA Paragraph

Paragraph 46 of the Amended MOA provides:

The State shall maintain and implement policies and procedures to address problems that are uncovered during the course of quality assurance activities. The State shall maintain and implement corrective action plans to address these problems in such a manner as to prevent them from occurring again in the future.

This paragraph of the Amended MOA requires that the State develop and implement policies and procedures in response to the uncovering of problems during the CQI activities that are discussed in paragraph 45 of the Amended MOA. In addition, the State is required to develop and implement corrective action plans to address these problems in such a manner as to prevent them from occurring again in the future. The Monitoring Team suggests that an adequate corrective action plan will include a description of the problem that has, the specific steps that the State plans to take to remedy the problem, and a deadline for correction of the problem. Finally, the State should make paragraphs for a responsible party to follow-up after the deadline to ensure that the corrective action plan was followed appropriately.

B. JTVCC

1. Assessment

See Assessment for paragraph 45 of the Amended MOA.

2. Findings

See Findings for paragraph 45 of the Amended MOA.

C. HRYCI

1. Assessment

See Assessment for paragraph 45 of the Amended MOA.

2. Findings

See Findings for paragraph 45 of the Amended MOA.

D. SCI

1. Assessment

The Monitoring Team found that SCI is in partial compliance with this paragraph of the Amended MOA. Although the DOC audited this paragraph of the Amended MOA, the DOC did not provide a specific compliance assessment.

2. Findings

The State provided information gained from a review of CQI meeting minutes from January through March 2010. While these meetings were multi-disciplinary in nature, it does not appear as though security staff for the facility routinely attends these meetings. During these meetings, the CQI coordinator discusses the nature of the problem, what activities will be implemented to remedy the situation, the deadline for implementation and follow-up discussions to ensure corrective action plans were appropriately handled. The State acknowledges that while these minutes reflect that the CQI Coordinator for SCI, as well as the HSA, takes an active role in working with the facility to identify issues and implement processes to initiate change, the minutes should provide the reader with a glance referencing what actions have already been implemented and if successful.

Regarding the historical data provided above, the Monitoring Team guards against reading too much into those numbers. While there is a positive trend in improvement regarding compliance, the numbers average all indicators audited throughout health services. As has been shown in this, and previous reports, there are often significant problems in certain parameters regarding aspects of care in mental health. Yet, the manner in which all these figures

are averaged in with all measures dilutes the significance of serious deficits in a single area or across several related indicators.

E. Recommendations

There is a growing improvement in the State's ability to develop quality improvement efforts. But for important clinically-related processes that can be addressed in short order, such as a modification in suicide prevention policies requested at least 18 months ago, are still not complete. The State has never completed a staffing analysis to determine how many positions are needed to provide the services required to meet national standards for mental health services. The State has developed a suicide prevention plan that begins to address some elements of this complicated and essential process with good detail and thoughtfulness, and the Monitoring Team believes the State will increase the scope of the plan with time.

CONCLUSION

This report is the final report of the Monitoring Team under the Amended MOA. The State has made a great deal of progress since the Original MOA's inception in December 2006, including making great strides in being able to assess its own performance. The significance of this achievement should not be underestimated. However, the State has more to achieve before it comes into substantial compliance with all paragraphs of the Amended MOA. The Monitoring Team strongly encourages the State to give serious consideration to implementing the recommendations that the Monitoring Team has made in this and other reports. Those recommendations reflect the collective expertise of the Monitoring Team, and present opportunities for the State to improve the quality of the correctional healthcare system.

Under the Amended MOA, the Monitoring Team will continue to provide technical assistance to the State with regard to its monitoring of compliance with the Amended MOA. The Monitoring Team's involvement will terminate after the State publishes its compliance report in January 2011. After that time, the State and its chosen Medical Experts will continue to monitor and report on its progress until it reaches substantial compliance with all of the paragraphs of the Amended MOA.

APPENDIX I

The Monitoring Team

The following is a collection of brief biographies for each of the experts:

Ronald Shansky, M.D.

Dr. Shansky has over three decades of experience auditing or investigating health care facilities in correctional facilities. He has experience in jails and prisons and in both the federal system, state systems, local jails and in the District of Columbia system.

Dr. Shansky has worked with the DOJ in reviewing programs in such states as Alabama, Mississippi, and Georgia. He has also monitored programs for the courts in other jurisdictions such as New Jersey, Wisconsin, and Ohio

Dr. Shansky graduated from the University of Wisconsin with a Bachelor of Science and received his Doctor of Medicine from the Medical College of Wisconsin. Additionally, Dr. Shansky received a Master of Public Health from the University of Illinois School of Public Health. He has a special focus on improving the quality of correctional health services and is an expert on chronic care diseases.

Dr. Shansky currently resides in Illinois.

Roberta Stellman, M.D., DABPN, CCHP, DFAPA

Dr. Stellman is also a board certified psychiatrist with previous experience in the correctional facility setting. Dr. Stellman also serves as Compliance Monitor for Behavioral Health Services for a facility in Albuquerque, New Mexico. She has also spent over 17 years working in facilities in New Mexico as a Clinical Psychiatrist. She has also monitored and reviewed correctional systems in Arizona, Florida, Texas, and Massachusetts.

Dr. Stellman received her Doctor of Medicine from the State University of New York. She completed her residency at the University of New Mexico and currently resides in New Mexico.