IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT
EASTERN DIVISION

JAMES HANDWORK	:	**CASE No.: 16 CV 00825**
	:	
Plaintiff,	:	
	:	**JUDGE SOLOMON OLIVER, JR.**
v.	:	
	:	
THE OHIO DEPARTMENT OF REHABILITATION AND CORRECTIONS, *et al*.	:	
	:	
Defendant.	:	

DEFENDANTS' REPLY TO
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT [Docs. #14, 15]

AND

PLAINTIFF'S OPPOSITION [Doc #: 16, 16-1, 2] TO
DEFENDANTS' FIRST MOTION FOR SUMMARY JUDGMENT [Doc #: 12]

Defendants, The Ohio Department of Rehabilitation and Correction ("ODRC") and Gary C. Mohr, Director ODRC, by and through undersigned counsel hereby reply to Plaintiff's Opposition to Defendants' First Motion for Summary Judgment. Plaintiff challenges an alleged statewide policy that hearing disabled people incarcerated in Ohio's state prisons are only allowed one hearing aid.

Plaintiff has still failed to join a necessary and indispensable party: LaeCI, and Corrections Corporation of America ("CCA") and under Fed.R. Proc. 12(b)(7), and 19. Plaintiff ignores the fact that LaeCI's, internal procedure, and that Chief Medical Physician makes and

made the final decision in this case pertaining to hearing aids as supported by previously submitted affidavits. [Doc. 12, Declarations/Affidavits, Exhibits A: Dr. Eddy, B: Ms. Sanders and C: HSA Witt. Defendants contend that the internal medical process of LaECI determined Plaintiff did not have a medical need for two hearing aids.[1].

Defendants contend that ODRC is a non-suable entity and that Plaintiff has failed to provide any allegation or acts by the named Defendants' part constituting cruel and unusual punishment. Additionally, the Defendant, Director Mohr, was not involved in the medical decision regarding Plaintiff's claims for two hearing aids (Please see Medical Classification Docs attached, indicating the role of the medical provider and requirements on the part of the Plaintiff).

Defendants, by and through his undersigned counsel, move this Honorable Court for an Order granting Summary Judgment in their favor, pursuant to Fed. R. Civ. P. 56(a). "[T]here is no genuine dispute as to any material fact" in this case and Defendants "[are] entitled to judgment as a matter of law." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 (1986).

A memorandum follows.

Respectfully submitted,

MICHAEL DEWINE (0009181)
Ohio Attorney General

s/ George Horváth
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[1] Please note the undersigned *does not* represent nor appear as counsel for Lake Erie Correctional Institution ("LaeCI"), a private contractor working for Correction Corporation of America ("CCA") that operates LaeCI.

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Trial Counsel for Defendants

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I. INTRODUCTION

Inmate Handwork, #440-602 ("Plaintiff") a prisoner serving a 15-years-to-life sentence of incarceration with ODRC and is currently housed at the Lake Erie Correctional Institution ("LaeCI"). (Complaint: Doc #: 1, PageID #: 1, ¶ 1, 4, 8, 11). Defendants are accused of unconstitutionally failing to provide two hearing aids to Plaintiff. ODRC did not refuse Plaintiff his claim for two hearing aids. And there is no based statewide policy requiring that prisons provide *only* one hearing aid as claimed by the Plaintiff. [Doc #: 15, PageID #: 32-33.

LaeCI's medical staff made the final determination as to this process and ODRC's medical staff nor the named Defendants decided the granting of one or two hearing aids.[2] Defendants assert that reasonable accommodation was provided to Plaintiff via LaeCI's medical review and chief medical officer. Therefore the Americans with Disabilities Act, and the Eighth Amendment to the United States Constitution were not violated by named Defendants. The fact materials to this case obviously are contested, contrary to Plaintiff's assessment of his case.

II. STATEMENT OF FACTS

Defendants assert that Plaintiff has not had a single write-up of a rule violation since 2006 relating to relating his failure to follow orders of a corrections officer or any matter

[2] Please See; *Leonard Dent v. Department of Rehabilitation and Correction*, Court of Claims Ohio, Case No. 2014-00562, addressing the relationship between private prisons and the ODRC.

pertaining to his alleged inability to function without two hearing aids. This remains a significant point that belies Plaintiff's assertions.

Plaintiff's provides self-serving statements: that he cannot identify the direction a sound is coming from; that he is unable to communicate effectively with other prisoners or prison staff; that he cannot respond to the orders of corrections officers; that he cannot hear warnings or fire alarms; he cannot participate in prison programs that require hearing; and that he cannot take advantage of recreational equipment available to other prisoners such as television. However he has not provided any evidence of these matters. A matter as simple as requesting that the television have the hearing impaired function engaged and or that script be displayed has not provided. Nor is there any evidence of missed fire alarms or failure to communicate with prison staff and so forth.

Leading up to the question of whether Plaintiff was to receive one hearing aid or two. At a prior institution (Trumbull Correctional) he did receive two hearing aids. At some point Plaintiff was taken by LaeCI officials—not by any ODRC official, to a Beltone Hearing Center for an examination. Beltone, a private for-profit business, *recommended* replacement of both of Plaintiff's hearing aids. Plaintiff's Exhibit A.

Furthering the mischaracterization, Plaintiff references ODRC's email that the Plaintiff's denial of hearing aids was reviewed from an ODRC facility standpoint—not the private facility's review. Yet what Plaintiff seems to forget is that LaeCI's medical officials made the decision based on their medical review, following Plaintiff's audiologist and OSU medical staff's report, to provide the one hearing to the Plaintiff.

III. LAW AND ANALYSIS

A. Standard for Summary Judgment

Rule 56(a) of the Federal Rules of Civil Procedure has been discussed in both Plaintiff's Motion for Summary Judgment and in Defendant's. This Court is authorized to grant judgment as a matter of law when there is no genuine issue of material fact. Fed.R.Civ.P. 56(c); *Johnson v. United States Postal Service*, 64 F.3d 233, 236 (6th Cir. 1995).

No evidence of failure to follow guard's order has been provided by Plaintiff and Defendants' exhibits indicate that Plaintiff was not written up or put on report or in any way punished for an alleged failure to respond to orders. Plaintiff provides a CCA document (Plaintiff's Doc #: 16-2, Exhibit B, PageID #: 305) where, in the comment history, a note indicates that Plaintiff's boss (a layperson) in the employ at LaeCI relays that Plaintiff says he cannot hear. However this is not borne out by any reports or write-ups of Plaintiff's inability to function at his job. The form is a simple medical form that indicates inquiry into hearing aids. Note that this form does not demonstrate any evidence of named Defendants' involvement in this inquiry.

Grievance Number LAECI-01-16-000029 is Plaintiff's grievance to LaeCI officials stating he did not understand how medical can replace only one hearing aid when he came into the prison system with two. The reviewing official's response was they reviewed AR 5120-9-31, ODRC policy 68-MED-01, and contacted ODRC medical personnel that have direct knowledge of the protocols regarding hearing aids. After contacting ODRC Nurse Viets, the reviewing authority noted the established protocol of ODRC health services is that hearing aid replacement is to ensure that the inmate is able to hear, at a minimum, from one ear. (Plaintiff's Doc #: 16-2, Exhibit C, PageID #: 306).

Importantly, this grievance does not implicate Defendants in the operation of LaeCI medical matters – it is nothing more than a confirmation an inmate is entitled, under the appropriate circumstances, to one hearing aid. It does not say an inmate would not be entitled to two hearing aids if the medical personnel found it warranted. It does not in any way establish a policy where an inmate is entitled two that two hearing aids would not be provided.

Also misstated is Chief Inspector had "contacted [the] ODRC Director of Nursing to find out the current practice that process has not changed and only one hearing aid is replaced for patients wearing two. *Id*. There is no such unwritten or written policy as provided by ODRC's Chief medical officer. The nurse is obviously mistaken. Plaintiff provided no affidavit regarding this policy asserting a policy; however– the Chief medical officer for ODRC did provide a declaration explaining this issue. (Plaintiff's Doc #: 16-2, Exhibit C, PageID #: 306).

The same argument contra the Plaintiff's position applies to his Exhibit D. (Plaintiff's Doc #: 16-2, Exhibit D, PageID #: 307). Nurse Parks noted that she contacted the ODRC and learned that established protocol of ODRC health services is that hearing aid replacement is to ensure that the inmate is able to hear, at a minimum, from one ear (citing 68MED01).

Once again, this cited process does not preclude two hearing aids where the reviewing LaeCI personnel find that two hearing aids are warranted.

Another mischaracterization by Plaintiff is citing to an e-mail by Assistant Chief legal Counsel to the ODRC, the Plaintiff reads into the email that there is some rule against providing two hearing aids when simply put: one hearing aid is at least the minimum – if so required. (Plaintiff's Exhibit G). Plaintiff also brings an email from Trevor Clark, Assistant Chief Counsel, ODRC, dated January 20, 2016, as some sort of hidden blanket agenda designed by

ODRC to prevent hearing impaired inmates from having two hearing aids. (Plaintiff's Doc #: 16-2, Exhibit G, PageID #: 308). There is simply more to this argument brought by the Plaintiff and is not as clear cut as he would like it to appear. Mr. Clark provides to Plaintiff's counsel a brief response and indicated that the "established protocol" is to ensure one working hearing aid *** and that [i]t is more accurately described as a routine practice in these types of consults unless the inmate's health needs would require otherwise. Emphasis added. Again, the medical authorities at LaeCI determine what the inmate's needs would be.

As to relevant Medical Classification documents and procedures, 68-MED-13, 14 and 64-DCM-02 will be discussed infra.

It is misleading to state that the ODRC protocol equates to one hearing aid in all circumstances as insinuated by Plaintiff. Ensuring hearing out of one ear at a minimum does not equate to an across the board policy on "only one hearing aid." The Plaintiff has mischaracterized the facts.

1. Plaintiff's Received Reasonable Accommodation.

Plaintiff claims that hearing from one hearing aid causes him vertigo when his medical record indicates he has complained well before this issue of one or two hearing aids. See discussion with affidavit reference infra. This vertigo condition may very well be a totally unrelated medical issue and not as simple as one of having only one hearing aid. Plaintiff does not support his claims that he cannot communicate effectively with other prisoners or prison staff (Complaint Exhibit B, Exhibit I), respond to the orders of corrections officers (Complaint par. 10, Exhibit B, and Exhibit I), hear warnings or fire alarms (Complaint par. 10, Exhibit B and Exhibit I), participate in prison programs that require hearing, or take advantage of equipment available to other prisoners, such as television. Again, there exist no evidence of a write-up or

punishment for failure to heed alarms – nor did Plaintiff mention whether alarms are accompanied by flashing warning lights.

Noteworthy is that if the it is television that Plaintiff wants to watch, then reasonable accommodation could be had, by asking that television feature for a running script ("closed captioned", e.g.,) be engaged for the particular program. Yet there is no evidence he asked for this feature.

2. Defendants' Alleged Denial of Two Medically Necessary Hearing Aids is a Violation of the Americans with Disabilities Act

Plaintiff must prove Defendant acted with deliberate indifference to recover damages under the Rehabilitation Act. *Id.* In the context of a § 504 action, deliberate indifference requires both knowledge that a harm to a federally protected right is substantially likely, and a failure to act upon that likelihood. *Id.* (citing *City of Canton v. Harris*, 489 U.S. 378, 389 (1988)).

Plaintiff puts forth that a prima facie case of discrimination under both the ADA and the RA is established when the plaintiff shows that (1) he is disabled within the meaning of the ADA and the RA, (2) he is qualified to participate in some program or service, and that (3) he is being "denied the benefits of the services, programs, or activities of a public entity, or subjected to discrimination by any such entity" based on his disability. *See Gilday v. Mecosta County*, 124 F. 3d 760, 762 (6th Cir. 1997); *Clarkson v. Coughlin*, 898 F. Supp. 1019, 1035, 1036 (S.D.N.Y. 1995). Defendants take issue with part three (3) – Plaintiff has not been denied the benefits of the services, programs, or activities of a public entity, or subjected to discrimination by any such entity" based on his disability. *R.K. v. Bd. of Educ. of Scott Cty, Ky.*, No. 5:09-CV-344-JMH, 2014 WL 4277482 (6th Cir. 2014) (citing *Campbell v. Bd. of Educ. of Centerline Sch. Dist.*, 58 F. App'x. 162, 165 (6th Cir. 2003).

Leaving aside the question of the severity of Plaintiff's disability and whether any program receives any Federal financial assistance, nowhere does the Complaint suggest, much less does it allege, Plaintiff was excluded from participation in, denied the benefits of, or subjected to discrimination under *any* program or activity. However, the accommodation afforded by an entity to enable participation by a disabled person need only be reasonable. *Id.* Plaintiff raises specious arguments that he cannot experience prison life fully and safely. His job experience printout indicates that he was fully capable of performing work requiring the ability to hear and follow orders, let alone safety precautions.

3. There is No Violation of Standard of Care or Cruel and Unusual Punishment in this Case

Defendants contend that no genuine issue of material fact exists as the medical care provided to Plaintiff constitutes deliberate indifference in violation of the Eighth Amendment and maintain that their action(s) or lack thereof, do not rise to the level of a constitutional violation. It is well established that "[t]he Eighth Amendment forbids prison officials from unnecessarily and wantonly inflicting pain on an inmate by acting with deliberate indifference toward [his] serious medical needs." *Jones v. Muskegon Cnty.*, 625 F.3d 935, 941 (6th Cir. 2010) (internal quotations and citations omitted).

A claim for deliberate indifference "has both objective and subjective components." *Alspaugh v. McConnell*, 643 F.3d 162, 169 (6th Cir. 2011). The United States Court of Appeals for the Sixth Circuit has explained: The objective component mandates a sufficiently serious medical need. [*Blackmore v. Kalamazoo Cnty.*, 390 F.3d 890, 895 (6th Cir.2004).]. The subjective component regards prison officials' state of mind. *Id.* There is no established

constitution right to the prescription medication of one's choice and by analogy a requirement or request for two hearing aids. *Apanovitch*, 643 F.3d 162, 169 (6th Cir. 2011) App'x at 707.

Defendants contend that Plaintiff simply disagrees with the decision that LaeCI physicians made the decision to replace one hearing aid as opposed to two. At most, Plaintiff has demonstrated a disagreement regarding his preferred treatment plan. As explained above, "a difference of opinion between [a prisoner] and the prison health care providers . . . does not amount to an Eighth Amendment claim." *Apanovitch*, 32 F. App'x at 707.

Deliberate indifference "entails something more than mere negligence, but can be satisfied by something less than acts or omissions for the very purpose of causing harm or with knowledge that harm will result." *Id.* at 895–96 (internal quotation marks and citations omitted).

The prison official must "be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference." *Id.* at 896 (internal quotation marks and citation omitted). *Barnett v. Luttrell*, 414 F. App'x 784, 787–88 (6th Cir. 2011).

With respect to the objective component, Defendants deny that Plaintiff was suffering from a sufficiently serious medical need with respect to his alleged need for two hearing aids.

4. Inmates are Provided the Number Hearing Aids as the Institutional Doctor Determines as Appropriate

Plaintiff believes that Defendants maintain a statewide policy of providing prisoners only one working hearing aid, even for prisoners who have a medical need for two. This one not makes medical nor practical sense. The medical provider at LaeCI make those decisions – in public prisons ODRC medical officials make those decisions. *Please see* Defendant's Exhibits Affidavits / Declarations Defendants Motion for Summary Judgment, Doc #: 14, summarized

infra). Additionally there is no "one policy" regarding only one hearing aid is provided – this medical assessment is performed on a case by case basis.

Dr. Andrew Eddy's Declaration indicates there was no supervision or decision-making by ODRC or Director Mohr in the instant case. Dr. Eddy further states that LaeCI is a privately operated prison, under the administration and direction of the Corrections Corporation of America ("CCA"). Though LaeCI staff follows ODRC prison rules, regulations and policies for ODRC inmates Dr. Eddy states that the delivery of health care services and handling of medical issues are the responsibility the CCA for inmates housed at LaeCI and that LaeCI's Chief Medical Physician and CCA are responsible for the day-to-day healthcare decisions. He adds that in the case of a privately operated prison, (e.g., LaeCI), ODRC is not consulted regarding the day-to-day healthcare services or medical decisions for the inmates. (Dr. Eddy's Declaration, State's Ex: A, ¶¶ 1-10). As to hearing aids, Dr Eddy provides that he has not been requested to review, nor did he review any of Inmate Handwork's #440-603 medical records, nor had his professional opinion been solicited for a determination of the hearing aid needs of the Plaintiff. (Dr. Eddy's Declaration, State's Ex: A, ¶¶ 4-13),

Plaintiff's hearing aid was provided by LaECI based on their review of the medical file and an ultimate decision by the LaECI medical director. ODRC did not influence this decision and as pointed out in affidavits and declarations provided with the Defendants' Motion for Summary Judgment – that Plaintiff, appears to totally ignore, that relate the decision regarding Plaintiff's hearing aid was LaeCI's.

5. However, LaeCI and MCC are the Medical Providers in this Case not the Named Defendants

Defendants contend that Plaintiff has sued the wrong Defendant(s). LaeCI provided the medical services in the instant matter – not the named Defendants herein. LaeCI and CCA is a necessary and indispensable party under the Federal Rules of Civil Procedure 12(B)(7) and 19.

Ms. Kelly Sanders (Deputy Director 5/ Chief Procurement Officer ["CPO"]) affidavit provides she is responsible for planning, directing, and coordinating statewide procurement activities also planning, formulating and implementing comprehensive procurement policies and procedures. (Sanders' Affidavit, with attachments, Defendant's Ex.: B, B-1, B-2). Attached to her affidavit are two documents / records that refer to the status of CCA's Lake Erie Correctional Institution as a private correctional facility. (Labeled DRC001, Rev. 07/01/15 and DRC001, Rev. 8/31/11). (Sander's Affidavit, with attachments, Defendant's Ex.: B, B-1, B-2). Specifically, the attachments referred to above in paragraphs 5, 6, and 7 accurately reflect the status of the CCA's Lake Erie Institution is a privately run facility and not owned nor operated by the State of Ohio or ODRC. (Doc 14: Sanders' Affidavit, Ex. A, with attachments, Ex: B, B-1, and B-2).

6. LaeCI's Role in Determining the Appropriateness on One Hearing Aid

Ms. Witt provided that (LaeCI) CCA, as a privately operated prison facility, implements and maintains their own internal healthcare review process and as LaeCI is an independent contractor, the medical decisions only involve the Chief Medical Physician and the Regional Medical Director selected and employed by CCA Dr. Payne, LaeCI's Chief Medical Physician, approved the purchase and fitting of one hearing aid for Inmate Handwork #440-603. (Doc: #: 14 Witt's Declaration, Defendant's Ex.: C, ¶¶ 20, 21). Ms. Witt provides that Plaintiff's medical file contains records regarding various medical appointments and consultations and that nothing in the files indicate that Plaintiff had any difficulty communicating with any health services

provider during any appointments moreover Plaintiff Inmate Handwork has had long-standing problems regarding equilibrium. (Witt's Declaration, Ex.: C, ¶ 27).

Ms. Witt attested that she is not aware that there is any ODRC policy regarding that an inmate is required to have two hearing aids, regardless of the primary care physician's recommendation. (Witt's Declaration, C-1). She affirms that LaeCI is a subcontractor and that any final decision regarding medically necessary hearing aids is made by LaeCI. (Witt's Declaration, ¶¶ 22, 23, 24). She stated that while at LaeCI, Plaintiff received appropriate medical care for many issues -- including his hearing aids and had several medical visits wherein he was instructed on how to clean and maintain his hearing aids and at some point Plaintiff Inmate complained his hearing aids were broken. (Witt's Declaration, Ex.: C, ¶¶ 11, 12, 13). Ms. Witt agrees that that the Plaintiff was fitted by LaeCI's private contractor, third party provider Beltone, for a digital hearing aid – and it appears that he did not follow all instructions on its operation and he was taken back to Beltone recently to have the volume set and was provided instructions on how to maintain same. (Witt's Declaration, ¶ 26).

Ms. Witt provides that LaeCI, medical personnel scheduled Plaintiff for an appointment with an outside audiologist and that based on statements provided to the audiologist by Plaintiff, the audiologist recommended Plaintiff receive a replacement hearing aid for each ear. After such a recommendation, Ms. Witt states that the LaeCI Chief Medical Physician reviews the file and if, in his/her determination the proposed or recommended test, procedure, or medical aid is still medically necessary, they are then to submit the proposed request for Collegial Review. Finally, she stated that the Chief Medical Physician of LaeCI inmate healthcare services made the final determination that Plaintiff was medically eligible to receive one hearing aid. (Witt's Declaration, ¶¶ 14, 15, 16).

Ms. Witt declares that LaeCI has no record of any "kites" or write-ups, regarding Plaintiff's inability to hear or failure to respond to commands nor have any observations or reports by corrections officers that Plaintiff was unable to participate in events and respond to the daily requirements of a prisoner been submitted to inmate health services. She adds, after reviewing Plaintiff's conduct history, it appears that since April 6, 2010, Inmate has had no conduct reports (rule violations) --- indicative that he was functioning without any problems in the prison community, including without any failure to follow orders or to meet obligations such as bed count and other prison orders. (Witt's Declaration, Ex.: C, ¶ 25). Based on the foregoing, Defendants were not the decision-making entity or person regarding Plaintiff's decision to have one hearing aid or two as Plaintiff as alleges. In fact, LaeCI provided the medical care relating to the hearing aid provided to Plaintiff. Also, among other things, Plaintiff did not receive any write-ups regarding his inability to follow correctional officer's orders or for failing to follow alarms or instructions.

Plaintiff has had issues with his equilibrium before his complaint regarding the hearing aid. Additionally, Ms. Witt succinctly points out that it was LaeCI's decision, through their in-house medical process to provide one hearing aid and that there is no policy requiring an Inmate must be provided two hearing aids by named Defendants.

Plaintiff has failed to provide evidence that Defendant's actions constituted deliberate indifference.

7. Medical and ADA Related Sections requiring compliance by Prison and of Inmate

There exist three medical guidelines that Defendants respectfully consider regarding this case. They are as follow:

- **64-DCM-02** (Defendants' Exhibit A, 9 pp., attached and incorporated as if fully rewritten);

- **68-MED-13** (Defendants' Exhibit B, 6 pp., attached and incorporated as if fully rewritten); and

- **68-MED-14** (Defendants' Exhibit C, 12 pp., attached and incorporated as if fully rewritten).

1. 64-DCM-02:

Section "IV. DEFINITIONS" provides

Disability - Under ADA, a person has a disability if he/she:

1. Has a physical or mental impairment that substantially limits one or more of the major life activities of the individual;
2. Has a record of such an impairment; or
3. Is regarded as having an impairment.

Categories of disabilities are defined in Appendix A.

Hard of Hearing - Having a hearing loss of at least 40dB in the better ear unaided as measured by the Pure Tone Audiometry (PTA) or Speech Recognition Threshold (SRT).
64-DCM-02, pp 1-2.

This document further provides at page 2 of 9:

Relay Service - A service used by people who are deaf, hard of hearing, or have a speech impediment when talking to people who do not have a TTY machine. A communications assistant answers and dials the number being called and facilitates communication between the TTY user and the telephone user. Voice Carry Over (VCO) and Hearing Carry Over (HCO) calls are also made through a relay service. A relay service allows communication between deaf/hard of hearing persons and hearing persons.

Special Needs Assessment Committee - A committee appointed by the Director to consider appeals from inmates who disagree with a decision of the Managing Officer on a request for accommodation, and to consider appeals from inmates who disagree with a decision of the Bureau of Classification concerning placement based on the inmate's need for accommodation. The committee members shall include the Operation Support Center ADA Coordinator, a representative from the Bureau of Medical Services, a representative from the Bureau of Mental Health Services, and a representative from Legal Services. Appeals shall be addressed to the committee in care of the Operation Support Center ADA Coordinator for inmates.

And at page 3 of 9:

Undue Hardship - Undue hardship means that the requested accommodation could not be provided without significant difficulty or expense or it fundamentally alters the nature or operation of the institution or program.

And at page 3 of 9 as well,

VI. PROCEDURES
A. Identification

3. Each inmate identified as having a disability covered under ADA shall be evaluated on an individual case-by-case basis and provided accommodation if requested and determined necessary, so long as the accommodation does not adversely impact security.
Emphasis added.

At pages 4-5, 64-DCM-02, provides:

D. Accommodations
Accommodations must be reasonable and not impose undue hardship on the institution. Possible accommodations may include, but not be limited to:

7. Providing amplifiers, visual repetition of audio announcements, and closed caption televisions.
8. Providing TTY's and relay services. Inmates using TTY's and relay services shall be allotted the normal number of telephone calls and three times the usual amount of time allowed for conversations. TTY's shall be purchased with printers to allow the usual monitoring of conversations. TTY's shall be provided not only to deaf inmates, but also to inmates with speech impediments and to inmates with a spouse, family member, or friend who is deaf and needs this accommodation to communicate. Medical verification from the spouse, family member, or friend must be provided before the inmate is provided the use of a TTY.
9. Providing visual and audible fire alarm systems.

and

11. Providing opportunities to purchase items such as closed caption televisions and shake-awake alarm clocks through the commissary. Any such accommodations shall be provided in a manner consistent with institutional and departmental policies and security concerns. For example, closed caption televisions shall be provided in day rooms consistent with the duration and frequency of the other inmates in the same status within the institution. No inmate shall be provided access to a closed caption television if his/her status would not otherwise permit him/her access to a television.
Emphasis added.

Most importantly, at page 6, 64-DCM-02, provides an obligation upon the inmate in the event of a claimed ADA accommodation:

E. Request for Accommodations

1. Inmates who need an accommodation shall complete the Inmate Reasonable Accommodation Request form (DRC4267) and submit it to the institutional ADA Coordinator for inmates. The inmate's request shall be evaluated and considered based upon security concerns and the individual inmate's actual needs as verified by medical staff. Requests may be granted, denied or partially granted by providing an alternative accommodation. The ADA Coordinator's recommendation must be approved by the Managing Officer/designee. The decision shall be reported on the ADA Coordinator's Action section of the Inmate Reasonable Accommodation Request form (DRC4267), which will be returned to the inmate within ten working days unless further investigation is warranted. A copy of the decision shall be forwarded to the Operation Support Center ADA Coordinator for inmates.

2. If the inmate disagrees with the decision, he or she may appeal to the Special Needs Assessment Committee in care of the Operation Support Center ADA Coordinator for inmates.
Emphasis added.

It does not appear that Plaintiff in this case followed the requirements for an assessment of his concerns, yet the LaeCI facility medical practitioners did assess Plaintiff.

2. 68-MED-13 (Defendants' Exhibit B, 6 pp., attached and incorporated as if fully rewritten) provides at p1-2:

IV. DEFINITIONS
Advanced Level Provider - A medical professional who is approved to practice as a Physician, an Advanced Practice Nurse under Ohio Revised Code section 4723.43, or a Physician's Assistant under Ohio Revised Code section 4730.

VI. PROCEDURES
A. Reception
6. The **ALP** shall also evaluate each inmate using medical protocol B-13, Evaluation for Functional Limitations Impacting Placement. If a determination is made that the inmate meets the criteria for one or more of these categories, that information shall also be noted on the medical intake Physical Examination form (DRC5033) and in the NEEDS/DOTS screen within the DOTS Portal system.

And at page 3:

8. All inmates classified as level 3 and 4 will require completion of a DRC Advanced Medical Placement form (DRC5330) to document the inmate's need for assistance with activities of daily living.

B. Consultation on Special Needs

1. When an action may affect or be impacted by the medical classification of an offender, there shall be a consultation between the appropriate **program administrator**/designee and the responsible clinician/designee prior to taking action regarding chronically ill, functionally limited, and geriatric offenders in the following areas:

a. Housing Assignments;
b. Program Assignments;
c. Disciplinary Measures; and/or
d. Transfers to Other Facilities.

As to this section it appears that LaeCI performed a consultation regarding Plaintiff's medical condition.

3. Finally as to **68-MED-14** (Defendants' Exhibit C, 12 pp., attached and incorporated as if fully rewritten) provides at page 3:

5. Audiology services are available at FMC. Referrals to Audiology can be made either from the Ear, Nose and Throat (ENT) clinic or from the institution CMO. Audiology services include:

a. Audiograms;
b. Hearing aid fittings; and
c. Hearing aid repair or replacement.

And at page 12:

K. The DRC contracts with various agencies to provide health care services to its inmate population. In general, these agencies must follow DRC policy requirements. However, these agencies may develop specific protocols and guidelines to deliver health care to inmates, which may vary from DRC procedures. Such variances may include:

1. Use of facilities and services other than those provided by OSUMC or FMC for specialty health care;

2. Use of facilities other than OSUMC or FMC for surgical procedures; and/or

3. Use of transportation and scheduling procedures other than those provided by DRC HUB transportation and OCHC Central Scheduling.

In essence, even in contracting for certain services the ODRC can expect their guidelines be followed but an agency may develop its own protocols to deliver health care services. In the instant matter, LaeCI followed ORDC policies and determined on its own that Plaintiff did not require two hearing aids. The recommendation from an off-site audiologist is just that – a recommendation.

Plaintiff's constitutional rights nor the ADA/RA rights violated. His care did not amount to cruel and unusual punishment.

IV. CONCLUSION

Based on the foregoing law, analysis, attached declaration and affidavits with exhibits, Plaintiff's claims fail for several reasons. Plaintiff has failed to set forth a complaint up on which relief can be granted. Plaintiff failed to include a necessary and indispensable party under the Federal Rules of Civil Procedure 12(B)(7) and 19. Additionally, in this case the legal principle of *respondeat superior* / lack of supervisor liability apply and Defendants are not liable thereunder. For the reasons stated above, Defendants move this Honorable Court to dismiss Plaintiffs claims with prejudice, and provide them with any other relief to which they may be entitled.

Respectfully submitted,

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Trial Counsel for Defendants

CERTIFICATE OF SERVICE

I certify that on October 24, 2016 I electronically filed with the Clerk a copy of the foregoing pleading: ***DEFENDANTS' REPLY TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT [Docs. #14, 15] AND PLAINTIFF'S OPPOSITION [Doc #: 16, 16-1, 2] TO DEFENDANTS' FIRST MOTION FOR SUMMARY JUDGMENT [Doc #: 12].*** The Court's electronic filing system will provide Notice of this filing all parties. Parties may access this filing through the Court's electronic filing system.

s/ George Horváth
GEORGE HORVÁTH (0030466)
Assistant Attorney General

STATE OF OHIO

DEPARTMENT OF REHABILITATION AND CORRECTION

SUBJECT: **Inmates with Disabilities**	PAGE 1 OF 9 . NUMBER: 64-DCM-02
RULE/CODE REFERENCE: 5120-9-04; 5120-9-27; 5120-9-52	SUPERSEDES: 64-DCM-02 dated 07/21/99
RELATED ACA STANDARDS: 4-4142; 4-4429; 4-4429-1; 4-4497 2-1020	EFFECTIVE DATE: December 28, 2011
	APPROVED:

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

II. PURPOSE

The purpose of this policy is to establish standard and consistent procedures by which an inmate with a disability is identified, assessed, and provided appropriate reasonable accommodations.

III. APPLICABILITY

This policy applies to all persons employed by or under contract with the Ohio Department of Rehabilitation and Correction and to the inmates under the Department's supervision.

IV. DEFINITIONS

Americans with Disabilities Act (ADA) - The act which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government, services, and telecommunications.

Blind - Having vision impairment not correctable to central vision acuity of 20/200 or a visual field no greater than 20 in the better eye.

Deaf - Having a profound hearing loss and relying primarily on visual communication such as sign language, lip reading, writing, and gestures.

Disability - Under ADA, a person has a disability if he/she:

1. Has a physical or mental impairment that substantially limits one or more of the major life activities of the individual;

2. Has a record of such an impairment; or
3. Is regarded as having an impairment.

Categories of disabilities are defined in Appendix A.

Hard of Hearing - Having a hearing loss of at least 40dB in the better ear unaided as measured by the Pure Tone Audiometry (PTA) or Speech Recognition Threshold (SRT).

Major Life Activity - Includes, but is not limited to, walking, speaking, breathing, performing manual tasks, seeing, hearing, learning, caring for oneself, and working. See Appendix A.

Mobility Impairment - Being confined to a wheelchair or being able to have independent mobility over only short distances or only on a level surface.

Qualified Interpreter/Transliterator - A sign language interpreter certified by the National Registry of Interpreters for the Deaf or the National Association of the Deaf (NAD) or a sign language interpreter who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary. The qualifications of an interpreter are determined by the actual ability of the interpreter in a particular interpreting context to facilitate effective communication. Qualified interpreters may include inmates, correctional staff including correction officers and volunteers when their skills meet the above definition and factors such as emotional or personal involvement and considerations of confidentiality will not adversely affect their ability to interpret "effectively, accurately, and impartially" or jeopardize the safety and security of the inmate.

Reasonable Accommodation - Any change or adjustment to an environment that permits a qualified person with a known disability to participate in a job, or to enjoy benefits and privileges of programs or services as an equal to everyone without a disability. A reasonable accommodation should not impose undue hardship on the institution.

Relay Service - A service used by people who are deaf, hard of hearing, or have a speech impediment when talking to people who do not have a TTY machine. A communications assistant answers and dials the number being called and facilitates communication between the TTY user and the telephone user. Voice Carry Over (VCO) and Hearing Carry Over (HCO) calls are also made through a relay service. A relay service allows communication between deaf/hard of hearing persons and hearing persons.

Special Needs Assessment Committee - A committee appointed by the Director to consider appeals from inmates who disagree with a decision of the Managing Officer on a request for accommodation, and to consider appeals from inmates who disagree with a decision of the Bureau of Classification concerning placement based on the inmate's need for accommodation. The committee members shall include the Operation Support Center ADA Coordinator, a representative from the Bureau of Medical Services, a representative from the Bureau of Mental Health Services, and a representative from Legal Services. Appeals shall be addressed to the committee in care of the Operation Support Center ADA Coordinator for inmates.

TTY/TDD - Teletypewriter/telecommunications device for the deaf; both terms refer to an acoustic coupler that sends and receives teletypewriter signals over the telephone lines and enables telephone use for people who are deaf, hard of hearing, or who have a speech impediment by utilizing electronic transmission of text in place of audible communication.

Undue Hardship - Undue hardship means that the requested accommodation could not be provided without significant difficulty or expense or it fundamentally alters the nature or operation of the institution or program.

V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction not to discriminate against individuals on the basis of disabilities in the provision of services, program assignments, and other activities, as well as in making administrative decisions, and to provide reasonable accommodation to inmates when a demonstrated need exists.

VI. PROCEDURES

A. Identification

1. Upon being received at a reception center, each inmate shall have a health evaluation and the results of the health evaluation shall be documented. The evaluation shall include screening for inmates with vision, medical, hearing, mobility, mental health, and intellectual disabilities and developmental disabilities. These evaluations shall be consistent with those outlined in Department Policies 68-MED-13, Medical Classification, and 67-MNH-02, Mental Health Screening and Assessment Activities.

2. Disabilities that become apparent after the reception process may be reported and documented when they become apparent.

3. Each inmate identified as having a disability covered under ADA shall be evaluated on an individual case-by-case basis and provided accommodation if requested and determined necessary, so long as the accommodation does not adversely impact security.

4. Upon the determination of any impairment needing an ADA accommodation, the accommodation shall be documented by medical staff at the reception center or parent institution. This documentation shall be placed in the inmate's medical or mental health file and scanned in the electronic unit file.

B. Classification

1. Any inmate identified by the health care staff as needing special services because of a disability shall be provided reasonable accommodation as needed, as long as the accommodation does not adversely impact security. When the inmate is being considered for placement into an appropriate institution consistent with the inmate's security classification, the need for an accommodation shall be considered.

2. Current Department policies on medical, mental health and security classifications will be the primary tools used by the Bureau of Classification for placement of inmates with disabilities needing accommodation.

3. If an inmate disagrees with a placement decision of the Bureau of Classification based on the inmate's need for accommodation, the inmate may appeal the decision to the Chief of the Bureau of Classification consistent with Ohio Administrative Code 5120-9-52, Initial Classification of Inmates. The Chief of the Bureau of Classification shall then consult with the Special Needs Committee before making a final decision. The committee shall render a decision within thirty calendar days of receipt of the inmate's appeal.

C. Equal Access to Programs and Services

1. The Managing Officer at each institution shall appoint an ADA Coordinator for inmates to assist the institution in assuring compliance with Title II of the ADA and to oversee training on the subject within the institution. The Director shall appoint an Operation Support Center ADA Coordinator who shall: (a) oversee training of the Operation Support Center staff and the institutional coordinators; (b) assist the institutional coordinators; and (c) assure ADA compliance within the Operation Support Center and the institutions.

2. The inmate orientation package and inmate handbook shall include an explanation of services available to inmates with disabilities. This shall include the procedures necessary to receive an accommodation and shall be in a form understandable to the inmate, regardless of any disability. Inmate orientation shall also identify the staff member who serves as the institution's ADA Coordinator for inmates. Signs explaining ADA shall be posted in areas frequented by inmates.

3. No inmate shall be denied access to any job based solely upon his/her disability; however, an inmate must be able to fulfill the essential job functions of any job assigned to him/her.

4. No inmate shall be denied access to any program assignment based solely upon his/her disability. However, any inmate having a disability must meet the same criteria for admittance to a program as any other inmate. An inmate needing a reasonable accommodation to attend a program shall be provided that accommodation based upon his/her individual needs, so long as the accommodation does not adversely impact security.

5. Services shall be available to each inmate regardless of the existence of any disability. Reasonable accommodations shall be made as needed to ensure access to services.

D. Accommodations

Accommodations must be reasonable and not impose undue hardship on the institution. Possible accommodations may include, but not be limited to:

1. Providing programs in accessible areas.
2. Providing readers, large print materials, magnifiers, books on tape or Braille materials.
3. Providing ramps or elevators.
4. Providing handrails in showers and along stairways.

5. Providing seating in long hallways and in locations of long lines.
6. Providing accessible vehicles.
7. Providing amplifiers, visual repetition of audio announcements, and closed caption televisions.
8. Providing TTY's and relay services. Inmates using TTY's and relay services shall be allotted the normal number of telephone calls and three times the usual amount of time allowed for conversations. TTY's shall be purchased with printers to allow the usual monitoring of conversations. TTY's shall be provided not only to deaf inmates, but also to inmates with speech impediments and to inmates with a spouse, family member, or friend who is deaf and needs this accommodation to communicate. Medical verification from the spouse, family member, or friend must be provided before the inmate is provided the use of a TTY.
9. Providing visual and audible fire alarm systems.
10. Providing qualified interpreters/transliterators for programs including, but not limited to:

    a. Regularly Scheduled Health Care Appointments and Programs*****
        i. Medical
        ii. Dental
        iii. Visual
        iv. Mental Health
        v. Recovery Services
    b. Parole Board Hearings*****
    c. Educational Classes and Activities
    d. Treatment and other Formal Programming
    e. Rules Infraction Board Hearings*****
    f. Criminal Investigations*****
    g. Classification Review Interviews
    h. Grievance Interviews
    i. Adoption Interviews*****
    j. Religious Services
    k. Formal Investigations Conducted by Institution Staff*****

    ***** Interpreting services for these programs may be provided only by qualified staff members or contract interpreters. If the deaf or hard of hearing inmate approves, a qualified inmate may otherwise assist if confidentiality is not violated or in case of emergency when another interpreter is unavailable. If the deaf or hard of hearing inmate approves the use of another inmate to interpret, the deaf or hard of hearing inmate must sign a statement waiving the right to an interpreter who is not an inmate. See Appendix B. Interpreters may be provided in person or through teleconferencing.

11. Providing opportunities to purchase items such as closed caption televisions and shake-awake alarm clocks through the commissary. Any such accommodations shall be provided in a manner consistent with institutional and departmental policies and security concerns. For example, closed caption televisions shall be provided in day rooms consistent with the duration and frequency of the other inmates in the same status within the institution. No inmate shall be provided access to a closed caption television if his/her status would not otherwise permit him/her access to a television.

12. When any person provides a service to an inmate, such as interpreting for the deaf or hard of hearing or reading for the blind or visually impaired, the person providing the service shall make a notation in the inmate's file stating the date, time, location and nature of the service provided. Such notation shall include the printed name of the person providing the service and that person's signature. If a contract interpreter from outside the Department is used, the staff member who is present when the interpreting service is provided shall be responsible for notifying the interpreter of the duty to make a notation in the inmate's file.

E. Request for Accommodations

1. Inmates who need an accommodation shall complete the Inmate Reasonable Accommodation Request form (DRC4267) and submit it to the institutional ADA Coordinator for inmates. The inmate's request shall be evaluated and considered based upon security concerns and the individual inmate's actual needs as verified by medical staff. Requests may be granted, denied or partially granted by providing an alternative accommodation. The ADA Coordinator's recommendation must be approved by the Managing Officer/designee. The decision shall be reported on the ADA Coordinator's Action section of the Inmate Reasonable Accommodation Request form (DRC4267), which will be returned to the inmate within ten working days unless further investigation is warranted. A copy of the decision shall be forwarded to the Operation Support Center ADA Coordinator for inmates.

2. If the inmate disagrees with the decision, he or she may appeal to the Special Needs Assessment Committee in care of the Operation Support Center ADA Coordinator for inmates.

F. Training

The Operation Support Center ADA Coordinator for inmates shall be responsible for training the institutional ADA Coordinators for inmates. The institutional ADA Coordinators for employees and inmates and the training officers shall work together to ensure that all institutional staff receives training on pertinent ADA disability issues. Such training shall include sensitivity training relative to interacting with inmates having these impairments, as well as a review of pertinent departmental and institutional policies.

Related Department Forms

Inmate Reasonable Accommodation Request	DRC4267

APPENDIX A

PHYSICAL OR MENTAL IMPAIRMENT

The United States Senate Report accompanying the Americans with Disabilities Act (ADA) defines "physical or mental impairment" as:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:

Neurological
Musculoskeletal
Special sense organs
Respiratory
Cardiovascular
Reproductive
Digestive
Genito-urinary
Hemic and lymphatic
Skin
Endocrine

OR

(2) Any mental or psychological disorder, such as:

Mental retardation
Organic brain syndrome
Emotional or mental illness
Specific learning disabilities

Senate Report 101-116, p. 116.

The Senate Report notes that the ADA makes no attempt to list all of the specific diseases, conditions or infections covered by the legislation that would meet the definition of physical or mental impairment because maintaining a comprehensive list would be impossible. A few examples cited are orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, infection with AIDS or HIV, past drug addiction and alcoholism. Senate Report 101-116, p. 22. Current illegal drug users are specifically excluded from the definition.

MAJOR LIFE ACTIVITIES

Major life activities include, but are not limited to:

Caring for oneself
Performing manual tasks
Walking
Seeing
Hearing
Speaking
Breathing
Learning
Working

REGARDED AS IMPAIRED

An individual is regarded as impaired if:

(1) He or she has an impairment which does not limit a major life activity, but is treated as disabled by the department

OR

(2) There is no impairment, but the person is treated as disabled by the department.

RECORD OF IMPAIRMENT

An individual has a record of impairment if:

(1) He or she has a history of impairment

OR

(2) A record of having been misclassified as having an impairment

APPENDIX B

INTERPRETER/TRANSLITERATOR WAIVER FORM

I understand that, upon request, I have the right to a qualified interpreter/transliterator for certain programs. I further understand that, except in the event of an emergency, only a staff member or contract interpreter may provide interpreting services for regularly scheduled health care appointments and programs, Parole Board hearings, RIB hearings, criminal investigations, adoption interviews, and formal investigations conducted by institution staff.

☐ I have chosen to have an inmate provide interpreting services and hereby waive the right to have a non-inmate interpreter provide such services.

☐ I decline to have any interpreter present.

_____
Inmate Name and Number (Print)

_____
Inmate Signature and Number

_____
Date

STATE OF OHIO

DEPARTMENT OF REHABILITATION AND CORRECTION

SUBJECT:	PAGE 1 OF 6
Medical Classification	NUMBER: 68-MED-13
RULE/CODE REFERENCE:	SUPERCEDES: 68-MED-13 dated 04/30/10
RELATED ACA STANDARDS: 4-4399	EFFECTIVE DATE: May 23, 2012
	APPROVED:

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

II. PURPOSE

The purpose of this policy is to provide medical classification for inmates under the jurisdiction of the Department of Rehabilitation and Correction.

III. APPLICABILITY

This policy applies to all persons employed by or under contract with the Ohio Department of Rehabilitation and Correction, with the exception of Division of Parole & Community Services staff, and to all inmates confined to institutions within the Department.

IV. DEFINITIONS

Advanced Level Provider - A medical professional who is approved to practice as a Physician, an Advanced Practice Nurse under Ohio Revised Code section 4723.43, or a Physician's Assistant under Ohio Revised Code section 4730.

Chief Medical Officer - The physician responsible for the day-to-day medical care of offenders at the institution level. The Chief Medical Officer is the ultimate medical authority at the institution.

Medical Classification Grid - A grid that includes brief definitions of each medical classification and a listing of those institutions that have the level of medical services appropriate to meet the needs of the inmates identified for that medical level.

State Medical Director – The responsible physician and the medical authority for the Department. The State Medical Director is responsible for the overall supervision of medical/clinical services provided within the Ohio Department of Rehabilitation and Correction.

V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction to appropriately identify or determine the medical needs and functional limitations, if any, of all inmates under its supervision and to assign those inmates to appropriate placement based on those needs.

VI. PROCEDURES

A. Reception

1. Each inmate entering the Department of Rehabilitation and Correction shall receive a comprehensive medical evaluation per Department Policy 52-RCP-06, Reception Intake Medical Screening, and shall be assigned a medical classification level (1 through 4) and, if applicable, a functional limitation designation.

2. In accordance with the medical classification and functional limitation criteria, the Department shall identify those institutions capable of meeting the needs of inmates assigned each classification identifier.

3. The Bureau of Classification and Reception shall consider the medical classification and functional limitation designation, when applicable, along with other classification designations when assigning the inmate to his/her parent institution. The medical classification and functional limitation designation processes ensure appropriate placement of the inmate in an institution that can appropriately meet his/her individual needs.

4. The identification, classification, and placement of inmates with mental health needs shall be addressed as per Department Policy 67-MNH-02, Mental Health Screenings and Assessment Activities.

5. Upon completion of the intake medical evaluation at reception, the Advanced Level Provider (ALP), using the criteria outlined in the Medical Classification Grid (Appendix A), shall assign each inmate to a medical classification level. This designation shall be noted in the appropriate location on the medical intake Physical Examination form (DRC5033) and shall be entered into the NEEDS/DOTS screen, accessible within the DOTS Portal system.

6. The ALP shall also evaluate each inmate using medical protocol B-13, Evaluation for Functional Limitations Impacting Placement. If a determination is made that the inmate meets the criteria for one or more of these categories, that information shall also be noted on the medical intake Physical Examination form (DRC5033) and in the NEEDS/DOTS screen within the DOTS Portal system.

7. Inmates placed into medical classification levels 1 and 2 will qualify, from a medical standpoint, for placement in general population in an appropriate institution, as assigned by the Bureau of Classification and Reception.

8. All inmates classified as level 3 and 4 will require completion of a DRC Advanced Medical Placement form (DRC5330) to document the inmate's need for assistance with activities of daily living.

9. The reception center Health Care Administrator or designee shall monitor inmates placed in medical level 3 to ensure prompt transfer to an appropriate unit and/or facility. Transfer of medical level 3 inmates shall be coordinated through the Bureau of Classification and Reception and the Bureau of Medical Services.

10. If an inmate is placed in level 4, the reception center Chief Medical Officer shall contact the Franklin Medical Center Chief Medical Officer to facilitate arrangements for transfer to that facility.

11. If an inmate is identified with multiple functional limitations and/or other special medical needs, the reception center Health Care Administrator or designee shall contact the Bureau of Classification and Reception to jointly determine the most appropriate placement of the inmate.

B. Consultation on Special Needs

1. When an action may affect or be impacted by the medical classification of an offender, there shall be a consultation between the appropriate program administrator/designee and the responsible clinician/designee prior to taking action regarding chronically ill, functionally limited, and geriatric offenders in the following areas:

   a. Housing Assignments;
   b. Program Assignments;
   c. Disciplinary Measures; and/or
   d. Transfers to Other Facilities.

2. Documented medical restrictions or limitations issued by the responsible clinician may serve as the consultation, including a Medical Restrictions Statement (DRC5117) or medical orders for special housing assignments. When immediate action is required, consultation to review the appropriateness of the action occurs as soon as possible, but no later than 72 hours.

3. In the case of specialty housing assignments:

   a. The institution's Chief Medical Officer shall review all medical level 3 inmates on a case-by-case basis prior to placement on death row. The Chief Medical Officer shall forward this review to the State Medical Director for final approval.

   b. Due to the limited stay, medical level 3 inmates may be housed in the Sex Offender Risk Reduction Center (SORRC).

C. Change of Medical Classification

1. If the Chief Medical Officer in a parent institution, upon evaluation of an inmate, determines that a change in medical classification level or functional limitation designation may be indicated, that physician shall complete the Medical Re-Classification form (DRC5176). Reclassification should be initiated only when there has been a substantial change in the medical condition of the affected inmate.

2. If the anticipated new classification is to a level 1 or 2, or the recommended change is in the functional limitation designation, those changes should be noted in the medical file and entered into the NEEDS/DOTS screen within the DOTS Portal system in accordance with the recommendation of the institution Chief Medical Officer, unless the new classification would require a change in institutional placement. If the recommended change would require an institution transfer, the case shall be referred to the State Medical Director for review and decision, as follows:

   a. The Health Care Administrator shall forward the Medical Reclassification form (DRC5176) and copies of supportive documentation from the medical record to the State Medical Director for consideration. Concurrently, the Managing Officer/ designee shall submit a completed transfer packet to the Bureau of Classification and Reception, to be processed once the appropriate medical classification is determined.

   b. The State Medical Director shall review the case and make a determination as to the appropriate medical classification level and/or functional limitation designation. This decision shall be documented on the Medical Re-Classification form (DRC5176).

   c. If the resulting medical classification will require an institutional transfer, the State Medical Director or designee shall notify the Bureau of Classification and Reception of the new medical classification level and any special housing accommodations required. The Bureau of Classification and Reception shall ensure that medical transfers are accomplished in a timely manner.

   d. The State Medical Director shall return the Medical Re-Classification form (DRC5176) and supportive medical documentation directly to the transferring institution upon completion of the review. If there is a change in medical classification level and/or functional limitations designation, the parent institution shall enter this change in the NEEDS/DOTS screen within the DOTS Portal system.

3. If the anticipated new classification is to a level 3 or 4, the institution Chief Medical Officer shall complete the Medical Reclassification form (DRC5176) and the DRC Advanced Medical Placement Form (DRC5330). The Health Care Administrator shall forward the required forms and all supporting documentation to the State Medical Director. Concurrently, the Managing Officer/designee shall submit a completed transfer packet to the Bureau of Classification and Reception, to be processed once the appropriate medical classification is determined.

a. The State Medical Director shall review the case, determine the appropriate classification and document this decision on the Medical Reclassification form (DRC5176). This documentation may include a recommended institutional placement.

b. The State Medical Director or designee shall also notify the Bureau of Classification and Reception of the new medical classification level and any special housing accommodations required. The Bureau of Classification and Reception shall ensure that medical transfers are accomplished in a timely manner.

c. The State Medical Director shall return the Medical Reclassification form (DRC5176), Advanced Medical Placement Form (DRC5330) and supportive medical documentation directly to the transferring institution upon completion of the review. If there is a change in medical classification level and/or functional limitations designation, the parent institution shall enter this change in the NEEDS/DOTS screen within the DOTS Portal system.

Attachments:

Medical Classification Grid	Appendix A

Related Department Forms:

Medical Reclassification Form	DRC5176
Advanced Medical Placement Form	DRC5330
Medical Restrictions Statement	DRC5117
Physical Examination	DRC5033

Appendix A

Medical Classification Grid

Class 1	Class 2	Class 3	Class 4
Medically stable inmates requiring only periodic care and not requiring chronic care clinic or infirmary monitoring	Medically stable inmates requiring routine follow-up care and examinations	Those inmates requiring frequent intensive, skilled medical care but who need assistance with no more than one of their activities of daily living (ADL) or oxygen	Those inmates requiring constant skilled medical care and those who need assistance with more than one ADL.
		Dialysis	
	Diabetics	Diabetics	Diabetics
	Stable respiratory conditions (Asthma, COPD, etc.)	Severe chronic lung disease or requiring Oxygen Therapy	Lung disease requiring continued Oxygen Therapy
	HIV - AIDS	HIV – AIDS	HIV – AIDS
	Stable Cardiovascular	Advanced Cardiovascular	Advanced Cardiovascular
	Paraplegics	Paraplegics, Hemiplegics	Quadriplegics
	Stable Epileptics	Unstable Epileptics	Unstable Epileptics
	Cancer in remission and minimal treatment	Aggressive cancer treatment	Advanced cancer and terminal cancer
All Institutions Special Considerations: *NEPRC	All Institutions	PCI ORW ***HCF ****ACI – Dementia Unit CRC (For security level 3,4, or 5 dialysis patients only) FMC Zone B as approved by BOMS	FMC Special Considerations: *****PCI

* Infirmary housing is not available for monitoring, observation or short-term care at these facilities.
*** HCF may be used for Level 3 placements for only those inmates classified to Level 3 only due to oxygen dependence.
**** ACI may be used for level 3 placements in the dementia unit which is a unit that houses stable medical level three inmates.
***** As approved by the Bureau of Medical Services, PCI may be used to house level 4's who are designated as 4's only because of the need for multiple ADL assistance, not constant skilled nursing care.

STATE OF OHIO

DEPARTMENT OF REHABILITATION AND CORRECTION

SUBJECT: **Specialty Health Care Services**	Page 1 of 12 NUMBER: 68-MED-14
RULE/CODE REFERENCE: 5120-9-06	SUPERCEDES: 68-MED-14 dated 5/23/12
RELATED ACA STANDARDS: 4-4349; 4-4357; 4-4398; 4-4144;	EFFECTIVE DATE: August 19, 2014
	APPROVED:

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

II. PURPOSE

The purpose of this policy is to establish standard procedural guidelines for the delivery of specialty health care services to inmates incarcerated under the jurisdiction of the Department of Rehabilitation and Correction (DRC).

III. APPLICABILITY

This policy applies to all persons employed by, or under contract with, the Department of Rehabilitation and Correction, and specifically to those involved in the provision of medical care, and to all inmates incarcerated under the jurisdiction of the Department of Rehabilitation and Correction.

IV. DEFINITIONS

Cosmetic Services - Procedures, treatments, or surgery designed to enhance the inmate's appearance, but which are non-essential to the maintenance of the inmate's basic health.

Medical Protocol - An official clinical statement that defines a medical procedure or course of action. These guidelines shall be reviewed and revised, if necessary, on an annual basis by the Bureau of Medical Services and the Medical Policy Review Committee to maintain consistency with professional standards of practice for licensed medical professionals.

Physician Consultant - A medical doctor who is trained in a specific medical specialty, and who has agreed to evaluate and recommend treatment for certain medical conditions, as requested by the primary physician. It should be emphasized that the final decision about any treatment protocol or subsequent management rests entirely with the institution Chief Medical Officer.

Telemedicine - A two-way interactive videoconferencing system that allows for visual and limited physical examination of an inmate by a physician specialist while the inmate remains at his/her prison setting and the physician specialist remains at the health care facility. It also includes educational and administrative uses of this technology in the support of health care, such as distance learning, nutrition counseling and administrative videoconferencing.

V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction when any incarcerated inmate under its supervision requires health care interventions beyond the resources available at an institution, these inmates shall be referred to the appropriate resource for such care. Such resources may include the utilization of specialty services as well as chronic, hospice, and convalescent care.

VI. PROCEDURES

A. Franklin Medical Center (FMC) Services

1. Long term, skilled care:

   a. Long term medical care is available at the Franklin Medical Center (FMC) for those patients who are designated as medical level four and who cannot perform two or more activities of daily living.

   b. Placement into the FMC long-term care unit is a medical decision that shall be made by the FMC Chief Medical Officer (CMO) or DRC State Medical Director/designee.

2. Acute, skilled care:

   a. Acute skilled medical care is available to all patients who have been discharged from an acute unit at a local hospital or from the Ohio State University Medical Center (OSUMC) or whose needs temporarily surpass the level of services offered at the institution. Such services include, but are not limited to:

      i. Sustained IV therapy;
      ii. Blood transfusions;
      iii. Initiation of chemotherapy;
      iv. Pre and post-operative care;
      v. Stabilization of a new insulin dependent diabetic;
      vi. Evaluation and treatment of active tuberculosis; and
      vii. Frequent physical therapy.

   b. Patients may be directly admitted to FMC for evaluation or treatment if their medical needs have temporarily surpassed the level of services available at the parent institution, i.e. stabilization of a newly diagnosed diabetic, initiation of treatment of active tuberculosis. Direct admissions to FMC must be coordinated between the parent institution's CMO and the FMC CMO.

3. Palliative care:

   a. The care unit at FMC provides a hospice-type program of patient and family focused care to meet the social, emotional, and spiritual needs of terminally ill patients.

   b. The care unit consists of six beds set aside for this purpose. Four beds are designated for patients who are still receiving curative treatments. Two beds are reserved for patients who have agreed to receive comfort care and support.

   c. All patients shall be evaluated and approved by the FMC CMO for admission to the care unit. Admission criteria for the care unit include:

      i. The patient must have a terminal diagnosis;
      ii. The patient's prognosis must be six months or less;
      iii. All patients admitted to the palliative care room must have completed advanced directives for health care, including a living will and/or a Do Not Resuscitate (DNR) order.

4. When patients are admitted to FMC or the Ohio State University Medical Center (OSUMC), either for acute or palliative care, Patient One View will be referenced for the patient's current medications.

5. Audiology services are available at FMC. Referrals to Audiology can be made either from the Ear, Nose and Throat (ENT) clinic or from the institution CMO. Audiology services include:

   a. Audiograms;
   b. Hearing aid fittings; and
   c. Hearing aid repair or replacement.

6. Prosthetics and Orthotics:

   a. A full range of prosthetic and orthotic services are available. The institution CMO, or a consulting specialist with the approval of the CMO, may refer patients to this clinic.

   b. The patient must be evaluated by Physical Therapy prior to his/her first visit to the Prosthetics clinic.

   c. Each recommendation for prosthesis shall be reviewed through Collegial Review.

   d. A completed consult must accompany each patient to every visit. Supporting documentation (i.e. orthopedic consult) should be attached.

e. Prosthetic devices can take several months to build. The patient's discharge date should be considered when scheduling Prosthetic clinic because the prosthetic device will not be sent to the patient's home address.

f. Prosthetic and orthotic devices shall be replaced under the following circumstances only:

i. The device is no longer functional and/or is unsafe to use;
ii. It has been determined (e.g. RIB) that the prosthetic device was lost or destroyed by someone other than the patient owning the device; or
iii. A change in the patient's physical condition renders the device non-functional.

g. Prosthetic or orthotic devices shall not be replaced if it is determined that the device was willfully destroyed, lost, or mutilated by the patient. Replacement in such cases shall be the sole responsibility of the patient or his/her family.

7. Outpatient services include:

a. Laboratory services;
b. Radiology services;
c. Physical therapy; and
d. Specialty clinics.

B. Frazier Health Center Services

1. Long term, assisted living services:

a. Long term assisted living services are available for male patients with long-term medical conditions who can perform all but one of the basic activities of daily living as outlined on the Advanced Medical Placement Form (DRC5330). Such services include, but are not limited to:

i. Continuous intermediate nursing care including wound and skin care, continuous oxygen therapy, etc;
ii. Short term skilled nursing care including iv therapy, blood transfusions and adjunctive tube feedings;

b. Infirmary level care is available to all Pickaway Correctional Institution (PCI) Frazier Health Center patients who have short term acute care needs, but do not require the level of care provided at FMC or the OSUMC.

2. Long term dialysis services:

a. Acute dialysis needs are managed in cooperation with the OSUMC. Those-patients requiring long-term dialysis shall be transitioned for treatment at PCI Frazier Health Center when deemed appropriate by the OSUMC nephrology specialists.

b. Long-term dialysis treatments are available to male and female patients.

i. Security level 1 and 2 male patients in need of renal dialysis shall be housed at the Pickaway Correctional Institution.

1) Suitability of placement of higher security level male patients at the PCI shall be determined on a case-by-case basis by the DRC State Medical Director.

2) Any patient requiring dialysis who is deemed unsuitable for placement at PCI due to specific security concerns shall receive dialysis treatments by alternative means.

ii. Female patients and those male patients not housed at PCI may be transported round trip by their parent institutions. As an alternative, onsite contractual dialysis programs may be provided at designated institutions as determined by the Office of Correctional Health Care - Bureau of Medical Services for patients requiring dialysis.

C. Specialty Services Provided at the Institutional Level

1. Optometry Services: Each institution shall provide, or shall have easy access to, Optometry services. A consulting Ophthalmologist shall be available for consultation if deemed necessary by the Institution CMO or consulting Optometrist.

a. Glaucoma checks, if medically indicated by the consulting ophthalmologist or advanced level practitioner.

b. Glasses (frames and lenses) shall be provided once every four years as needed or at anytime there is a significant change in the patient's visual acuity, as determined by the institution optometrist. Lost/damaged frames or lenses shall be replaced at the patient's expense unless, in the opinion of the Institutional Inspector, there are extenuating circumstances.

c. Clear contact lenses may be prescribed only when deemed to be medically necessary; contact lenses shall not be for cosmetic reasons.

i. Inmates who have clear contact lenses at the time of incarceration shall be permitted to wear them for up to 6 months or may be permitted to receive them through the mail for 6 months; all maintenance costs shall be the inmate's responsibility. Those inmates serving a sentence of greater than 6 months shall be referred to the institution optometrist within 3 months.

ii. Colored contact lenses are not permitted.

d. Inmates may request glasses be sent from home; this may include an existing set of glasses or inmates may request that the institution optometrist provide a prescription

that can be filled by an outside optometry department at the inmate's or family's expense and sent to the institution.

i. Glasses sent in from an outside optometrist must be authorized by the Health Care Administrator (HCA) and must meet security requirements.

ii. Glasses sent in from an outside optometrist shall not exceed $150.00 in price. A receipt must accompany the glasses to verify the cost.

e. An optometrist shall prescribe sunglasses or tinted lenses only when medically necessary. All other sunglasses, if permitted by institutional rules, must be purchased through the commissary or obtained according to security regulations.

2. Podiatry Services

a. Podiatry services are available upon referral by the institution physician when deemed to be medically necessary.

b. Provision of properly fitted footwear is the responsibility of the institution quartermaster.

i. Patients shall not be referred to the podiatrist for prescription of special footwear unless a significant physical deformity of the foot is present.

ii. Patients requiring soft or cloth footwear due to neuropathy related to diabetes or peripheral vascular insufficiency shall likewise be referred to the institution quartermaster for provision of appropriate footwear.

c. The institution podiatrist may refer patients requiring orthotics or orthopedic services that are beyond the scope of services available at the institution. The institution CMO must approve all such referrals**.**

D. Specialty Clinic Services

1. The institution CMO shall determine the level of medical care needed by each patient. If the CMO determines that specialty medical services are needed which are beyond the scope provided by the parent institution, he/she shall make the appropriate referral.

2. If specialty consultation is needed for diagnosis or management, the patient shall be referred to the appropriate specialty clinic at FMC or to the OSUMC. The Consultation Request Form (DRC5244) must be completed according to the Office of Correctional Health Care (OCHC) Clinic Scheduling Guidelines (located on the DRC Intranet Correctional Health Care – Medical page) and Medical Protocol B-1, Consultation Referrals.

3. As detailed in Medical Protocol B-1, Consultation Referrals, the staff responsible for medical scheduling at each institution shall appropriately update and track consults on the Consult/Referral Flowsheet (DRC5535).

   a. An electronic/computerized consult tracking database may be utilized in lieu of the Consult/Referral Flowsheet (DRC5535) as long as it includes all of the elements of the form identically.

   b. If utilized, the electronic/computerized consult tracking database must still be printed, reviewed, and signed by the HCA and CMO on a monthly basis, as detailed in Medical Protocol B-1, Consultation Referrals.

4. Utilization Review:

   a. Designated clinics and test referrals are reviewed to ensure that the referral is appropriate and complete. Refer to Medical Protocol B-1, Consultation Referrals, for details.

   b. All referrals that are designated must be submitted and be approved before the appointment is scheduled.

5. Health care staff shall collaborate with security personnel when determining conditions of transportation and security precautions when a patient needs to be transported to another facility or clinic.

6. Patients shall be evaluated by the OSUMC specialty consultants in a timely manner. Please see Medical Protocol B-1, Consultation Referrals for details regarding processing consultation requests.

E. Telemedicine Services

1. Upon mutual agreement between the DRC and the OSUMC, specialty clinics may be conducted utilizing the DRC telemedicine network.

   a. Referrals to telemedicine clinic and the processing of the consultant recommendations should follow the guidelines in Medical Protocol B-1, Consultation Referrals, and the OCHC Clinic Scheduling Guidelines.

2. The following medical personnel may present patients via telemedicine:

   a. Physicians;
   b. Nurse practitioners;
   c. Physician assistants;
   d. Registered nurses;
   e. Licensed practical nurses.

3. The OCHC Clinic Scheduling Guidelines and Medical Protocol B-1, Consultation Referral, outline how the patients will be referred for a telemedicine specialty consult,

the information that should generally be provided, the physical assessment skills likely to be utilized, and how to process for consultant recommendations.

a. Telemedicine specialty consults shall be handled in the same manner as in-person specialty consults, as detailed in Medical Protocol B-1, Consultation Referral, in regard to ensuring the patient's consent and documentation.

b. The telemedicine specialty consult shall be considered confidential and the report integrated into the patient's medical chart in accordance with Medical Protocol B-7, Medical Records Format, and Department Policy 07-ORD-11, Access and Confidentiality of Medical, Mental Health, and Recovery Services Information.

4. The OSUMC telemedicine manager or FMC clinic nurse shall fax the completed recommendations to the institutional medical department, along with the name of the attending physician and the division phone number where the consultant can be reached for questions.

5. Patients requiring physical examinations beyond the scope of telemedicine shall be referred to the OSUMC outpatient clinics or the FMC outpatient clinic area. If the need is emergent, the patient should be referred to the emergency department.

6. As with any patient, the institutional physician may utilize the OSUMC consult line at 1-800-293-5123 if there are questions concerning the plan of care.

7. The DRC telemedicine network is part of the larger DRC videoconferencing network. The maintenance of the videoconferencing equipment, transmission lines, and bridging services are under the auspices of the Bureau of Information & Technology Services. The videoconferencing administrator, in conjunction with the Office of Correctional Health Care - Bureau of Medical Services, shall approve any changes to the telemedicine network.

F. Surgery

1. The consulting specialist shall determine the need for and recommend surgery.

a. The specialist shall then complete the Pre-admission Testing and Order form (DRC5296), designating both the level of need and preoperative orders.

b. All surgeries recommended by any consulting physician must be pre-approved prior to submission to OSU Corrections Scheduling. Refer to Medical Protocol B-1, Consultation Referrals, for details.

2. Designated levels of care have been established by the Office of Correctional Health Care - Bureau of Medical Services to assure provision of necessary medical care to patients with serious medical conditions. The following levels have been established to define the level and extent of care available, particularly in regards to surgical intervention and invasive procedures.

a. Medically Mandatory: This includes emergency care and cases where urgent medical intervention is required i.e. heart attack, appendectomy, etc.

b. Medically Necessary: Care without which the patient could not be maintained without significant risks of either further serious deterioration of the condition or significant reduction in the chance of possible repair after release, or without significant pain or discomfort.

c. Medically Acceptable: Care that is not medically necessary, and is considered to be elective i.e. non-cancerous skin lesions, etc.

d. Cosmetic: Care that is not considered medically necessary. This may include, but is not limited to, cases such as tattoo removal, elective circumcision, minor nasal reconstruction and other cosmetic surgery.

i. Cases that fall within Medically Mandatory and Medically Necessary levels are generally eligible for provision of medical or surgical procedures.

ii. Cases that fall within the Medically Acceptable and Cosmetic levels will generally not result in provision of medical or surgical services.

a) Medically Acceptable cases may result in the provision of services where a special need or situation exists on a case-by-case basis.

b) Procedures that fall under the Cosmetic level shall require the approval of the DRC State Medical Director.

3. If the institution CMO disagrees with any recommendation of the physician specialist, he/she shall document the rationale for the disagreement and recommend an alternative treatment plan.

4. All surgeries that have been pre-approved must be submitted to OSU Corrections Scheduling by fax to 614-445-7043. The specialist shall also take a copy of the preadmission form to his/her service at OSUMC to be scheduled by that service.

5. Patients are admitted to FMC on the working day before the scheduled surgery for preoperative lab testing. A history and physical exam is completed either preoperatively at the specialty clinic or at OSUMC on the day of surgery.

G. Physical Therapy

1. Either a consulting specialist or the institution CMO may refer patients for Physical Therapy.

a. Physical Therapy is available at FMC.

b. For further details regarding the services available, please see the OCHC Clinic Scheduling Guidelines.

2. As with all Specialty Services, a completed consult and a medical plan of care must accompany the patient.

3. Patients with the need for special treatment or medical rehabilitation, such as extended physical therapy, may be placed at FMC transiently or permanently, depending on the nature of the medical condition and the custody level of the patient.

H. Respiratory Therapy

1. Either a consulting specialist or the institution CMO may refer patients for Respiratory Therapy.

2. As with all Specialty Services, a completed consult and a medical plan of care must accompany the patient.

3. Respiratory Therapy is available at FMC and PCI Frazier Health Center.

I. Support Services for Inmates with Disabilities

1. Each institution shall provide the equipment, facilities, and support necessary for inmates to perform self-care activities in a reasonably private environment.

2. The institution shall ensure that any necessary education is provided to disabled inmates so that they may perform self-care activities. Such education may include training for proper use of equipment or the correct procedure for self-care activities.

J. Transportation and Scheduling

1. All scheduled hospitalizations and diagnostic tests at OSUMC shall be scheduled through the OCHC Central Scheduling and/or OSU Corrections Scheduling.

2. If a patient is scheduled for a clinic or surgery appointment, any transfers from his/her present institution to another should be delayed until after the appointment is completed, if possible.

3. The following guidelines shall be followed by all institutions for medical trips.

   a. Upon approval of the consult and prior to the scheduled appointment, each patient is to be contacted and asked if he/she still wishes to be seen or have the scheduled procedure or surgery. The reason for the trip shall be explained.

i. The Notification of Medical Appointment form (DRC5082) shall be completed at this time.

1) A patient's signature on the main section of the Notification of Medical Appointment form (DRC5082) indicates agreement of the medical trip.

2) A patient's signature in the Refusal section of the Notification of Medical Appointment form (DRC5082) indicates a refusal of the medical trip.

a. The patient shall immediately be referred to a nurse or ALP to discuss the refusal; and

b. A Release of Responsibility form (DRC5025) shall be signed by the patient; and

c. The patient's name shall be removed from the trip list.

b. If the patient agrees to the appointment by signing the main section of the Notification of Medical Appointment form (DRC5082) and then refuses on the day of the trip, the following shall occur:

i. A Release of Responsibility (DRC5025) shall be signed by the patient; and

ii. The patient shall be removed from the trip list; and

iii. The patient shall be re-evaluated by an institutional ALP to discuss the refusal of the medical trip. If the need is established, the trip may be rescheduled; and

iv. A Conduct Report (DRC4018) shall be written.

1) Refer to section J-3-d below for exceptions.

2) The Rules Infraction Board (RIB) shall consider discipline, and a $20.00 administrative fee may be charged for the late cancellation.

3) The RIB panel shall consider excuses and mitigating circumstances.

c. Inmates refusing trips must be re-evaluated by an institution ALP and if the need is established, the trip may be rescheduled.

i. If the problem is subsequently resolved and/or the trip is otherwise deemed unnecessary, the ALP shall document this fact in the medical record.

ii. The trip shall not be rescheduled unless the inmate reports to the Medical Department that the problem has recurred.

d. Cancellations and re-scheduling of medical trips shall be done in the following circumstances with proper documentation. A conduct report shall not be written under these circumstances:

i. Attorney visit;
ii. Parole Board Hearing;
iii. GED testing; or
iv. Out of state visit.

4. If the medical treatment which is being refused is considered to be essential to maintenance of life (i.e., chemotherapy, dialysis, etc.), the CMO or HCA shall follow the steps outlined in Department Policy 68-MED-24, Consent To & Refusal of Medical Treatment.

K. The DRC contracts with various agencies to provide health care services to its inmate population. In general, these agencies must follow DRC policy requirements. However, these agencies may develop specific protocols and guidelines to deliver health care to inmates, which may vary from DRC procedures. Such variances may include:

1. Use of facilities and services other than those provided by OSUMC or FMC for specialty health care;

2. Use of facilities other than OSUMC or FMC for surgical procedures; and/or

3. Use of transportation and scheduling procedures other than those provided by DRC HUB transportation and OCHC Central Scheduling.

Related Department Forms:

Conduct Report	DRC4018
Release of Responsibility Form	DRC5025
Notification of Medical Appointment Form	DRC5082
Consultation Form	DRC5244
Pre-Admission Testing and Order Form	DRC5296
Advanced Medical Placement Form	DRC5330
Consult/Referral Flowsheet	DRC5535
Health Services Request	DRC5373