

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

CARLOS MORALES FELICIANO, *et als*

Plaintiffs,

v.

LUIS G. FORTUÑO BURSET, *et als*

Defendants

Civil No. 79-004 (PG)

ORDER

On July 12, 2010, a meeting was held in chambers with the intention of discussing Correctional Health Services Corporation's ("CHSC") proposal to amend the Medical and Mental Health Care Plan ("MMHCP"). In attendance at that meeting were representatives of CHSC and defendants, but plaintiffs' counsel failed to appear.

This court heard from CHSC's representatives the reason for the proposal, to wit, to update the MMHCP. The MMHCP came to life on October 23, 1990, when this court approved the court monitor's 62<sup>nd</sup> report, *Report Recommending Adoption of Revised Medical and Mental Health Plans*. The MMHCP was designed to be the principal instrument that would drive compliance in the medical and mental health area. In the ensuing 20 years since its adoption, much has changed in the provision of medical services, including new or updated medical standards, obsolete or non-existing institutions, and new technologies and procedures that have dramatically changed the way medical services are delivered and their efficiency. There is no doubt that, in light of these changes, the MMHCP is in dire need of updating.

CHSC informed the court that it spend the better part of a year meticulously reviewing the plan, cross checking it against current standards of health care, and preparing amendments to this document. Doctors and other health care professionals were involved in all aspects of this review. Copies of the proposed amendments were sent to Dr. John Raba, one of the authors of the original MMHCP, and someone keenly aware of the state of correctional health in the United States and Puerto Rico. Dr. Raba expressed satisfaction with the document and indicated that it preserved the spirit of the original MMHCP while updating the same, and recommended its approval without major reservations. Similarly, defendants have agreed to the proposed changes.

The court is aware that Plaintiffs' counsel received the draft of the MMHCP on May 2010, and that Dr. Raba and Dr. Rafael Guzmán Fonalleda met with Plaintiffs' counsel during the month of November 2010 and had the opportunity to address the nature of the proposed changes and any questions that Plaintiffs' counsel might have. CHSC has informed the court that Plaintiffs suggested some changes in the wording of the MMPCP, which were eventually incorporated in the final draft. Five months have elapsed since this meeting and this court is unaware of any additional objection or reservations by Plaintiffs regarding the MMHCP's amendments.

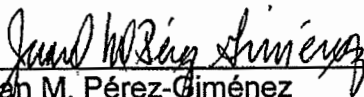
To delay the adoption of the proposed amendments impairs Defendants' compliance with its obligations toward plaintiffs' health care. The proposed changes do not alter significantly defendants' duty to provide access to health care to all inmates who comprise the plaintiffs' class. This court finds no reason why to withhold approval of the proposed amendments given this court's prior order mandating a joint effort to seek

closure of this protracted litigation. Furthermore, Plaintiffs were afforded enough time to review and submit amendments to the MMHCP.

In light of the above, this court **ORDERS** that the Medical and Mental Health Care plan be amended as proposed. CHSC is directed to provide a final copy of the amended MMHCP to all parties to this litigation and to the court.

In the future, any party wishing to make further amendments to the Medical and Mental Health Care plan may submit its suggestion to the opposing party and CHSC for review and discussion. The parties and CHSC shall use their best effort to reach a consensus and stipulate proposed amendments. If a consensus is not possible, the party wishing to amend the MMHCP shall submit the proposal for this court's review and disposition.

In San Juan, Puerto Rico, this <sup>27<sup>th</sup></sup> day of April, 2011.

  
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Juan M. Pérez-Giménez  
U.S. District Court Judge