

**NEW YORK CITY
BOARD OF CORRECTION**

December 8, 2005

MEMBERS PRESENT

Hildy J. Simmons, Chair
Richard Nahman, O.S.A.
Michael J. Regan
Alexander Rovt
Paul A. Vallone, Esq.
Milton L. Williams, Jr., Esq.
Gwen Zornberg, M.D.

An excused absence was noted for Member Stanley Kreitman

DEPARTMENT OF CORRECTION

John J. Antonelli, Senior Deputy Commissioner
Tom Antenen, Deputy Commissioner for Public Information
Roger Parris, Deputy Commissioner for Programs
Judith LaPook, Chief of Staff
Florence Hutner, General Counsel
Mark Cranston, Deputy Warden in Command, Office of Policy and Compliance (OPC)
Elizabeth Myers, Director, OPC

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Commissioner Thomas R. Frieden, M.D.
Arthur Gualtieri, M.D., Deputy Commissioner
Bruce David, M.D., Assistant Commissioner, Correctional Health Services (CHS)
George Axelrod, Director of Risk Management, CHS
Marcia Gour, M.D., Medical Director, CHS
Robert Berding, Director, Clinical Services, CHS
Vivian Toan, Counsel, CHS
Laura Szapiro, Senior Advisor to Deputy Commissioner, CHS
Julian Yuen, Computer Specialist (Software)
Bonnie Um, Assistant to the Commissioner

OTHERS IN ATTENDANCE

Don Doherty, Division Vice President, Prison Health Services (PHS)
Melanie Lefkowitz, *Newsday*
Tatiana Ortiz, Budget Analyst, OMB
Trevor Parks, M.D., Medical Director, PHS
Carl Thelemaque, Legislative Financial Analyst, City Council

Chair Hildy J. Simmons called the meeting to order at 9:35 a.m. A motion to approve the minutes from the November 10, 2005 meeting was approved without opposition.

Chair Simmons presented her report. She reported that the Minimum Standards Review Committee had a productive meeting yesterday with Department of Correction representatives, during which Mark Cranston, Deputy Warden in Command of DOC's Office of Policy and Compliance, provided additional information regarding DOC's suggestions for amendments to the Minimum Standards. Chair Simmons noted that the Committee requested additional information, and DOC promised to provide it before the Committee's next meeting in January. She added that Committee Chair Stanley Kreitman should be able to present a fuller report at the January Board meeting, and also noted that all Members had received a memo from Executive Director Richard Wolf outlining the procedural steps by which the Standards are amended. Chair Simmons asked staff to assist her in preparing an updated copy of the Board's Rules of Procedure, which were written in 1979. She said the updated copy would include proposed revisions, and that they would be discussed in executive session at the January Board meeting.

Chair Simmons asked Department of Health & Mental Hygiene Commissioner Thomas Frieden, M.D. to present his report. Dr. Frieden first introduced the new Medical Director for Correctional Health Services, Dr. Marcia Gour. Using a PowerPoint presentation, Commissioner Frieden reported as follows:

DOHMH's mission is to protect and promote the health of all New Yorkers. Inmates in the U.S. are much more likely than the general population to have AIDS, mental illness and tuberculosis. Challenges are presented because most inmates are short-term and this affects everything CHS does. Two important questions are: what can we do in a very short period of time? and, how do we provide good, continuing care for long-stay inmates? Improving follow-up care is probably more important than anything we can do on Rikers.

There are 110,000 new admissions per year. Each month, providers conduct 8,000 intake screenings, 60,000 to 70,000 medical visits, 2,500 specialty clinic visits and 18,000 mental health visits.

DOHMH took back the provider contract in July 2003 to improve accountability and increase the public health focus. It reestablished the Bureau of Correctional Health Services within DOHMH. It established a Transitional Health Care Coordination Unit, which provides community referrals for inmates discharged with chronic disease and HIV/AIDS and provides health information to 9,000 visitors each month. It also established a Forensic Behavioral Health Services Unit, which in compliance with the *Brad H.* case, helps almost 800 detainees and released inmates each month obtain mental health services.

The Prison Health Services (PHS) contract contains no incentives to reduce care. Neither medication costs nor hospital costs are paid for by PHS. CHS has direct medical oversight through its Service Delivery Assessment Unit (SDAU). SDAU has 10 staff members, including 8 registered nurses. SDAU independently reviews the work done at Rikers.

PHS was selected by a “two-envelope” process: PHS was the most qualified bidder, and PHS submitted the most cost-effective bid. High quality prison health services are being provided, and this is critical not just for inmate health, but also for community health.

DOHMH continues to work on making the Performance Indicators (PIs) reflect quality of care, and not just paperwork. PIs should have room for improvement, and have a health impact. DOHMH is trying to do better than the national norms in performance monitoring. DOHMH removes PIs that are “doing fine”. The contract allows for 40 different PIs, and an additional 24 can be moved in and out if DOHMH wishes to measure different things. Six new indicators will be added for the second quarter of 2006. One PI that will be dropped is aspirin use for patients with diabetes. Nationally, it is at about 32%; at Rikers, because aspirin use was monitored, the rate was so high that it was determined a fuller clinical assessment needed to be done. Monitoring is done by sampling the universe or a subset. Every month the SDAU reviews approximately 3000 charts. This will be much easier when the system has electronic medical records.

Currently, a PI is “met” when there is 100% compliance; “substantially met” is 95% compliance. This is unrealistic. Liquidated damages of \$5000 to \$20000 are assessed for each PI that is “not met”. In the second quarter of 2005, there was a slight decrease in the number of PIs not met. DOHMH has made the PIs substantially better measures, but there remains room for improvement.

Several DOHMH correctional health initiatives are being pursued. Rapid HIV testing is offered for all new admissions. HIV testing has quadrupled in two years, and nearly half of new admissions who do not know their HIV status are being tested. Males are now also tested for Chlamydia. 11% tested positive and 2500 men were treated prior to release (70% of positives). Improved discharge planning is a priority, especially due to *Brad H*. Suicide rates are lower than the national average, but remain a major risk. Because a thorough assessment is done at intake, most suicides occur after an inmate has been incarcerated for two months. There is better coordination between the Health Department and DOC. Suicide watch includes a mental health visit daily and a supervisory visit and case conferencing periodically. If people are on suicide watch longer than eight days, there is a teleconference, after which a decision may be made to hospitalize the inmate. The substance abuses services program on Rikers Island is the first jail-based program in the nation to be accredited. PHS has begun using buprenorphine treatment, an alternative to methadone with less potential for abuse. 50,000 visitors to City jails have received health information. Nicotine

patches have been dispensed and blood pressure tests given. Vaccinations have been expanded, included hepatitis B. DOHMH is proposing changes in state law to address problems with vaccinating adolescent prisoners whose parents are not involved in care. The goal is to provide vaccinations to high-need adolescents, but current law makes this impossible without parental consent. Finally, infirmary operations have been improved.

Board Member Alexander Rovt asked how the correctional health budget provides for pharmaceutical purchases. Commissioner Frieden said drugs are paid for out of the DOHMH budget, and not by PHS. He said the goal is to use the most effective, and the most cost effective, drugs. He added that a pharmacy consultant is reviewing the entire formulary to determine whether equivalent or better care can be provided more cost-effectively. Mr. Rovt asked about contracts for medical supplies. Commissioner Frieden said that DOHMH works with the Health and Hospitals Corporation, which gets volume discounts, and DOHMH also gets public-health pricing rates for some medications.

Board Member Father Richard Nahman asked about the news article he read, which reported that the State has concerns about the PHS contract. Commissioner Frieden said DOHMH never heard anything officially from the State. He said all he hears are rumors. Board Member Michael Regan asked what is DOHMH's plan. Commissioner Frieden said that DOHMH believes the contract is a legal arrangement. He said DOHMH contracts with PHS, and PHS subcontracts with a New York City professional corporation. He said DOHMH's contract with PHS prohibits PHS from "meddling in the affairs" of the subsidiary corporation without DOHMH's written consent. He said this provision provides a measure of security and addresses some of the concerns. Commissioner Frieden said he did not think there was a viable alternative to contracting out correctional health services. He said one needs both a good contract and good contract monitoring. He said PHS "are not angels", but have a lot of expertise in managing correctional health issues. Mr. Regan asked what the City would do if the State determined that the contract is not allowed. Commissioner Frieden said he believed there would be remedies. Father Nahman asked if there is communication with other City agencies to provide better public health when prisoners are released. Commissioner Frieden said DOHMH sends an after-care letter, but confidentiality limits the information DOHMH can include in the letter. He said it is an issue DOHMH will continue to think about.

Board Member Gwen Zornberg, M.D. presented the Health Committee report, as follows:

It is gratifying to see Dr. Frieden implement evidence-based medicine. The Health Committee met on November 15th and discussed the tuberculosis screening variance request. It reviewed an analysis of data from May 2003 through April 2004, during which time not a single case of infectious TB had been detected by tuberculin skin testing. The variance proposes improving the identification of infectious tuberculosis by screening for signs and symptoms,

taking chest x-rays of people with persistent coughs, and implementing a cross-match with the Health Department's TB Registry and obtaining an x-ray on every HIV-positive inmate. To detect and treat latent TB, it was first suggested that the tuberculin skin test (TST) be administered after 14 days to high risk patients. The Committee had an issue with waiting 14 days, and DOHMH then proposed 7 days, citing the fact that many inmates leave the system within 48 hours, thereby negating the point of the test. DOHMH then proposed that all high-risk patients will have a TST administered at intake. With this change, all Members of the Health Committee unanimously support the variance request. The Committee recommends that the variance request now be distributed to all interested parties, and that the variance request be voted upon at the next Board meeting.

Chair Simmons asked if any Members had questions about the TB variance request. Father Nahman asked if x-ray machines are on-site and if there is access to the TB Registry. Commissioner Frieden said x-rays are not a problem, but the Registry will take time to get up and running. DOHMH Deputy Commissioner Arthur Gualtieri, M.D. said the Registry will be accessible by the time the variance is approved. Father Nahman suggested that the Board approve the variance, on the condition that the Registry is up and running. Chair Simmons said the vote will not occur until next month, and asked DOHMH to confirm for the Board that the Registry is accessible at that time. Commissioner Frieden asked whether the Board of Correction operated procedurally as did the Board of Health which, after publishing for comment, votes on a proposal which it may change without having another public comment period. Mr. Wolf said that the Board of Correction invites public comment only after the Health Committee reviews a "final" proposal, after which the proposal is distributed. He said that in theory, the Health Committee, after reviewing whatever comments are received, might determine that it has further questions and continue the process. Mr. Wolf said that in this instance if the Committee does not find a reason to change its recommendation, the matter will proceed to a vote. Chair Simmons asked BOC staff to distribute the variance proposal. Mr. Wolf said it would go out this afternoon. Chair Simmons asked that whatever comments are received be forwarded to the Health Committee Chair, Dr. Zornberg, who will review them and share them with other Committee members. She said she expected the Board will vote at its January 2006 meeting. Dr. Zornberg continued her report:

The Committee began to review the Performance Indicators. Commissioner Frieden's earlier report was very helpful, as it answered the question of how DOHMH arrived at the PIs. Some of the PIs that were not met were clinical; others were administrative. There was agreement among the Committee that the intake assessment is key, and the electronic intake record system represents good progress.

CHS Mental Health Director Bruce David, M.D. said that the intake PI is based on a requirement that 180 boxes must be filled in, and if one is not filled in, the document fails. He said the Board should not be thinking that intakes are not being performed. Dr. Zornberg said the Committee asked for better explanations regarding PIs that were not met. She said DOHMH reported that some resulted from patient refusals, and some from

patients who were unavailable, including some who had been discharged. Dr. David said that electronic health records will correct many of the failures because providers will be prompted that if they miss a box, they will be unable to continue to input information. He said that corrective actions have been put in place for all failed PIs. Commissioner Frieden, citing the PI for PCP and MAC Prophylaxis, noted that the requirement of treatment within two days is not realistic and the PI will be reassessed. Dr. Zornberg asked whether the other Committee Members had any questions. Father Nahman noted that dental services went from 86% to 34%, and off-Island specialty clinics went from 95% to 38%. Dr. David said that when DOHMH changed the time frame for inmates to access dental services from 14 to 21 days, it expected that everyone could be seen even if staffing was reduced. Commissioner Frieden said it did not work out this way, and DOHMH restored the staffing. He added that since the reduction was DOHMH's idea, it did not fine PHS for failing to meet the PI. Dr. Zornberg said the Committee, for comparison purposes, asked DOHMH for the PI reports for the preceding quarter and for the same quarter one year ago. Dr. Gualtieri said that DOHMH used a different methodology to assess the off-Island clinics PI, looking for the signature of the doctor and the doctor's printed name or stamped name. He said many documents failed because they had one or the other, but not both. Commissioner Frieden said that a PI with a low level of compliance doesn't equate with failure. Rather, he said, the purpose of the system is to find areas that need improvement and work to improve them. Father Nahman said it would be helpful if the PI reports distinguished between health care delivery indicators and administrative indicators. Commissioner Frieden said the PIs represent contract compliance, and not necessarily the overall quality of care. Deputy Executive Director Cathy Potler asked about plans for chronic care. Commissioner Frieden said there are new protocols in place now to deal with asthma, hypertension, diabetes, HIV, mental health and hepatitis C, but the most important question is: what is the plan when the patients leave the system? He added that hypertension is a particularly acute problem among the inmate population on Rikers Island.

Board Member Paul Vallone asked about provider staffing, particularly mental health staffing. Commissioner Frieden said that it is difficult to fill mental health positions. Dr. David said DOHMH is looking at how to best utilize the staff that is available. Chair Simmons said she assumes there are efforts made to attract people to those positions. Dr. David said this is the case, likening the task to that of a coach who is recruiting. He said Rikers Island is a wonderful place for young psychiatrists to train. He noted that Dr. Zornberg helped DOHMH augment established forensic psychiatry fellowships, and the City has agreed to add a line to each of the four programs.

Chair Simmons asked if, in future reports, DOHMH could present the administrative PIs separately from the health care PIs. Dr. David said there is some overlap, but he did not see why not. Dr. Zornberg said the Health Committee would meet again before the next Board meeting. Chair Simmons thanked the Committee for its hard work.

DOC Senior Deputy Commissioner John Antonelli presented DOC's report, noting that security indicators show that the Department is performing at least as well as

last year. He said that DOC is seeking a continuing variance for outdoor recreation at the Vernon C. Bain Center (VCBC). Mr. Antonelli said that work on the security fencing should be finished by the end of the month. Mr. Wolf said that DOC is seeking a limited variance. He said that the Board has in the past granted variances to facilitate repairs to the surface of the outdoor recreation area deck at VCBC. He noted that the current request is more compelling, as it is directly related to security. He added that the gymnasium is a big facility and the variance would not impose a hardship on the inmates. Mr. Wolf said that the staff recommend that the Members approve the request. A motion to approve the request passed without opposition.

Mr. Antonelli said there were two cases of Legionnaires' disease, and all staff were notified. He said DOHMH is monitoring the situation, and that on Monday water samples were taken. He said the results should be available in two weeks, and that no unusual findings are anticipated.

A motion to renew existing DOC variances passed without opposition.

Father Nahman raised a personnel matter in light of the death of the Board's Director of Field Operations, Carl Niles. Chair Simmons suggested that the conversation should take place in executive session.

The public meeting was adjourned at 10:28 a.m. Shortly thereafter, the Board Members convened in executive session until 11:05 a.m.