

STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
FIRST JUDICIAL DISTRICT COURT

PHILLIP HALLUM,

Plaintiff,

v.

No. D-101-CV-2022-00802

NEW MEXICO CORRECTIONS DEPARTMENT;  
WEXFORD HEALTH SOURCES, INC.; CNMCF  
WARDEN; NMCD SECRETARY OF  
CORRECTIONS; CNMCF HEALTH SERVICES  
ADMINISTRATOR; CNMCF MEDICAL DIRECTOR;  
WEXFORD REGIONAL MEDICAL DIRECTOR;  
WEXFORD REGIONAL MANAGER; WEXFORD  
REGIONAL DIRECTOR OF NURSING; WEXFORD  
QUALITY IMPROVEMENT COORDINATOR;  
CNMCF DIRECTOR OF NURSING; CNMCF  
INFECTION CONTROL NURSE; LIEUTENANT  
CODY HALL; NURSE TIFFANY ROMERO  
PERALTA; NURSE CHRYSTAL; DOE DOCTORS  
One through Seventeen; and DOE CORRECTIONS  
OFFICERS One through Ten,

Defendants.

**COMPLAINT FOR VIOLATIONS OF THE NEW MEXICO CONSTITUTION AND  
NEW MEXICO TORT, CONTRACT, AND COMMON LAW**

COMES NOW, Plaintiff, Phillip Hallum (“Mr. Hallum”), by and through his attorneys  
Collins & Collins, P.C. (Parrish Collins & Elise C. Funke) and DeLara | Supik | Odegard P.C.  
(Christopher J. DeLara, Christopher J. Supik, & David C. Odegard), and for his cause of action  
states as follows:

**INTRODUCTION**

1. In 2018, Mr. Hallum was sentenced to serve approximately three years in New  
Mexico State prisons—a punishment that nearly became a death sentence a few months prior to

his scheduled release in 2021 due to the medical cruelty and neglect that he endured at the hands of prison security and medical personnel.

2. After contracting a minor infection, Mr. Hallum repeatedly requested a diagnosis and treatment. But instead, prison staff ignored his pleas for help and allowed him to deteriorate until he had lost 55 pounds in a matter of weeks; was unable to sit up, walk, eat, or talk, and continually vomited; became delirious and suffered from delusions; continually urinated blood; and turned noticeably yellow in his face and eyes.

3. Because of the prison's deliberate indifference to his clear medical emergency and severe pain over the course of months, Mr. Hallum spent 32 days in the hospital and underwent life-threatening heart surgery after being diagnosed with acute heart failure—all of which stemmed from an easily treatable, minor infection permitted to grow out of control by the unconscionable acts of prison security and medical staff.

4. Mr. Hallum brings this Complaint pursuant to the New Mexico State Constitution, the New Mexico Tort Claims Act (including NMSA §§ 41-4-6, 41-4-9, and 41-4-10), and New Mexico tort law, contract law, and common law.

5. There is a well-established epidemic of runaway infections among prisoners of the New Mexico Corrections Department ("NMCD"). These infections are readily treatable and preventable with even modest medical competence and effort. Yet, an untold number of NMCD prisoners have suffered extensive hospitalizations, permanent injuries, and/or death related to untreated infections.

6. Despite the growing number of senseless and preventable medical emergencies faced by NMCD prisoners due to runaway infection, NMCD continues its practice of failing to exert control over its private medical contractors—in this case, Wexford Health Sources, Inc.

(“Wexford”).

7. Since the 1990s, Wexford has built a strong national reputation as an unconscionable prison medical provider that is driven strictly by profits and disregards the health and safety of its patients. To illustrate, in the late 1990s, the U.S. Justice Department found that Wexford’s medical care was unconstitutional. Around 2006, New Mexico, Wyoming, and Florida all terminated their contracts with Wexford due to the company’s devastating effect on prisoner healthcare. In 2009, a Washington state audit found systemic failures in Wexford’s healthcare services; and in 2012, Arizona found the same and disciplined Wexford. In 2014, court-appointed medical experts called Wexford’s medical care in Illinois “extremely problematic,” and Indiana found similarly in 2018. The same year, a federal judge in Illinois found its corrections department to be “deliberately indifferent” to the needs of mentally ill prisoners who suffered under Wexford’s care. Around this time, the Mississippi Attorney General filed a RICO lawsuit against Wexford, alleging a pattern of bribery, kickbacks, misrepresentations, fraud, concealment, money laundering, and other wrongful conduct.

8. In 2007, NMCD terminated its contract with Wexford and threatened sanctions at the governor’s insistence due to Wexford’s numerous widespread deficiencies in providing medical care, staffing, and supervision, which created dangerous conditions for New Mexico’s prisoners. At the time, NMCD’s spokeswoman publicly admitted that Wexford had breached its contract with NMCD and the state needed to take corrective action. An audit completed by the New Mexico Legislative Finance Committee found “gaping holes” in Wexford’s delivery of healthcare, and one New Mexico lawmaker compared the level of care to “torture” and “murder.”

9. Alarming, despite Wexford’s well-documented and continuous history of

providing constitutionally deficient medical care, NMCD re-hired Wexford in 2019 without any new oversights.<sup>1</sup> Knowing that Wexford's healthcare had been called torture and murder by prior New Mexico legislators, NMCD once again placed New Mexicans' lives in the hands of this dangerous corporation, and in doing so, evinced its deliberate indifference to the health and safety of the individuals in its custody. By permitting Wexford to continue inflicting cruel and unusual punishment on New Mexicans all over the state, NMCD perpetuated this cruel and unusual punishment through its unconstitutional hiring, retention, and oversight.

10. These systemic and pervasive constitutional violations are precisely the sort of wrongs that the New Mexico Civil Rights Act was designed to combat. Passed in the wake of the murder of George Floyd, the New Mexico Civil Rights Act is—according to Governor Michelle Lujan Grisham—intended to transform the state's Bill of Rights into “a living, enforceable document, finally giving those who have their civil rights violated a path to justice in state court, and holding accountable those who do wrong in positions of power.”<sup>2</sup>

11. Due to the deliberate indifference and extreme medical neglect of NMCD, Wexford, and their agents, Mr. Hallum suffered from an uncontrolled infection that caused him to be hospitalized at the University of New Mexico Hospital (“UNMH”) for 16 days in June and July of 2021. Then, against the medical directives of UNMH medical providers, Mr. Hallum was released back to CNMCF rather than to an off-site skilled nursing facility.

12. Due to NMCD's and Wexford's blatant indifference to prisoners' infections and their defiance of medical advice in Mr. Hallum's case, Mr. Hallum suffered severe and avoidable complications leading to a second 16-day hospitalization at UNMH.

13. All told, Mr. Hallum was hospitalized at UNMH for 32 days, all of which was

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<sup>1</sup> <https://www.pressreader.com/usa/santa-fe-new-mexican/20191029/281513637946502>

<sup>2</sup> <https://www.governor.state.nm.us/2021/04/07/gov-lujan-grisham-ratifies-civil-rights-act/>



avoidable with even minimally competent medical care.

14. In the hospital, Mr. Hallum was diagnosed with acute heart failure and forced to undergo life-threatening heart surgery. While in the hospital on death's doorstep, Mr. Hallum was forbidden from contacting his children, his father, or any of his extended family. He was allowed only one 5-minute phone call with his mother before undergoing life-threatening surgery. Had he died on the operating table, his children, father, and loved ones would never have been allowed to say goodbye.

15. Mr. Hallum suffered constant and severe pain during his 32 days in the hospital. And even worse, he suffered enormous pain in the weeks prior to his first hospitalization and between his two hospitalizations while in the care and custody of NMCD and Wexford. During the weeks preceding his hospital stays, he lost all ability to walk, eat, or talk. He withered away—losing 55 pounds in 1-2 weeks—and his skin and eyes turned a deep yellow. Seeing all this, Defendants continued to deny Mr. Hallum essentially all medical care.

16. In response to Mr. Hallum's total debilitation, Defendants accused him of malingering and repeatedly refused to transport him to an off-site medical specialist who could properly test, diagnose, and treat his medical condition. Instead, Defendants insisted that he return to his prison cell and wait to see if his condition improved. At times, they forced him out of a wheelchair and watched as he attempted to crawl in agony through prison hallways and into medical-transport vehicles.

17. Defendants' repeated insistence that Mr. Hallum sit patiently in his cell as his heart gradually succumbed to infection violates all standards of conscionability—those of the New Mexico Constitution, New Mexico tort law, and New Mexico common law, among others. Defendants' acts were reckless, callous, and cruel.

18. While reflecting on his traumatic experience under the medical care of CNMCF, Mr. Hallum stated: “I know what I did to get to prison, but I don’t think I deserved to die. My sentence was only a few years. I was not sentenced to death. And to me, I did die, because they stopped my heart during surgery. I honestly don’t know how I’m here today.”

### **JURISDICTION AND VENUE**

19. All acts complained of herein occurred in Valencia County, New Mexico.

20. Mr. Hallum gave timely notice of these allegations within ninety days of the incident pursuant to NMSA § 41-4-16 by sending a Tort Claims Notice to Defendants on July 6, 2021 and August 12, 2021. (Ex. 1.)

21. Mr. Hallum is not imprisoned at the time of filing this Complaint, so 42 U.S.C.A. § 1997e and NMSA § 33-2-11 are inapplicable.<sup>3</sup>

22. Jurisdiction and venue are proper over NMCD, Wexford, and their employees, staff, and agents pursuant to NMSA §§ 38-3-1 and 41-4-18; Article II, §§ 13 and 18 of the New Mexico Constitution; the New Mexico Civil Rights Act (NMSA §§ 41-4A-1 through 41-4A-13); and New Mexico tort, contract, and common law.

### **PARTIES**

23. Mr. Hallum was at all relevant times incarcerated at Central New Mexico Correctional Facility (“CNMCF”), an NMCD prison facility located in Valencia County, New Mexico. He currently resides in Tulsa, Oklahoma.

24. Defendant NMCD is an entity of the State of New Mexico that operates CNMCF, retaining ultimate authority and responsibility over CNMCF. CNMCF is operated in accordance

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<sup>3</sup> However, counsel for Mr. Hallum delivered grievances to NMCD on his behalf due to his grave illness and incapacity, and to ensure that NMCD could not claim that Mr. Hallum failed to submit grievances concerning the acts complained of herein. (Ex. 2.) However, NMCD consistently refuses to accept such grievances and insists that each prisoner personally submits his own grievance.

with NMCD rules, policies, and procedures. NMCD governs CNMCF, while independent contractors carry out discrete duties at the discretion of NMCD. NMCD is responsible for contracting medical services for all NMCD facilities, including CNMCF. At all times relevant herein, NMCD was responsible for the custody, care, health, safety, and medical treatment of all detainees in its facilities.

25. Defendant Wexford is a foreign corporation registered to do business in New Mexico whose registered agent is in Hobbs, New Mexico. Wexford, by the terms of Professional Services Contract # 20-770-1200-0043 (the “PSC”), was contracted by NMCD for the purposes of providing medical care to inmates in the NMCD prison system, including Mr. Hallum. Upon information and belief, the PSC was executed in Santa Fe, New Mexico. The term of the PSC began on or about October 18, 2019 and was in effect at all times relevant to this Complaint.

26. Under the PSC, Wexford was acting as the apparent and actual agent, servant, and contractor of NMCD and was responsible for the care, health, safety, and proper medical treatment of all prisoners in NMCD’s facilities, including Mr. Hallum. Pursuant to the PSC, NMCD adopted Wexford’s policies, practices, habits, customs, procedures, training, and supervision as its own, and Wexford adopted NMCD’s policies, practices, habits, customs, procedures, training, and supervision as its own. Wexford acted by and through its employees, staff, agents and assigns who are named in their individual capacities.<sup>4</sup>



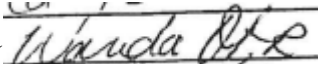
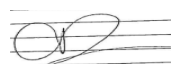
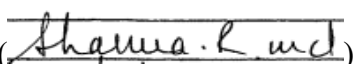
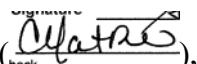
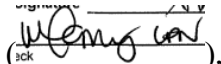
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<sup>4</sup> Wexford and its personnel, contractors, and/or agents are not entitled to immunity under § 41-4-4 of the Tort Claims Act, as Wexford is not “a governmental entity” or “local public body,” and its agents are not “public employees” as defined in § 41-4-3 of the Tort Claims Act. Under the terms of the PSC, § 9, Wexford and its agents and employees “are independent contractors performing professional services for the Agency and are not employees of the State of New Mexico.” Accordingly, Wexford and its agents are not entitled to protections under the New Mexico Tort Claims Act. And even assuming *arguendo* that they were, immunity would be waived for their unlawful conduct under NMSA §§ 6, 9, & 10, as explained in further detail below.

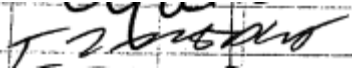
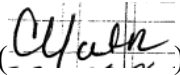
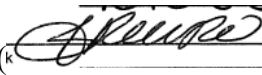
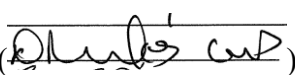
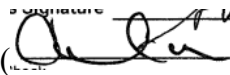
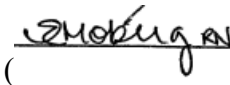
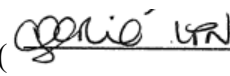
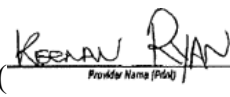
27. Defendants CNMCF Warden, NMCD Secretary of Corrections,<sup>5</sup> CNMCF Health Services Administrator, CNMCF Medical Director, Wexford Regional Medical Director,<sup>6</sup> Wexford Regional Manager, Wexford Regional Director of Nursing, Wexford Quality Improvement Coordinator, CNMCF Director of Nursing, and CNMCF Infection Control Nurse were each responsible for overseeing the training, staffing, and supervision of personnel operating the CNMCF facility, including medical and/or security personnel, from at least June through August of 2021. During all relevant times, they were agents and/or employees of NMCD and/or Wexford, acting within the scope of their employment as such. Because their training, staffing, and supervision directly contributed to the larger overall dangerous conditions at CNMCF, they are sued in their individual capacities for their supervisory acts.

28. At all times alleged herein, Defendant Lieutenant Cody Hall (“Lieutenant Hall”) was an agent and/or employee of NMCD, acting within the scope of his employment as such. He is sued herein in his individual capacity.

29. At all times alleged herein, Nurse Tiffany R. Romero Peralta, ACNS-BC (“Nurse Peralta”) and Nurse Chrystal were agents and/or employees of Wexford and NMCD, acting within the scope of their employment as such. They are sued herein in their individual capacities.

30. Defendant Doe Doctors One through Seventeen—One () , Two () , Three () , Four () , Five, Six, Seven () , Eight () , Nine () , Ten

<sup>5</sup> NMCD’s Secretary of Corrections is the “chief executive and administrative officer” of NMCD. NMSA § 9-3-4. Although “organizational units of [NMCD] and the officers of those units . . . have all of the powers and duties enumerated in the specific laws involved . . . the carrying out of those powers and duties [is] subject to the direction and supervision of the secretary, and he shall retain the final decision-making authority and responsibility” as chief executive to that department. NMSA § 9-3-12.

()<sup>6</sup>, Eleven ()<sup>6</sup>, Twelve ()<sup>6</sup>, Thirteen ()<sup>6</sup>, Fourteen ()<sup>6</sup>, Fifteen ()<sup>6</sup>, Sixteen ()<sup>6</sup>, and Seventeen ()<sup>6</sup>—were all attending medical care providers for Mr. Hallum while he was in NMCD custody (although not necessarily doctors) and, as such, they were all acting within the scope of their employment as the apparent and actual agents, servants, and/or employees of Wexford. They were each responsible for the care, health, safety, and proper medical treatment of Mr. Hallum. They are sued herein in their individual capacities.

31. Doe Corrections Officers (“COs”) One through Ten were the unit officers and control officers assigned to Mr. Hallum’s cell unit at points in time between June 21, 2021 and August 9, 2021. These Doe Corrections Officers were each responsible for the care, health, safety, and proper medical treatment of Mr. Hallum. They were each agents of NMCD and acting within the scope of their employment at all times relevant to this lawsuit. They are sued herein in their individual capacities.

### **FACTUAL BACKGROUND**

#### **I. MR. HALLUM DISPLAYED AND COMPLAINED OF SEVERE PAIN FOR AT LEAST TWO WEEKS BEFORE FINALLY BEING SENT TO THE UNMH EMERGENCY ROOM, WHERE HE REMAINED FOR 16 DAYS.**

32. At all times relevant to this Complaint, Mr. Hallum was a 33-year-old male incarcerated at CNMCF in Los Lunas, New Mexico and in the custody of NMCD.

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<sup>6</sup> References to “regional” personnel refer to whichever regional designation New Mexico falls under based on the employer’s organizational structure.

33. Prior to the events outlined in the Complaint, Mr. Hallum had a significant history of intravenous drug use, and the prison medical staff attending to Mr. Hallum were aware of this fact. (Ex. 3 at 1.)

34. In June 2021, Mr. Hallum became noticeably ill to the point where his fellow prisoners were alarmed by his poor physical condition. Around this time, Mr. Hallum's cellmate noticed that Mr. Hallum appeared ill. He also noticed that Mr. Hallum got progressively more ill as the month continued, and his skin and eyes turned yellow.

35. Mr. Hallum was unable to eat or talk due to the severe pain he experienced throughout the month of June 2021. Mr. Hallum's cellmate commonly heard Mr. Hallum groan in agony, unable to speak.

36. On or around June 13, 2021, Mr. Hallum started to experience substantial physical distress. He was unable to consume much food without regurgitating it, and he lost 55 pounds over the course of 1-2 weeks—dropping from 205 pounds to 150 pounds. He also began shaking uncontrollably, and his teeth would chatter whenever he laid down.

37. From June 13, 2021 onward, Mr. Hallum would shake uncontrollably and have difficulty standing in the line made by the prisoners during “the count,” which occurred at 4am, 8am, 12pm, and 4pm daily.

38. Between approximately June 14, 2021 and June 18, 2021, Mr. Hallum struggled to complete his daily work assignments cleaning bathrooms and making furniture for Prison Industries (“PI”), a private corporation that employed CNMCF prisoners. Mr. Hallum was no longer able to stand due to his dizziness and severe headache. When he informed his PI supervisor of his illness, his supervisor merely walked away.

39. Around June 16, 2021, Mr. Hallum's family became concerned for his safety and repeatedly called CNMCF to alert its staff that Mr. Hallum needed immediate medical attention. Between June 16, 2021 and June 27, 2021, Mr. Hallum's mother, two sisters, four children, and countless cousins, aunts and extended family called CNMCF and constantly pleaded for the staff to provide Mr. Hallum with the medical attention he desperately needed. They were each told that there was nothing that could be done to help Mr. Hallum.

40. Around June 20, 2021, Mr. Hallum became too sick to climb the ladder to get into his top bunkbed, so his cellmate gave him the bottom bunkbed. That day, one of the Unit COs, a John Doe Defendant, told Mr. Hallum that he was not allowed to sleep on the bottom bunk, and the CO threatened to submit a disciplinary report against Mr. Hallum. Mr. Hallum informed the Unit CO that he could not physically climb onto the top bunkbed.

41. Mr. Hallum also submitted a bunkbed move request form, but his request was only granted two days before Mr. Hallum was sent to the hospital. Until that time, Mr. Hallum faced the constant threat of being written up for being too ill to climb into his bed.

42. Also around June 20, 2021, Mr. Hallum began consistently urinating a substantial amount of blood. He was also unable to defecate. The same day, he immediately informed CNMCF nurses about his condition, but they did not address his concerns. Around this time, Mr. Hallum's cellmate saw his bloody urine and became even more concerned about Mr. Hallum's health.

43. Between June 20, 2021 and June 27, 2021, Mr. Hallum visited the medical unit about 3-4 times every day because he was rapidly losing weight, unable to walk or eat without vomiting, and continually urinating blood. During this time, Mr. Hallum borrowed another prisoner's wheelchair so that his cellmate could push him to the nursing facility, as he was too

weak and pained to walk. During his visits to the prison medical unit, Mr. Hallum would literally cry for help due to the severe pain he was experiencing. Yet, each time he visited the medical unit, the medical personnel would say in sum and substance: “What are you doing here? We cannot do anything for you.”

44. Around June 21, 2021, Mr. Hallum became too weak to go to work, and he remained in bed, unable to stand. Every morning from June 21, 2021 through June 25, 2021, Mr. Hallum would miss work, and the Unit COs would visit his cell and ask him if he was planning to report to his work assignment that day. Upon information and belief, these Unit COs, John Doe Defendants, observed Mr. Hallum shaking uncontrollably in an emaciated state and unable to move, yet they never took steps to address Mr. Hallum’s obvious medical emergency.

45. Rather than address Mr. Hallum’s clear medical emergency, the supervisor of PI submitted a disciplinary report against Mr. Hallum for the days he was absent from work. A disciplinary hearing was scheduled to address Mr. Hallum’s missed work, but he was hospitalized before it could occur.

46. On June 21, 2021, Mr. Hallum submitted a Health Services Request Form, writing that he had been “up all night with body aches and [a] migraine headache.” (Ex. 4 at 2.) The same day, he submitted a second Health Services Request Form, asking to be tested for Hepatitis C. (Ex. 4 at 1.)

47. Around June 21, 2021, Mr. Hallum asked a male nurse if he could be provided with a wheelchair of his own so that he could move around the prison facility. But he was told that he could not be issued a wheelchair because there were none available to be issued. Every day moving forward, Mr. Hallum would ask various nurses and COs for a wheelchair of his own, but he was consistently informed that there were no available wheelchairs for him to use.



48. On June 22, 2021, Doe Doctor One met with Mr. Hallum and noted that he was experiencing nausea, vomiting, and a headache that intensified with movement. (Ex. 5.) However, Doe Doctor One did not attempt to test or treat Mr. Hallum and merely told him to “[r]eturn to sick call if no improvement in 3 days.” (*Id.*)

49. Around June 22, 2021, Mr. Hallum visited Tiffany R. Romero Peralta, ACNS-BC (“Nurse Peralta”), the primary nurse caring for prisoners in Mr. Hallum’s housing unit at CNMCF. Nurse Peralta asked him what he was doing in a wheelchair and then said to him: “Put your [expletive] big boy pants on, get out of the [expletive] wheelchair, and walk. There are older men in worse condition than you walking in this prison.”

50. Nurse Peralta then told Mr. Hallum that she would submit a disciplinary report against him if he did not get out of the wheelchair. During that week, Nurse Peralta threatened to write him up multiple times for his use of the wheelchair, and she even threatened to take the wheelchair away from the man from whom he had borrowed it. Whenever Nurse Peralta made these threats, Mr. Hallum would try to stand and drag himself back to his bed, sometimes with the help of fellow prisoners.

51. On June 23, 2021, Doe Doctor One met with Mr. Hallum again due to his continued complaints of nausea and vomiting. (Ex. 6 at 6.) But still, Doe Doctor One did not attempt to test or treat Mr. Hallum, and again told him to “[r]eturn to sick call if symptoms worsen or persist for more than 24 hours.” (*Id.*)

52. Beginning around June 23, 2021, the Unit COs stopped requiring Mr. Hallum to line up with the other prisoners during the daily “counts” because they were aware of Mr. Hallum’s emaciated physical state.

53. From around June 23, 2021 until he was hospitalized, Mr. Hallum vomited multiple times every day and could no longer retain any food or water. Whenever his cellmate moved him into the wheelchair to transport him to the medical unit or bathroom, Mr. Hallum would scream out loudly in pain so that everyone in the 50-person housing unit knew of his severe pain and illness.

54. Also around this time, Mr. Hallum's eyes and skin turned yellow, and the discoloration in his eyes and face was very noticeable according to his cellmate. Mr. Hallum was also no longer able to sit up in his bed.

55. On June 24, 2021, Mr. Hallum met with Doe Doctor Two because he was not able to walk. (Ex. 6 at 5.) Despite his rapidly deteriorating physical state, Doe Doctor Two merely gave him Tylenol and told him to exercise while in bed. (*Id.*)

56. On the morning of June 25, 2021, Mr. Hallum was again sent to the prison's medical unit because his pain, nausea, and vomiting persisted; he had dark urine and no bowel movement in five days; and he was confined to a wheelchair, unable to walk. (Ex. 6 at 4.) Doe Doctor Three noted that Mr. Hallum appeared to be in pain. (*Id.*) In response, Doe Doctor Three merely ordered that a urinalysis be conducted. (*Id.*)

57. A few hours later, Mr. Hallum returned to the prison medical unit complaining of lower back and abdominal pain, pain when urinating, bloody urine, continued inability to walk, and continuous nausea and vomiting. (*Id.* at 3.) However, Doe Doctor Four did not treat Mr. Hallum and told him to "follow up on Monday"—three days later. (*Id.*)

58. Around the same time, Mr. Hallum became delirious and began trying to speak with imaginary family members who had previously died. His cellmate observed these conversations and grew even more concerned for Mr. Hallum's wellbeing.

59. On June 26, 2021, Lieutenant Hall asked Nurse Chrystal if she would evaluate Mr. Hallum “to make sure he was okay because . . . his eyes were yellow.” (Ex. 7 at 1.) However, she refused to check on Mr. Hallum and told Lieutenant Hall that he “was already seen by medical earlier” that day. (*Id.*) About 30 minutes later, Lieutenant Hall asked another nurse to evaluate Mr. Hallum. (*Id.*) She did, and after several unsuccessful attempts to telephone an on-call doctor, Mr. Hallum was scheduled for transport to UNMH. (*Id.* at 1-2.)

60. That day, Lieutenant Hall transported Mr. Hallum in a wheelchair to a prison van, which would take him to CNMCF’s infirmary. Lieutenant Hall positioned the wheelchair next to the van and forced Mr. Hallum to drag himself out of the wheelchair and into the van without assistance. Lieutenant Hall watched as Mr. Hallum dragged himself into the van in pain. When Mr. Hallum arrived at the infirmary, he was not given a wheelchair and had to crawl through the infirmary to his designated area.

61. That day, Mr. Hallum complained to CNMCF medical personnel of pain rated ten out of ten in severity. (Ex. 6 at 1.) He had labored breathing and jaundiced (unnaturally yellow) eyes. (*Id.*) In response, prison medical staff finally ordered that Mr. Hallum be sent to the emergency room of an off-site hospital. (*Id.*)

62. Mr. Hallum was transported to the emergency room on July 27, 2021.

63. At some point between June 20, 2021 and June 27, 2021, Doe Doctor Five yelled at Mr. Hallum for suspected malingering and for falsely reporting his own pain levels.

64. Around this time, Doe Doctor Six attempted to take Mr. Hallum’s wheelchair from him, but his cellmate insisted that Mr. Hallum needed the wheelchair to move around the prison facility because he was too ill to walk.

65. Mr. Hallum was unable to personally file a grievance concerning his inadequate medical care due to his gravely ill state that began during the month of June 2021.

66. Nurse Peralta, Nurse Chrystal, and Doe Doctors One through Six each attended to Mr. Hallum in the days leading up to his hospitalization at UNMH, and each of these medical professionals had an obligation to review his medical file, assess his deteriorating physical condition, and ensure that adequate steps were taken to prevent him from experiencing the medical emergency that ensued.

67. Each of these medical professionals was aware that Mr. Hallum required off-site emergency medical care on or around June 20, 2021 when he began urinating blood and could no longer walk, and certainly in the following days, based on his rapid weight loss; yellow eyes and skin; hallucinations; continuous and numerous expressions of severe pain that persisted despite the care they provided him; and inability to move, walk, eat, consume water, or defecate, *inter alia*.

68. However, upon information and belief, none of these medical professionals took any action to ensure that Mr. Hallum was sent to an off-site medical provider or otherwise provided with necessary care between June 20, 2021 and June 27, 2021 despite knowing that Mr. Hallum required additional services in order to safeguard his life and wellbeing.

69. Lieutenant Hall and Doe Corrections Officers 1 through 10 made observations of Mr. Hallum in the days leading up to his hospitalization, and each of these Defendants was required to take action with respect to his obvious medical emergency.

70. Lieutenant Hall and Doe Corrections Officers 1 through 10 knew that Mr. Hallum required off-site emergency medical care on or around June 20, 2021 when he began urinating blood and could no longer walk, and certainly in the following days, based on his rapid weight

loss; yellow eyes and skin; hallucinations; continuous and numerous expressions of severe pain; and inability to move, walk, eat, consume water, or defecate, *inter alia*.

71. However, upon information and belief, none of these Defendants took any action to ensure that Mr. Hallum was sent to an off-site medical provider or otherwise provided with necessary care between June 20, 2021 and June 27, 2021 despite knowing that Mr. Hallum required additional services in order to safeguard his life and wellbeing.

72. Mr. Hallum's grave illness was readily apparent to even a layman. Yet, NMCD and Wexford, acting through their employees, contractors, and agents, deliberately and cruelly failed to protect Mr. Hallum's health despite countless opportunities to do so.

## **II. MR. HALLUM WAS HOSPITALIZED FOR OVER TWO WEEKS AT UNMH DUE TO THE SUBSTANTIAL DELAY IN HIS MEDICAL CARE.**

73. On June 27, 2021, Mr. Hallum was taken in an ambulance to the UNMH emergency room. While in the ambulance, one of the paramedics informed Mr. Hallum that he likely had severe sepsis, and it was rare for people to survive such a condition.

74. After spending approximately two weeks at UNMH, Mr. Hallum was diagnosed with, *inter alia*, severe sepsis (life-threatening, overwhelming infection), aortic valve endocarditis (life-threatening infection of the heart), and "worsening nondrainable abscesses" requiring "long term IV [intravenous] antibiotics." (Ex. 8.)

75. Due to the extensive IV antibiotics that Mr. Hallum required after his emergency procedures, the UNMH doctors recommended to NMCD and Wexford that Mr. Hallum be "placed at a Skilled Nursing Facility in Albuquerque until the completion of his IV Antibiotics." (Ex. 9 at 1, 3.) Moreover, UNMH's Dr. Richardson emphasized to Doe Doctor Four that Mr. Hallum "would have to go to a skilled nursing facility for the duration of his IV ABX

[antibiotics] and that would need to be arranged.” (*Id.* at 1.) Accordingly, Doe Doctor Four recommended that this course of action be taken. (*Id.* at 2.)

76. Despite Mr. Hallum’s life-threatening condition and extensive hospital stay, he was not allowed to contact any of his family members, who were extremely worried about him. During his hospitalization, Mr. Hallum’s mother would continuously call CNMCF to ask for updates about her son’s condition. And each time, the prison staff either hung up on her or told her that the prison would only give her medical updates if her son died.

77. During his entire hospitalization, Mr. Hallum experienced constant, extreme physical pain and emotional anguish. He thought that he was going to die in the hospital, and he was not allowed to contact any of his family members.

### **III. NMCD AND WEXFORD PERSONNEL DISREGARDED UNMH’S DIRECTIVE THAT MR. HALLUM BE PLACED IN AN OFF-SITE SKILLED NURSING FACILITY UPON HIS DISCHARGE FROM UNMH.**

78. Although NMCD and Wexford personnel were aware that Mr. Hallum needed to be placed in an off-site skilled nursing facility while he was receiving intravenous antibiotics, NMCD and Wexford, through their agents, ignored the medical order of UNMH Dr. Richardson and recommendation of Doe Doctor Four.

79. On July 13, 2021, Mr. Hallum was discharged back to CNMCF and was not placed in an off-site skilled nursing facility. (Ex. 10.) Instead, he was left in the care of medical personnel at CNMCF in the Long-Term Care Unit (“LTCU”). (*Id.*)

80. At this point, Mr. Hallum was still unable to walk or eat and was still in severe pain. He gave all of his food to other prisoners in the LTCU. At one point, his LTCU roommate begged him to eat and would unsuccessfully attempt to feed him.

81. Aside from having his vitals checked four times a day and being given his daily medications, Mr. Hallum remained alone and unattended at the LTCU. Eventually, the IV tubes entering Mr. Hallum's body became very dirty, but the medical staff would not wash or sanitize them until Mr. Hallum repeatedly complained about their unsanitary state for days.

82. Around August 4, 2021, Mr. Hallum notified medical staff that he could not breathe when lying down. He informed them that he could not sleep at all throughout the night. Mr. Hallum requested and received a nebulizer to help with his breathing, but his oxygen levels remained dangerously low from around August 4, 2021 until he was hospitalized again on August 9, 2021.

83. Rather than address the underlying cause of his low oxygen levels, the CNMCF medical staff urged him to continuously take big breaths, over and over, until his oxygen levels reached less-alarming levels.

84. From around August 4, 2021 through August 9, 2021, Mr. Hallum would cough every night so severely that he would vomit. During this time, Mr. Hallum repeatedly told the CNMCF medical staff that he needed help, but staff members would only respond in anger to his pleas for additional medical assistance.

85. Doe Doctors Seven through Seventeen each attended to Mr. Hallum in the days immediately following his return to CNMCF from UNMH, and each of these medical professionals had an obligation to review his medical file and ensure that steps were taken to transfer him to an off-site skilled nursing facility for the duration of his intravenous antibiotics per the UNMH doctor's orders. (Ex. 10, 11.)

86. Each of these medical professionals was aware that Mr. Hallum should have been released to the care of an off-site skilled nursing facility rather than back to the care of CNMCF,

and based upon his further decline at CNMCF, required a higher level of care to address his urgent medical needs.

87. However, upon information and belief, none of these medical professionals took any action to ensure that Mr. Hallum received medical care from an off-site skilled nursing facility, as they knew was required in order to safeguard Mr. Hallum's life.

88. Moreover, these medical professionals acted with deliberate indifference by ignoring Mr. Hallum's pleas for additional medical attention, artificially raising Mr. Hallum's oxygen levels rather than addressing the underlying causes of his low oxygen levels, and refusing to get Mr. Hallum specialized medical help.

89. NMCD, the LTCU, and Wexford were incapable of providing the necessary care for Mr. Hallum's recovery. Yet, they refused to refer him out for proper care. The decision made by Defendants is consistent with NMCD's and Wexford's well-established patterns of neglect of infections and failures to properly and timely refer prisoner patients to outside medical providers, specialists, or hospitals. In Mr. Hallum's case, these failures led to his second 16-day hospitalization, acute heart failure due to severe aortic valve regurgitation, aortic valve replacement, and permanent heart damage.

**IV. BECAUSE NMCD AND WEXFORD DISREGARDED MR. HALLUM'S NEED FOR PLACEMENT IN AN OFF-SITE SKILLED NURSING FACILITY AND OTHERWISE FAILED TO PROVIDE HIM WITH ADEQUATE MEDICAL CARE, HE WAS RE-HOSPITALIZED AND REQUIRED HEART SURGERY LESS THAN A MONTH LATER.**

90. On August 9, 2021, after remaining in the care of CNMCF, and Doe Doctors Seven through Seventeen in particular, Mr. Hallum was once again sent to the emergency room of UNMH in an ambulance. (Ex. 11 at 1.)



91. He was transported to UNMH's emergency room due to his rapid breathing, three-day shortness of breath (SOB), and fever of 102 degrees. (Ex. 12 at 1.)

92. Three CNMCF medical personnel wheeled Mr. Hallum out to the ambulance and informed the paramedics that Mr. Hallum's oxygen levels had been low for about 3-5 days. In response, one of the paramedics yelled at the nurses and stated that they should have called for an ambulance sooner.

93. At UNMH, Mr. Hallum was diagnosed with "[a]cute heart failure due to severe aortic valve regurgitation," and he remained in the hospital for 16 days, until August 25, 2021. (*Id.* at 2.)

94. By the time of Mr. Hallum's second admission to UNMH, his medical condition was so dire that he required heart surgery to replace his aortic valve, which he underwent on August 11, 2021. (*Id.* at 3.)

95. Prior to the surgery, a UNMH doctor informed Mr. Hallum that he would likely be dead in six months if he did not undergo the surgery. At this point, Mr. Hallum broke down emotionally, cried, and begged the prison staff to be allowed to call his mother. But the CNMCF Warden would not allow him to call anyone for four days. And even then, he was only allowed to call his mother, and their conversation was limited to five minutes. Mr. Hallum was only given five minutes to update his mother on his dire medical condition and get her advice about what type of heart transplant he should opt to receive.

96. Mr. Hallum was not allowed to speak with his children or his father before undergoing life-threatening heart surgery. The CNMCF Warden would not allow it. Similarly, Mr. Hallum was not allowed to see or speak with his family after his heart surgery—he was only allowed one 30-minute visitation with his mother.

97. There was no legitimate reason to deny Mr. Hallum contact with his family or to strictly limit his phone call with his mother. Were he not hospitalized, he would have had phone privileges. These actions were cruel and deliberate, constituting intentional infliction of emotional distress.

98. The NMCD and Wexford personnel overseeing Mr. Hallum's medical care between July 13, 2021 and August 9, 2021 knowingly violated UNMH's discharge requirements and Wexford's own medical assessments, which caused Mr. Hallum to undergo life-threatening heart surgery and spend an additional 16 days in severe pain and mental anguish at UNMH. (Ex. 12 at 2.)

99. Doe Corrections Officers One through Ten are the control officers and unit officers who oversaw Mr. Hallum in his housing unit at any point during June 20, 2021 through August 9, 2021. Upon information and belief, each Doe Corrections Officer observed Mr. Hallum's rapid deterioration beginning in June 2021, but they did nothing to ensure that Mr. Hallum was given a proper medical evaluation in a timely manner and/or transported to an off-site medical facility that was capable of handling Mr. Hallum's medical emergency.

100. Upon information and belief, none of the Doe Corrections Officers requested or insisted that Mr. Hallum be evaluated medically despite his apparent extreme pain and deterioration—a serious medical condition that was obvious even to Mr. Hallum's fellow prisoners who lived alongside him. Nor did any NMCD or Wexford supervisory or managerial personnel take action to ensure that Mr. Hallum received proper medical care.

**V. IN OPERATING CNMCF, DEFENDANTS VIOLATED NUMEROUS APPLICABLE CONTRACTUAL PROVISIONS AND NMCD POLICIES, CONSTITUTING FURTHER PROOF THAT THEY BREACHED THE DUTY OF CARE OWED TO MR. HALLUM.**

**A. NMCD prisoners, including Mr. Hallum, are intended beneficiaries of the PSC.**

101. The terms of the PSC were clearly meant to benefit the prisoners in NMCD's custody, making Mr. Hallum an intended third-party beneficiary of the PSC contract. Notably, the scope of the services identified in the PSC includes expansive explanations of requirements for Wexford's "medical services program," "inpatient infirmary: medical care services," "tertiary health care services," "nutrition and therapeutic diets," "emergency preparedness/medical disaster plan," and "safety, sanitation, and infection control," among many others. Each of these sections almost exclusively concerns NMCD prisoners and is meant to benefit them.

102. Additionally, provision 4 of the PSC required Wexford to "abide by any and all rules and regulations set forth by the Agency [NMCD] so as not to . . . jeopardize the health and safety of any employees, inmates, or the general public"—a clear and unequivocal statement indicating that NMCD prisoners are intended to benefit through the protections and terms provided in the PSC.

103. Similarly, the "Staffing" section of Attachment I to the PSC required Wexford to "provide professionally qualified licensed or certified personnel at levels that assure all offenders equal access to and the continuity of care, which is maintained in accordance with all ACA standards while providing services commensurate with the offenders' needs in an efficient, effective and timely manner." The PSC expressly took NMCD prisoners' needs into consideration and required Wexford to be held accountable for those needs.

104. Moreover, the PSC specified that one of its central goals was “the goal of delivering a comprehensive health care services program”—a program that was for the benefit of NMCD prisoners.

105. The terms of the PSC itself even contemplate a situation in which a third-party beneficiary could seek to enforce the contract terms. Provision 23 of the PSC reads in part: “The Contractor [Wexford] shall defend, indemnify and hold harmless the Agency [NMCD] and the State of New Mexico from all actions, proceedings, claims, demands, costs, damages, attorneys’ fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement.” Reasonably interpreted, this broad language was meant to include intended-beneficiary contract claims.

B. NMCD was responsible for overseeing and enforcing both the terms of the PSC and Wexford’s compliance with NMCD policies and procedures.

106. NMCD had authority, control, and responsibility over the execution, implementation, and enforcement of the PSC.

107. For example, provision 2(C) of the PSC states: “If the Agency [NMCD] finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor [Wexford] that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the service, and outlining steps the Contractor may take to provide remedial action.”

108. Additionally, in PSC Attachment I, Section “Service Delivery Standards,” NMCD reserved “the right to review and approve personally or by designee, the policies and procedures of the contractor [Wexford] in any areas affecting the performance of its responsibilities under law.” This provision also required Wexford personnel to report “any problems and/or unusual

incidents to the NMCD or designee,” including “security-related and personnel issues that might adversely affect the delivery of health care services.”

109. Likewise, the PSC allows NMCD to “independently perform performance measure reviews at sites as deemed necessary . . . to assess quality of care and operational standards.”

110. NMCD also had access to Wexford’s “fiscal records and other books, documents, papers, plans, and writings . . . that [were] pertinent to [the PSC]” under PSC Attachment I, Section “Access for Review by [NMCD],” and NMCD was allowed “to perform examinations and audits and make excerpts and transcripts” of these documents related to its oversight of Wexford’s performance under the PSC. Wexford was similarly required to give NMCD access to prisoners’ medical records and other medical information through Wexford’s “medical management system that serve[d] each of the [prison] facilities.”

111. In provision 4 of the PSC, NMCD reserved the right “to deny any employee, or agent of the Contractor [Wexford] access to the Agency [NMCD] property should that individual fail the criteria required for the security clearance or be found to be in violation of NMCD policies and procedures.” The same provision also allowed NMCD to escort any Wexford personnel off the property “for any inappropriate conduct or actions that jeopardize the safety, security, or well being of the facility.” If such conduct did occur, NMCD could immediately terminate the PSC under the terms of the agreement.

112. Attachment I of the PSC, Section “Hiring and Retention,” specified that the “NMCD HAS [Health Services Administrator] and warden of the institution shall be provided with an opportunity to review the credentials and meet with the contractor’s lead staff and all

medical providers for an institution,” and most candidates for medical positions were “subject to approval by NMCD at the beginning and throughout the course of the agreement.”

113. All of these provisions ensured that NMCD maintained an active role in monitoring Wexford’s fulfillment of the PSC and that it retained substantial authority to modify Wexford’s servicing of the contract or to terminate it.

114. Moreover, NMCD had a statutory duty to exercise “general superintendence and control over the government and discipline of the penitentiary” of CNMCF. NMSA § 33-2-10.

C. In providing medical services to Mr. Hallum, Wexford violated numerous provisions of the PSC, NMCD failed to properly enforce these provisions regarding Mr. Hallum, and he suffered drastically because of it.

115. Provision 19 of the PSC states: “In accordance with all such laws of the State of New Mexico, the Contractor [Wexford] assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity . . . be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement.”

116. Wexford, through its agents, violated this provision of the PSC when it discriminated against Mr. Hallum based on his serious medical condition and physical handicap by denying him access to a wheelchair and, at times, forcing him to crawl in agony around the prison. Because Mr. Hallum could not walk and Wexford refused to provide him with a wheelchair, he was denied the benefits of access to essentially all programs and services performed under the PSC, as he was rendered immobile and was not even able to transport himself to the medical unit at times.

117. Wexford also violated the PSC contract provision specifying that “[a]ny unresolved diagnostic or therapeutic problems shall be referred to a qualified health care provider,” and “[a]ny inmate with a complaint who has submitted two or more sick call requests for the same unresolved problem shall be referred to a qualified health care provider.”

118. Mr. Hallum repeatedly made sick call requests verbally and exhibited clear signs of a severe, unresolved medical issue for weeks, yet he was not referred to a qualified health care provider until he was on death’s doorstep.

119. Similarly, Wexford violated the PSC contract provision requiring it to “make referral arrangements with specialists off-site for the treatment of those inmates with health care problems which may extend beyond the primary care services provided on-site.” More importantly, Wexford was required to “establish a utilization management program for off-site referrals including subspecialty and inpatient stays,” and this program was required to “demonstrate that access to services [was] appropriate and timely.”

120. Moreover, under the contract, NMCD was required to “[p]rovide for review and adjudication of utilization management decisions made by the contractor [Wexford].”

121. Mr. Hallum’s near-death experiences at the hands of Wexford medical personnel provides evidence that Wexford’s utilization management program conflicts with its obligation to provide appropriate and timely access to medical services, as Mr. Hallum’s access to medical services was the opposite of appropriate and timely. Additionally, Mr. Hallum’s dire medical situation persisted for weeks, and no arrangements for off-site treatment were made until urgent, life-saving measures were required.

122. Accordingly, Wexford also violated the PSC provision mandating: “Emergency services shall be provided to all inmates with acute illness or conditions that cannot wait until the scheduled sick call.”

123. And NMCD failed its duty to provide oversight of the utilization management processes and decisions of Wexford.

124. Upon information and belief, Wexford violated the PSC provision requiring it to “establish an effective infectious disease program which will meet the needs of patients with . . . chronic hepatitis, and other infectious diseases, in accordance with evidence-based guidelines and expert organization recommendations.” Likewise, Wexford violated the PSC provision specifying that it was “expected to follow the latest evidence-based treatment guidelines available from the expert medical organization for each respective medical specialty area,” including “infectious diseases.”

125. In Mr. Hallum’s case, Wexford personnel directly contradicted the medical directives of UNMH doctors, which resulted in Mr. Hallum’s second near-death experience and which cannot possibly comport with evidence-based guidelines and recommendations. Additionally, under Wexford’s care, Mr. Hallum’s minor infection was permitted to grow until it nearly killed him multiple times, which cannot possibly be reflective of an effective infectious disease program.

126. Upon information and belief, Wexford also violated the “Minimum Required Staffing Plan” outlined in Attachment I of the PSC, which required Wexford to “maintain the minimum required staffing as outlined in Appendix G to the RFP,” including “the number of full-time equivalents (FTEs) and hours by type of position, the required credentials, and the distribution of staff among facilities.”



127. Finally, Wexford violated the “Service Delivery Standards” outlined in Attachment I of the PSC, specifying that the “contractor’s [Wexford’s] services shall meet the standards established by the American Correctional Association (ACA), current community standards of care, specified psychiatric standards, and NMCD policies and procedures.”

128. In Mr. Hallum’s case, Wexford permitted a readily treatable infection to progress to a life-threatening heart condition that nearly killed him multiple times, all while repeatedly ignoring blatant signs of Mr. Hallum’s dire medical state, including his yellow skin and eyes, emaciated physical appearance, repeated cries of agony, bloody urine, and inability to drink, eat, walk, or sit himself upright. Such treatment violates ACA standards and NMCD policies and procedures and grossly violates applicable community standards of care.

129. Despite Wexford’s blatant violations of numerous PSC provisions—and despite the disastrous toll these violations took on NMCD prisoners like Mr. Hallum—NMCD never utilized any of its available enforcement and oversight responsibilities delegated to it in the PSC. Instead, NMCD permitted Wexford to violate countless PSC provisions intended to benefit Mr. Hallum, and this neglect harmed him and nearly caused his death.

D. Wexford and NMCD personnel also violated numerous NMCD rules, policies, and procedures, which NMCD failed to properly monitor or enforce, and which caused Mr. Hallum’s injuries.

130. By contracting with NMCD, Wexford agreed to provide a level of care consistent with NMCD’s own rules, policies and procedures. Similarly, per the “applicability” specifications in the NMCD policies themselves, NMCD and contracted personnel were required to follow NMCD’s rules, policies, and procedures while acting within the scope of their employment and/or contract. However, Wexford and NMCD personnel violated many of NMCD’s rules, policies and procedures, and these violations caused Mr. Hallum’s injuries.

131. In addressing Mr. Hallum's medical concerns, Wexford and NMCD personnel violated the following NMCD policies, among others, as described in detail above:

- a) CD-032200(G): "Inmates shall be protected from personal abuse, corporal or unusual punishment, humiliation, mental abuse, personal injury, disease, property damage, harassment or punitive interference with the daily functions of living, such as eating and sleeping."
- b) CD-170100(E-F): "Inmates who need health care beyond the resources available in the facility, as determined by the responsible health care practitioner, are transferred under appropriate security provisions to a facility where such care is available. . . . A transportation system that assures timely access to services that are only available outside the correctional facility is required."
- c) CD-170100(G): "A written individual treatment plan is required for inmates requiring close medical supervision, including chronic and convalescent care."
- d) CD-170100(T): "Medical or dental adaptive devices (eyeglasses, hearing aids, dentures, wheelchairs, or other prosthetic devices) are provided when medically necessary as determined by the responsible health care practitioner."
- e) CD-170100(DD): "The contract with the healthcare vendor shall ensure that levels of care and operations meet the standards of ACA [American Corrections Association] and NCCHC [National Commission on Correctional Health Care] as well as the policies and directives of the NMCD and its Medical Authority."
- f) CD-170100(FF): "All state and private facilities that house state inmates shall follow procedures and practices that are in compliance with Corrections Department policy, ACA, and NCCHC standards."<sup>7</sup>
- g) CD-170100(GG): "Inmates with disabilities shall be housed in a manner that provides for their safety and security."
- h) CD-170101(A)(2-4): "When necessary services are not available on-site, provisions shall be made for transfer of the inmate to another facility within the NMCD or to a community provider where such services are available. . . .

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<sup>7</sup> Alarming, NMCD's Deputy General Counsel recently admitted that "NMCD facilities are not NCCHC accredited" although its own policies, including those above, specifically require NCCHC compliance. (Ex. 13.) The NCCHC establishes mandatory minimum standards for correctional healthcare, and failure to maintain accreditation suggests failure to establish and maintain minimum standards in correctional healthcare. It also evinces NMCD's awareness that it is currently violating its own publicly available policies.

It shall be the responsibility of custody staff to provide for adequate and timely transportation of inmates for off-site medical services.”

- i) CD-170101(J)(4): “Urgent or emergency transports will be conducted immediately upon the determination by the medical staff that it is necessary.”
- j) CD-170101(L)(1): “Medical, dental and other aids to impairment (eyeglasses, hearing aids, dentures, wheelchairs, and other prosthetic devices) are provided when the health of the inmate would otherwise be adversely affected.”
- k) CD-170101(R)(3-4): “Procedures which cannot be accomplished at the facility shall be scheduled at an off-site facility. Scheduled medical procedures will not be delayed because of fiscal constraints when the following conditions exist: a. When pain is a manifestation of the medical condition and the treatment of choice for the potential alleviation of the pain is a scheduled procedure. b. When the deterioration of a person’s health status associated with the progression in a chronic disease can be halted or significantly slowed by the scheduled procedure or c. When a disabling malady poses a life threatening or permanently disabling situation or a significant constraint to the person’s rehabilitation and the scheduled procedures is the treatment of choice.”
- l) CD-173100(A)(1): “When qualified health personnel, the local health care authority, the Warden, or the Shift Commander identifies an emergency medical situation that could result in the loss of life or serious harm to an inmate, he or she will immediately call 911 and request ambulance transport for the inmate to the nearest appropriate health care facility.”
- m) CD-176100(A)(1): “The NMCD Health Services Bureau and the Behavioral Health Services Bureau shall ensure that all inmates are treated with dignity and respect and in a manner that recognizes their basic human rights.”

132. Because Defendants violated the above policies, Mr. Hallum received constitutionally inadequate medical services, his physical condition deteriorated severely, and he nearly died from what was originally an easily detectable, manageable, and treatable infection. The actions of Defendants caused Mr. Hallum severe and permanent harm.

133. The explicit terms of the PSC required Wexford to comply with NMCD’s rules, policies, and procedures, which were frequently referenced in the PSC.<sup>8</sup> Accordingly, both

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<sup>8</sup> See, e.g., PSC, §5 (“the Contractor [Wexford] must furnish all information and reports required by, or pursuant to, the rules, regulations, and policies of the NMCD”); PSC, Attachment I, pg. 12 (“For a copy of non-confidential

Wexford and NMCD knew of these policies and knew that they were not being followed by Wexford and NMCD personnel.

**VI. MR. HALLUM FACES LIFELONG PHYSICAL AND EMOTIONAL DAMAGES AND PAIN DUE TO DEFENDANTS' UNLAWFUL CONDUCT.**

134. As a result of Defendants' unlawful conduct, Mr. Hallum endured tremendous pain and suffering, serious and permanent physical injuries, severe psychological and emotional distress, mental anguish, and lost wage-earning capacity. Upon information and belief, he also lost good time credits that he would have earned had he not been hospitalized for lengthy periods of time during his incarceration. Accordingly, he is entitled to general and special compensatory damages for these losses.

135. Punitive damages or exemplary damages are also appropriate against the Defendants to punish and deter these types of acts and omissions from occurring in the future, as the actions of the individual Defendants were undertaken with malice or, minimally, with reckless indifference to Mr. Hallum's rights, and these actions were adopted and ratified by Wexford and NMCD.

136. From the time that he lost his ability to walk at CNMCF, Mr. Hallum worried that he was going to die. From June through August of 2021, Mr. Hallum was in a state of constant terror that he would not wish on his worst enemy. Many months later, he still has difficulty verbalizing how terrifying the experience was for him.

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NMCD policy and procedures please refer to the website [corrections.state.nm.us/policies](https://corrections.state.nm.us/policies).”); PSC, Attachment I, pg. 12 (“The contractor’s [Wexford’s] services shall meet the standards established by the American Correctional Association (ACA), current community standards of care, specified psychiatric standards, and NMCD policies and procedures.”); PSC, Attachment I, pg. 18 (“The orientation shall include a review of the policies and procedures, nursing protocols and manuals for NMCD.”); PSC, Attachment I, pg. 22 (“Inmate medical records will be maintained and retained in accordance with New Mexico statute, rules and regulations as well as NMCD and New Mexico State Records and Archives policy and procedure.”); PSC, Attachment I, pg. 24 (“The contractor [Wexford] shall provide on-site preventive and primary, secondary and tertiary health care services in accordance with NMCD policies and procedures...”).

137. Recently, he was diagnosed with Post-Traumatic Stress Disorder (“PTSD”) from the experience. Mr. Hallum has nightmares 2-3 times a week about dying in prison from his heart condition, and he wakes up in a panic. When he is driving down the road, he experiences panic attacks 3-4 times a week as he thinks about his near-death experiences at CNMCF. When this occurs, he is forced to pull his vehicle over and sit, crying or in a panic, for hours. This trauma was inflicted by both NMCD and Wexford, acting by and through their respective employees and contractors. The medical trauma he suffered stems from what could reasonably be called medical torture.

138. Mr. Hallum has lost all practicable ability to work. For about 17 years prior to his brief incarceration, Mr. Hallum made his living doing plumbing, heating/cooling, framing, and house-construction work, through which he earned between \$30,000-\$50,000 annually. Now, he cannot bend over, lift anything over 20 pounds, stand for more than an hour without getting dizzy, or remain seated for more than an hour or two—each of which is required to engage in his previous areas of employment. Because he cannot engage in persistent physical activity, his employment prospects remain very limited.

139. Mr. Hallum has also been stripped of most of his typical leisure activities. For example, before his hospitalization, Mr. Hallum would frequently lift weights with his teenage son. He would also take his family on boating trips and water ski. He can no longer do any of these activities. He cannot even pick up and carry his grandkids.

140. Moreover, Mr. Hallum is in a constant state of pain currently rated 6/10 in severity, and it was 10/10 in severity for the first six months after his surgery. He wakes up in pain nightly and has difficulty sleeping due to his stomach and chest pain. He remains at a heightened risk of blood clot and internal hemorrhaging, and he will be medicated for the rest of

his life. He is required to undergo weekly blood work for the rest of his life, so he will not be able to leave his hometown for more than six days at a time. And he can no longer eat any green vegetables, drink cranberry juice, or consume any foods containing Vitamin K.

141. All of Mr. Hallum's injuries are foreseeable consequences of Defendants' unlawful conduct. It is foreseeable that providing deliberately indifferent and negligent prison supervision, management, and medical care would result in the abovementioned substantial injuries to prisoners who are victims of such indifference and negligence. Similarly, it is foreseeable that Defendants' outrageous conduct that intentionally or recklessly disregarded Mr. Hallum's life would cause him the extreme emotional distress explained above. It is also foreseeable that violating substantial NMCD policies and contract provisions concerning the quality and oversight necessary for adequate prison supervision and medical care would put prisoners' lives at risk and cause them trauma related to surviving the near-death experiences that resulted from those contract violations, as occurred in Mr. Hallum's case.

## **VII. WEXFORD'S WIDESPREAD PATTERNS AND PRACTICES OF PROVIDING UNCONSTITUTIONAL MEDICAL CARE WERE THE MOVING FORCES BEHIND MR. HALLUM'S INJURIES.**

142. Wexford maintained various widespread patterns and practices which violated Mr. Hallum's state constitutional rights and contributed to his severe injuries, including: (1) failing to report, diagnose, and properly examine and treat prisoners with serious medical and/or mental health conditions; (2) delaying or denying patient referrals to necessary emergency or other offsite medical services; (3) severely understaffing its medical and mental health facilities; (4) failing to provide adequate medical documentation or communicate changes in patient conditions to the appropriate correctional officers and/or medical or mental health staff; and (5) failing adequately to hire, retain, and train and supervise its employees and agents on procedures necessary to protect patients' health.

143. In essence, Wexford's medical care of NMCD prisoners effectively amounted to no medical care at all. *Kikumura v. Osagie*, 461 F.3d 1269, 1295 (10th Cir 2006) (finding sufficient deliberate indifference allegations where "the medical treatment [plaintiff] received was merely a façade . . . [and] so cursory as to amount to no treatment at all") (internal cites and quotes omitted); *Ramos v. Lamm*, 639 F.2d 559, 575 (10th Cir. 1980) ("[D]eliberate indifference to inmates' health needs may be shown by . . . proving there are such systemic and gross deficiencies in staffing, facilities, equipment, or procedures that the inmate population is effectively denied access to adequate medical care.").

A. Wexford had a pattern and practice of failing to report, diagnose, and treat warning signs of serious medical and mental health conditions, and of delaying or denying patients access to critical off-site medical services, which were contributing factors to Mr. Hallum's injuries.

144. Wexford failed to report, diagnose, and treat the warning signs of serious conditions for many other patients in circumstances similar to those of Mr. Hallum. These failures are reflected in the following non-exhaustive list of cases:

- In *Brandon Wagner v. NMCD et al.*, No. D-101-CV-2020-01058 (N.M. 1st Dist. Ct.), Wexford refused to timely report, diagnose, and treat signs of Hepatitis-C, which caused the patient substantial pain for over a year and put his life in jeopardy.
- In *Gerry Armbruster v. Wexford et al.*, No. 16-CV-00544 (S.D. Ill.), Wexford failed to timely report, diagnose, and treat signs of spinal injury, which resulted in the patient's needlessly extended suffering and diagnosis of severe spinal cord compression requiring emergency surgery.
- In *Sharon Bost v. Wexford et al.*, No. 15-CV-03278 (D. Md.), Wexford failed to timely report, diagnose, and treat signs of stroke, which resulted in the patient's death from excessive brain swelling before Wexford medical personnel were even able to arrive at the facility.
- In *Andre Mauldin v. Saleh Obaisi et al.*, No. 15-CV-02106 (N.D. Ill.), Wexford failed to timely report, diagnose, and treat signs of severe knee injury, which resulted in major structural damage to the patient's knee, including a torn ACL and other major ligament tears requiring immediate surgery.
- In *Antonio Hunter v. Ill. Dept. of Corr., et al.*, No. 21-CV-00271 (S.D. Ill.), Wexford

refused to timely report, diagnose, and treat signs of renal prolapse and denied the patient's clear need for a surgery consultation, which resulted in life-threatening excessive bleeding.

- In *Patrick Pursley v. Tarry Williams, et al.*, No. 15-CV-04313 (N.D. Ill.), Wexford refused to timely report, diagnose, and treat signs of severe respiratory infection and a broken rib for over a year, which caused the patient to heal improperly and endure over a year of severe pain and difficulty breathing.

145. The preceding cases and others illustrate Wexford's persistent refusal to refer prisoner patients to third-party medical providers for the provision of a higher level of care unavailable through Wexford within NMCD's facilities.

146. Upon information and belief, Wexford's widespread failure to refer prisoners for off-site medical care was, in large part, financially motivated, as Wexford was contractually relieved from paying for the hospital costs of any prisoner who was hospitalized for more than 24 hours. Evidently, this fee structure incentivized Wexford to refrain from referring prisoners for off-site care unless and until their injuries were so severe that they would likely require hospitalization lasting more than 24 hours.

147. The following information, outlined in various news articles and cases, has publicly documented Wexford's widespread practices of improper reporting, diagnosing, monitoring, examining, treating, and referring prisoner patients for off-site services:

- In 2004, Florida's Office of Program Policy Analysis and Government Accountability ("OPPAGA") found that "Wexford kept costs down by compromising the care of its inmates," and that one of "the most pressing problems" was Wexford's "postponement of specialty clinic visits." Some of Wexford's former employees allege that NMCD's monetary savings "came at too high a cost."<sup>9</sup>
- According to the accounts of numerous prior Wexford employees in New Mexico, in 2006, Wexford repeatedly refused to grant chronically ill prisoners critical, off-site specialty care and had "systemic problems in administering prescription medicine" to prisoners. Because of these issues and others, Wexford lost its multimillion-dollar contract with New Mexico "[a]fter two troubled years of administering health care." Around this time, Wexford also lost its contracts with Wyoming and Florida for similar

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<sup>9</sup> <https://www.sfreporter.com/news/coverstories/2006/08/09/hard-cell/>



reasons.<sup>10</sup>

- In 2006, the NMCD spokeswoman at the time admitted publicly: “Wexford has not met its contractual obligations to the Department, and that’s something we can’t ignore. We have to do something about it.” Similarly, a former Wexford employee from Hobbs, New Mexico stated: “It is my sense that Wexford doesn’t care what sort of facility they run. Everything is run on a bare-bones budget. They’re in it to make money.”<sup>11</sup>
- Also around 2006, multiple former Wexford employees in New Mexico reported that “to save money, [Wexford] failed to send sick inmates off-site to hospitals expeditiously.” One former Wexford nurse from New Mexico reported that other private prison medical providers gave medical staff discretion to decide when prisoners required specialized off-site medical attention, whereas Wexford “consistently denied approval.” She found this practice to be “really disturbing” given that prisoners were “suffering all the time” and their lives were potentially at risk. Similarly, a former Wexford administrative assistant in New Mexico noted that their “inmates stayed in pain a lot,” particularly due to the long wait times for chronically ill patients waiting for off-site medical treatment. A third former Wexford employee noted that Wexford staff “had to wait until an inmate was practically dying before [they] could send them off for X-rays.”<sup>12</sup>
- Additionally, in 2006, former Wexford employees in New Mexico “reported that the mentally ill were cut off psychotropic medicine for cheaper, less effective drugs, those who needed off-site specialty care were consistently denied referrals, and some were even denied prescription medication for significant periods of time against their doctors’ recommendations,” and “[s]taff complained of a systemic lack of medical supplies including protective equipment for treating infectious diseases like MRSA.”<sup>13</sup>
- In 2007, a New Mexico Legislative Finance Committee audit found “gaping holes” in Wexford’s delivery of healthcare, and one lawmaker compared the level of care to “torture” and “murder.” Additionally, it was found that diabetic patients were not receiving a drug meant to fight off infections as required by national standards for chronic illness care.<sup>14</sup>
- In 2009, Wexford was audited by Clark County, Washington and found to have “systematically failed to comply with the many complex undertakings included in its contract with the county.”<sup>15</sup>
- In 2012, the Arizona Department of Corrections wrote a letter to Wexford’s director titled “Written Cure Notification,” detailing 20 “significant areas of non-compliance and required corrective action within 90 days pursuant to the contract.” These deficiencies

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<sup>10</sup> <https://www.sfreporter.com/2006/12/13/sfr-exclusive-wexford-under-fire/>

<sup>11</sup> *Id.*

<sup>12</sup> <https://www.sfreporter.com/news/coverstories/2006/08/09/hard-cell/>

<sup>13</sup> [https://www.acluaz.org/sites/default/files/documents/Wexford One-Pager\\_1.pdf](https://www.acluaz.org/sites/default/files/documents/Wexford%20One-Pager_1.pdf)

<sup>14</sup> <https://www.pressreader.com/usa/albuquerque-journal/20070524/283330402891567>

<sup>15</sup> [https://www.acluaz.org/sites/default/files/documents/Wexford%20One-Pager\\_1.pdf](https://www.acluaz.org/sites/default/files/documents/Wexford%20One-Pager_1.pdf)

included, among others: (1) inappropriate discontinuation/change of medication, (2) inconsistent non-formulary medication approval process, (3) inconsistent or contradictory medication refill and/or return procedures, (4) inability to readily identify specific groups of prisoners or chronic conditions based upon medications prescribed (*e.g.*, diabetes), (5) quantitative decreases in routine institutional care consisting of a backlog of chart reviews, untimely handling of Health Needs Requests, and backlog/cancellation of outside specialty consultations, and (6) unresponsive approaches to corrections department inquiries on patient information and the prisoner grievance process.<sup>16</sup>

- Also in 2012, the Arizona Department of Corrections disciplined and fined Wexford for failing to provide a mentally ill prisoner with his prescribed psychotropic medication for an entire month before he hanged himself in the prison. The state noted Wexford's "significant non-compliance," and "lack of urgency" in correcting medication problems.<sup>17</sup>
- Around 2013, a dental care expert for a class of Arizona prisoner plaintiffs found that Wexford provided systemic deficiencies in the provision of dental care, including (1) insufficient dental staffing, (2) inadequate processes for triaging prisoners requiring dental treatment, (3) inappropriate treatment of pain, (4) a de facto "extraction only" policy for teeth, and (5) inadequate treatment of chewing difficulty.<sup>18</sup>
- In 2014, a prisoner spent five months begging Wexford staff for a medical diagnosis, treatment, and referral to an off-site specialist who could provide necessary care, but Wexford repeatedly failed to fulfill any of these requests, so the prisoner required emergency spinal cord surgery. This Wexford doctor "missed critical symptoms and misdiagnosed common conditions."<sup>19</sup>
- Also in 2014, Wexford continually refused to give two other prisoners necessary, standard antibiotics, which caused these prisoners to develop severe infections that had to be surgically removed because Wexford doctors simply refused to treat these patients.<sup>20</sup>
- Moreover, a 2014 court-appointed panel of medical experts published a report finding that Wexford's care of at least two prisoners was "'extremely problematic,' and involved 'egregious' lapses in care" involving failures to properly test, report, and treat that "could 'only be construed as deliberate indifference.'"<sup>21</sup>
- In 2015, Wexford agreed to pay the family of a prisoner who died in Illinois \$800,000 after its doctors failed to diagnose and treat him for colon cancer, and he died as a result.

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<sup>16</sup> *Parsons v. Ryan*, 289 F.R.D. 513, 517 (D. Ariz. 2013) (identifying these deficiencies in all ten prisons); *see also Jensen et al. v. Shinn Et al.*, No. 12-CV-00601 (D. Ariz).

<sup>17</sup> <https://www.prisonlegalnews.org/news/2014/oct/2/arizona-fines-wexford-10000-neglect-hepatitis-c-exposure/>

<sup>18</sup> *Parsons v. Ryan*, 289 F.R.D. 513, 519 (D. Ariz. 2013) (noting that three plaintiffs waited between 85 and 516 days to receive treatment for identified dental needs and one plaintiff had not had a tooth cleaning in 6.5 years); *see also Jensen et al. v. Shinn Et al.*, No. 12-CV-00601 (D. Ariz).

<sup>19</sup> <https://theappeal.org/why-prisoners-get-the-doctors-no-one-else-wants/>

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

Wexford failed to properly refer the prisoner for off-site diagnosis and treatment for two years even though he had lost 42 pounds, had nausea, frequent vomiting, and back pain, could not urinate or defecate, had blood in his stool, and continued to insist that he was in excruciating pain and seriously ill.<sup>22</sup>

- In 2017, Wexford exhibited chronic care backlogs in at least six Indiana prisons. In one of these facilities, 100 prisoners had missed their required 90-day medical appointments for chronic care services.<sup>23</sup>
- In 2018, a U.S. District Court Judge in Illinois found that Wexford's services continued to fall short of constitutional standards, stating that "it [was] clear [that] mentally ill inmates continue[d] to suffer;" the providers remained "deliberately indifferent" to the needs of mentally ill prisoners; and "[t]he Court cannot allow this to continue."<sup>24</sup>
- Also in 2018, a report from court-appointed experts found that 12 of the 33 deaths under Wexford's care that they studied were preventable, another seven might have been preventable, and no conclusions could be reached about five cases because these deaths were not adequately documented.<sup>25</sup>
- In 2019 or 2020, a former Illinois prisoner was awarded an \$11 million jury verdict against Wexford after the jury found that Wexford deliberately delayed his medical tests and treatment for advanced kidney cancer. Around this time, a young mentally ill prisoner received no medical attention from Wexford after he was seen swallowing two plastic sporks, lost 54 pounds, and complained of abdominal pain. Eventually, he died due to esophageal perforation. Also around this time, a court-appointed expert reviewed death records from 2016 and 2017, while prisoners were under Wexford's care, and found that about 58% of these deaths were preventable or possibly preventable.<sup>26</sup>
- In 2020, a court-appointed monitor in Illinois found that one Wexford nurse was asked to check on a prisoner who was unresponsive and drooling, but she waited so long to do so that, when she finally arrived at his cell, he was already receiving CPR.<sup>27</sup>
- The 2020 court-appointed monitor in Illinois also found that Wexford would not allow prisoners to see off-site medical specialists unless approved by Wexford employees in Pennsylvania who discussed cases without the benefit of charts or examining patients. One prisoner's surgery to remove a mass in his shoulder was delayed for over a year, and according to the monitor, this delay could have jeopardized his life. Similarly, a reported delay in the eye surgery of another prisoner could have resulted in his permanent loss of vision. The monitor noted that delays of dental care have lasted nearly two years, and the median wait time for dentures or fillings was nine months.<sup>28</sup>

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<sup>22</sup> <https://www.illinoistimes.com/springfield/six-figure-settlement-in-prison%20lawsuit/Content?oid=11437278>

<sup>23</sup> <https://www.alreporter.com/2017/11/15/report-shows-wexford-health-services-failing-requirements-indiana/>

<sup>24</sup> <https://theappeal.org/no-shower-wearing-diapers-laying-there-for-so-long/>

<sup>25</sup> <https://www.illinoistimes.com/springfield/prison-health-care-still-bad/Content?oid=12787400>

<sup>26</sup> <https://www.chicagobusiness.com/health-care/illinois-comes-short-another-area-prison-health-care>

<sup>27</sup> <https://www.illinoistimes.com/springfield/prison-health-care-still-bad/Content?oid=12787400>

<sup>28</sup> *Id.*

- In 2021, a prisoner committed suicide a few days after improperly being taken off suicide watch, when Wexford knew that he had expressed an intent to kill himself, and Wexford failed to take appropriate measures to report, diagnose, examine, treat, monitor, and protect him.<sup>29</sup>

148. Upon information and belief, on-site Wexford medical providers are unable to refer prisoner patients for off-site diagnostic testing and services. Instead, Wexford’s “utilization review” process requires Wexford corporate approval of prisoners’ off-site services. Upon information and belief, Wexford has a pattern and practice of routinely denying off-site medical referrals for prisoners and, in doing, so, frequently overrides the clinical advice of its on-site medical providers.

149. The preceding cases and articles, among others, also establish that Wexford and NMCD were on notice of these widespread unconstitutional practices prior to Mr. Hallum’s injuries and thereby knew that additional safeguards should have been put in place to address patients’ signs of serious medical and mental health conditions.

150. Accordingly, it can be inferred that Wexford intentionally failed to report, diagnose, and treat these serious warning signs despite the known and obvious risk to patient safety. And NMCD intentionally failed to provide proper supervision and oversight of these practices despite the risk known to it.

151. Wexford’s widespread practice of failing to report, diagnose, and treat the warning signs of serious medical and mental health conditions shares a close factual relationship with the events in Mr. Hallum’s case, and accordingly, the widespread practice was the moving force behind his injuries and near-death experiences.

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<sup>29</sup><https://www.indystar.com/story/news/investigations/2021/11/30/lawsuit-mentally-ill-man-should-not-have-died-indiana-prison/8797782002/>

152. Significantly, Wexford personnel failed to conduct diagnostic and physical examinations multiple times in Mr. Hallum's case alone, which establishes a pattern and practice of insufficient reporting, diagnoses, and treatment of serious medical conditions.

153. As such, Wexford's policy and practice of failing to report, diagnose, and treat warning signs of serious medical and mental health conditions caused Mr. Hallum's injuries.

B. Wexford had a pattern and practice of severely understaffing its medical and mental health facilities, which was a moving force behind Mr. Hallum's injuries.

154. Wexford's chronic understaffing of medical positions has been continually publicized and made known to both Wexford and NMCD as early as the late 1990s.

155. The following information, outlined in various news articles and cases, has publicly documented Wexford's widespread practice of understaffing its medical personnel, as well as the tragic consequences to prisoners due to this understaffing:

- In the late 1990s, the U.S. Justice Department investigated Wexford's medical services in Wyoming prisons and criticized Wexford's staffing levels, noting that its inadequate staffing and other inadequacies "created conditions that violated inmates' constitutional rights." Shortly after this report was published, Wexford lost its contract with Wyoming.<sup>30</sup>
- Similarly, in 2004, Florida's OPPAGA found that Wexford had a pattern of insufficient staffing in Florida's prisons.<sup>31</sup>
- In 2005, the NMCD Corrections Secretary at the time confirmed that Wexford proposed paying New Mexico approximately \$35,000 "to address state concerns about a shortage of hours worked by Wexford personnel."<sup>32</sup>
- In 2006, the Santa Fe Reporter noted that it repeatedly published accounts from former Wexford employees focusing on the "dangerously low medical staffing levels at the nine correctional facilities where Wexford operate[d]" in New Mexico.<sup>33</sup>
- In 2006, one former Wexford dentist located in Hobbs, New Mexico stated that prisoners were suffering because the backlog to receive dental treatment was so massive, and the

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<sup>30</sup> <https://www.sfreporter.com/news/coverstories/2006/08/09/hard-cell/>

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> <https://www.sfreporter.com/2006/12/13/sfr-exclusive-wexford-under-fire/>

facilities were so understaffed that prisoners sometimes waited up to six weeks to receive important dental care. Some prisoners had to resort to pulling their own teeth after months of waiting, saying they just could not stand the pain any longer. The former Wexford dentist called Wexford “grossly understaffed and disorganized.”<sup>34</sup>

- Also in 2006, former Wexford employees in New Mexico reported that Wexford regularly “canceled inmates’ medical appointments because of staff shortages.” Similarly, according to a former Wexford administrative assistant in New Mexico, “[s]taffing was so short that a Wexford administrator once authorized a lab technician to start an intravenous flow on an inmate, something he was not legally licensed to do.”<sup>35</sup>
- In 2006, one former Wexford nurse from New Mexico stated that, as soon as Wexford took over medical services in New Mexico prisons, “things changed dramatically.” One of the most notable changes was an approximate 50% reduction in the nursing staff, resulting in cancelled medical appointments due to staffing shortages.<sup>36</sup>
- In 2007, a New Mexico Legislative Finance Committee audit found that Wexford was very understaffed. For example, no medical staff were on duty at the Santa Fe prison when one expert visited in March 2007. The audit also found that nurses often spent time doing clerical duties because there were so few clerical workers. “A common complaint against Wexford was that it left positions vacant to save money.”<sup>37</sup>
- In 2012, Arizona’s “Written Cure Notification” letter to Wexford’s director also identified the following significant areas of Wexford’s non-compliance related to staffing: (1) inadequate staffing levels in multiple program areas at multiple locations, (2) staffing levels creating inappropriate scheduling gaps in on-site medical coverage, (3) staffing levels forcing existing staff to work excessive hours, creating fatigue risks, and (4) quantitative decrease in routine institutional care: backlog of prescription medication expiration review.<sup>38</sup>
- Also in 2012, the mental health contract monitor for Arizona corrections wrote and circulated an internal memo reporting that: “Wexford’s current level of psychiatry [was] grossly insufficient to meet [its] contractual requirement. Further, this staffing level is so limited that patient safety and orderly operation of [Arizona corrections] facilities may be significantly compromised. . . . Wexford currently has 14.85 psychiatry [full-time employees] allocated to address the clinical needs of 8,891 patients who are prescribed psychotropic medications. Wexford now employs a total of 5.95 [full-time] psychiatry providers (approximately 33% of their allocation) [leaving] 8.9 [full time employee slots] vacant (leaving a vacancy rate of 66%).”<sup>39</sup>

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<sup>34</sup> *Id.*

<sup>35</sup> <https://www.sfreporter.com/news/coverstories/2006/08/09/hard-cell/>

<sup>36</sup> *Id.*

<sup>37</sup> <https://www.pressreader.com/usa/albuquerque-journal/20070524/283330402891567>

<sup>38</sup> *Parsons v. Ryan*, 289 F.R.D. 513, 517 (D. Ariz. 2013) (identifying these deficiencies in all ten prisons); *see also Jensen et al. v. Shinn Et al.*, No. 12-CV-00601 (D. Ariz).

<sup>39</sup> *Parsons v. Ryan*, 289 F.R.D. 513, 519 (D. Ariz. 2013); *see also Jensen et al. v. Shinn Et al.*, No. 12-CV-00601 (D. Ariz).

- In late 2012, Wexford’s own review of its services in Arizona prisons concluded that “of 762 budgeted full time employee positions, only 567 positions had been filled. It also revealed that, for higher-level providers, such as physicians, psychiatrists, dentists, nurse practitioners, and management-level health care staff, the overall vacancy rate across ADC facilities exceeded 50%.” Around the same time, a survey of the quality of healthcare in Arizona prisons concluded that insufficient coverage was “reaching a critical state for both routine visits and chronic care follow-ups.”<sup>40</sup>
- In 2017, records obtained concerning Wexford’s services in Indiana prisons revealed that Wexford failed to meet “required staffing levels, particularly in the area of mental and behavioral health.” Such shortfalls led to “backlogs in providing care, especially with regard to prisoners with chronic medical conditions including diabetes and HIV.”<sup>41</sup>
- In 2018, a U.S. District Court Judge in Illinois found that Wexford had “systemic and gross deficiencies in the staffing of mental health providers.”<sup>42</sup>
- In 2020, a court-appointed monitor in Illinois found that Wexford was drastically understaffing its prison medical facilities, and that 357 new positions, mostly for nurses, were needed to comply with a consent decree meant to ensure constitutionally adequate medical care in Illinois prisons.<sup>43</sup>

156. Upon information and belief, Mr. Hallum was unable to receive adequate medical treatment due, in part, to the severe shortage of healthcare providers at the prison. Numerous important health protocols were violated, and critical assessments and evaluations foregone. It was this lack of medical care and contract oversight that exacerbated Mr. Hallum’s medical issues and eventually caused his injuries.

157. Simply put, Mr. Hallum received little to no healthcare services largely because there were very few healthcare providers working in NMCD prisons in the months leading up to his injuries.

158. Through Wexford’s well-documented history of understaffing, and the investigative reporting published on the dangerous consequences of Wexford’s staffing

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<sup>40</sup> *Parsons v. Ryan*, 754 F.3d 657, 668-69 (9th Cir. 2014); *see also Jensen et al. v. Shinn Et al.*, No. 12-CV-00601 (D. Ariz).

<sup>41</sup> <https://www.alreporter.com/2017/11/15/report-shows-wexford-health-services-failing-requirements-indiana/>

<sup>42</sup> <https://theappeal.org/no-shower-wearing-diapers-laying-there-for-so-long/>



shortages, Wexford and NMCD were put on notice that this severe understaffing was substantially certain to cause constitutional violations regarding patients' medical treatment, yet they both chose to disregard that risk and, for decades, continued to display a pattern and practice of severe shortages in medical staff and mental healthcare providers.

159. In this way, Wexford and NMCD acted with deliberate indifference to prisoners' healthcare needs. *See, e.g., Ramos v. Lamm*, 639 F.2d 559, 575 (10th Cir. 1980) (finding deliberate indifference to prisoners' healthcare needs where "gross deficiencies in staffing" and procedures cause the prisoner population to be "effectively denied access to adequate medical care").

- C. Wexford also had a pattern and practice of failing to provide adequate medical documentation and failing to communicate changes in patient conditions, both of which contributed to Mr. Hallum's injuries.

160. Wexford failed to provide adequate medical documentation and failed to communicate changes in patient conditions for many other patients in circumstances similar to those of Mr. Hallum.

161. The following information, outlined in various news articles and cases, has publicly documented Wexford's widespread practice of providing inadequate medical documentation and failing to communicate changes in patient conditions:

- In 2004, Florida's OPPAGA found that Wexford's pattern of insufficient record keeping was one of "the most pressing problems" of its non-compliance with its contract in Florida prisons.<sup>44</sup>
- In 2005, Wexford's regional medical director for New Mexico's prisons found that Wexford nurses repeatedly failed to accurately document test results or to communicate those results. According to this director, these repeated failures could constitute a "falsification of [ ] testing." When the director notified Wexford, it "never fully addressed her concerns and placed her on leave when she pressed the matter." According to the Santa Fe Reporter, this account is similar to the accounts of five other former

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<sup>43</sup> <https://www.illinoistimes.com/springfield/prison-health-care-still-bad/Content?oid=12787400>

<sup>44</sup> <https://www.sfreporter.com/news/coverstories/2006/08/09/hard-cell/>



Wexford employees interviewed by the Reporter.<sup>45</sup>

- In 2006, a former Wexford nurse from New Mexico reported that “she observed Wexford administrators at Central [prison in New Mexico] altering inmates’ medical records.” According to her, “[t]hey were hiding mistakes they’d made.” A former Wexford administrative assistance from Hobbs, New Mexico voiced these same concerns.<sup>46</sup>
- Also in 2006, another former Wexford nurse from New Mexico reported that “Wexford’s record keeping was so desultory, it was difficult to keep track of which inmate was getting which medicine.” When this nurse repeatedly informed Wexford’s chief health services administrator in New Mexico, the nurse was “roundly ignored.”<sup>47</sup>
- Similarly, in 2006, a third former Wexford nurse from New Mexico stated that Wexford had “glaring errors” in how it kept medical charts, so that prisoners received the wrong medicine and even the wrong dosages. This nurse quit his employment with Wexford after one month as Wexford’s director of nursing, ending his 24-year career as a prison nurse because, among other things, he was concerned about losing his license due to the inadequate medical care that Wexford was providing its patients in New Mexico prisons.<sup>48</sup>
- In 2007, Wexford failed to issue timely reports on 14 prisoner deaths in New Mexico correctional facilities.<sup>49</sup>
- In 2012, Arizona’s “Written Cure Notification” letter to Wexford’s director also identified the following significant areas of Wexford’s non-compliance related to improper documentation and communication of prisoners’ conditions: (1) incorrect and incomplete pharmacy prescriptions, (2) inadequate pharmacy reports, (3) inconsistent documentation of Medication Administration Records, (4) inadequate/untimely communication between field staff, corporate staff, and the corrections department, and (5) lack of responsiveness and/or lack of awareness of incident urgency and reporting requirements.<sup>50</sup>
- Also in 2012, Arizona disciplined Wexford for, among other things, failing to timely report one of its nurses who exposed 103 prisoners to hepatitis C through contaminated insulin injections as a result of improperly mixed vials. Wexford did not notify health officials of these prisoners’ hepatitis C exposure until eight days later. According to the state, “Wexford failed to follow nursing protocols, mismanaged documents, and did not adequately notify authorities of the contamination.” Moving forward, the state directed Wexford to “properly distribute and document medication for prisoners, show some urgency, and communicate better when problems arise.” Shortly thereafter, Arizona and

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<sup>45</sup> <https://www.sfreporter.com/news/coverstories/2006/08/09/hard-cell/>

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> <https://www.pressreader.com/usa/albuquerque-journal/20070524/283330402891567>

<sup>50</sup> *Parsons v. Ryan*, 289 F.R.D. 513, 517 (D. Ariz. 2013) (identifying these deficiencies in all ten prisons)

Wexford “abruptly decided to cancel the company’s contract.” According to the legal director of the ACLU of Arizona at the time, there was “no question that over the past year Wexford [had] been providing abysmal care to Arizona prisoners with serious medical and mental health needs.”<sup>51</sup>

162. Likewise, in Mr. Hallum’s case, Wexford failed to provide adequate medical documentation and failed to communicate important changes in Mr. Hallum’s medical condition to providers who had the ability to appropriately treat his condition.

163. The preceding articles and cases, among other reports, establish that Wexford and NMCD were on notice of these widespread unconstitutional practices prior to Mr. Hallum’s injuries and thereby knew that additional safeguards should have been put in place to address the inadequate medical documentation and communication of changes in patient conditions.

164. Accordingly, it can be inferred that Wexford intentionally failed to adequately document patient conditions and failed to adequately communicate changes in those conditions despite the known and obvious risk to patient safety.

165. Wexford’s widespread practice of failing to provide adequate medical documentation and communicate changes in patient conditions shares a close factual relationship with the events in Mr. Hallum’s case, and accordingly, the widespread practice was the moving force behind his injuries.

166. Because Wexford personnel did not adequately document or otherwise communicate Mr. Hallum’s rapidly deteriorating medical condition to the appropriate personnel, he was not provided with the medical treatment that he clearly needed, which caused him to sustain life-threatening injuries.

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<sup>51</sup> <https://www.prisonlegalnews.org/news/2014/oct/2/arizona-fines-wexford-10000-neglect-hepatitis-c-exposure/>

167. Accordingly, Wexford's policy and practice of providing inadequate medical documentation and failing to communicate changes in patient conditions to appropriate personnel caused Mr. Hallum's injuries.

168. NMCD intentionally failed to provide proper supervision and oversight of these practices despite the risk known to it. In fact, NMCD was complicit in failing to keep adequate prisoner medical records. In NMCD's contract with its prior medical provider from June 2016, it stated:

"In order to provide constitutionally adequate medical care to patient-inmates and to help determine the strategy for completing NMCD's Clinical Data Repository (CDR) and pharmacy systems, a review of electronic health record options has determined that the best strategy moving forward is to procure an Electronic Health Record (EHR) software solution."

169. Yet—six years later—NMCD has still not implemented an EHR system despite its continuing recognition that an EHR system is necessary for constitutionally adequate healthcare, as reaffirmed in the PSC, which states: "In order to provide constitutionally adequate medical care to inmates, NMCD has determined that it must procure an electronic health record (EHR) software solution." Upon information and belief, no efforts are underway to identify and implement an EHR system.

170. An EHR system would significantly curtail medical recordkeeping abuses and deficiencies, including the destruction and alteration of medical records. An EHR system would also create greater accountability for both NMCD and its medical contractors, including Wexford.

171. NMCD has been on notice of the medical recordkeeping abuses and inadequacies in its facilities for years, and it has chosen not to implement an EHR system to curb those abuses and deficiencies. Therefore, NMCD has also demonstrated its own persistent pattern and practice

of providing constitutionally deficient medical documentation, which was another moving force behind Mr. Hallum's injuries.

- D. Wexford failed to adequately hire, retain, train, and supervise its personnel despite knowing that such practices were necessary to protect patient health, and this failure was a moving force behind Mr. Hallum's injuries.

172. Wexford's extensive and decades-long patterns of understaffing, delaying off-site medical treatment, poorly documenting prisoner medical appointments, failing to communicate important changes in patients' medical conditions, and generally choosing cost-cutting measures over patients' well-being evinces Wexford's utter failure to properly hire, retain, train and supervise its employees and agents.

173. The following information, outlined in various news articles and cases, has publicly documented Wexford's widespread practice of inadequately hiring, retaining, training, and supervising its staff, along with the dire consequences of these failures to properly hire, retain, train, and supervise:

- In 2006, a former Wexford nurse from New Mexico reported that "[i]nmates were hoarding doses [of medication] and using them as currency because nursing staff were not adequately controlling medication dosage." According to this nurse, "[t]he nurses who did this were exceeding the scope of their licenses, breaking the law and jeopardizing patient safety." Wexford supervisors did nothing to stop this practice.<sup>52</sup>
- Around 2007, Washington, Mississippi, and New Mexico all reported issues with Wexford's "lack of training and oversight for medical employees, and promotion of workers into positions where they were not properly licensed." In Mississippi, medical care was provided to prisoners by Wexford employees without proper credentials. And in New Mexico, "mental health counselors were operating without state licenses."<sup>53</sup>
- In 2014, federal court-appointed medical experts published a report of their findings that Wexford "hired 'underqualified' physicians and failed to provide appropriate supervision and oversight," which "resulted in at least 36 deaths between January 2013 and June 2014 and two deaths in 2010 that the team deemed 'problematic.'"<sup>54</sup>

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<sup>52</sup> <https://www.sfreporter.com/news/coverstories/2006/08/09/hard-cell/>

<sup>53</sup> [https://www.acluaz.org/sites/default/files/documents/Wexford One-Pager\\_1.pdf](https://www.acluaz.org/sites/default/files/documents/Wexford%20One-Pager_1.pdf)

<sup>54</sup> <https://theappeal.org/why-prisoners-get-the-doctors-no-one-else-wants/>

- In 2017, another federal court-appointed panel of medical experts found that Wexford still “failed to hire properly credentialed physicians, which increased the risk of harm to patients and led to nearly a dozen preventable deaths from 2016 to 2017.” Alarming, two of the doctors found to provide inadequate care remained on Wexford’s staff after these experts’ findings had been circulated.<sup>55</sup>
- Also in 2017, the Mississippi Attorney General filed a RICO lawsuit against Wexford and others, claiming that Mississippi had been “defrauded through a pattern of bribery, kickbacks, misrepresentations, fraud, concealment, money laundering and other wrongful conduct,” through which Wexford and others “benefited by stealing from taxpayers.”<sup>56</sup>
- In 2020, a court-appointed monitor in Illinois found that “three Wexford doctors without proper credentials, including two whose licenses [were] on probation, have such serious issues with qualifications and bad care that they should not be employed in prisons.” Wexford did not inform the state about these disciplinary histories, and according to the monitor, the problematic doctors were not being adequately monitored. When asked, prison authorities would not disclose whether these doctors were still retained as Wexford employees after the findings were published.<sup>57</sup>
- The 2020 court-appointed monitor in Illinois also found that Wexford retained and did not discipline or document one doctor’s neglectful medical care even though he had been recommended for termination and had repeatedly failed to spot signs of heart trouble and would not send such patients to off-site hospitals. Rather, Wexford gave this doctor high marks and praise in his review.<sup>58</sup>
- In 2021, a prisoner committed suicide a few days after he was wrongfully taken off suicide watch and after four recent prior attempts, and the lawsuit filed by his family noted that Wexford’s failure to adequately supervise and train its staff resulted in a marked increase in prison suicide rates since Wexford began providing care in Iowa prisons in 2017.<sup>59</sup>

174. Similarly, the extensive violations of proper protocol in Mr. Hallum’s case provide compelling evidence that Wexford had a continuing, widespread pattern and practice of failing to adequately hire, retain, train, and supervise its personnel.

175. As such, Wexford’s widespread failures to adequately hire, retain, train, and supervise its personnel were a primary cause of the constitutional violations suffered by Mr.

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<sup>55</sup> *Id.*

<sup>56</sup> <https://www.clarionledger.com/story/news/politics/2017/02/08/epps-bribery-civil-lawsuit/97645586/>

<sup>57</sup> <https://www.illinoistimes.com/springfield/prison-health-care-still-bad/Content?oid=12787400>

<sup>58</sup> *Id.*

Hallum. Each of Wexford's failures to conduct necessary examinations deprived Mr. Hallum of the opportunity to be evaluated, diagnosed, and to be prioritized in receiving the medical treatment that he so desperately needed. Because medical personnel were not adequately trained or supervised to ensure that the proper medical procedures were followed, Mr. Hallum never received the opportunity to obtain additional medical services until his medical condition had become life threatening. Consequently, he sustained the injuries that resulted in his extensive hospital stay and multiple near-death experiences.

176. Training and supervision regarding proper medical treatment protocol and documentation was required because, as Wexford knew to a moral certainty, Wexford's personnel would commonly confront situations where they would need to assess the severity and emergency nature of patients' medical conditions. This is among the primary tasks that these personnel were hired to do.

177. Additionally, documenting and assessing the next steps in a patient's medical treatment is precisely the type of complex and important decision that requires training and supervision.

178. As evinced by Mr. Hallum's situation and the others cited in this section of the Complaint, Wexford's widespread pattern of deficient hiring, retention, training, and supervision presents an obvious potential to violate patients' constitutional rights, because there has been a growing history where prisoners are denied serious medical care to which they are entitled, and they suffer from long-term disability or death as a result.

179. Wexford and NMCD were alerted to an obvious deficiency in Wexford's hiring, retention, training, and supervision through the many prior lawsuits against it alleging

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<sup>59</sup><https://www.indystar.com/story/news/investigations/2021/11/30/lawsuit-mentally-ill-man-should-not-have-died-indiana-prison/8797782002/>

unconstitutional medical care. Wexford and NMCD were also put on notice of these deficiencies through the many news articles, cases, and reports from government agencies, court monitors, and former employees informing Wexford of the many ways that it fell short of providing constitutionally adequate medical care.

180. One of the best examples illustrating each of the abovementioned patterns and practices, and Wexford's awareness of each of these practices, is the voluminous discovery conducted in *Sharon Bost v. Wexford et al.*, No. 15-CV-03278 (D. Md.) concerning the same patterns and practices as occurred in Mr. Hallum's case, which was filed on October 27, 2015 (ECF 1) and for which Wexford moved for summary judgment on September 8, 2021 (ECF 536). In her motion opposing summary judgment (ECF 543-1), Bost cited extensively from, and exhibited, 147 discovery documents, some of which are sealed, but which include: at least 11 expert reports (ECF 544, Nos. 48-50, 52-54, 107-108, 116-118), at least 33 deposition transcripts (ECF 544, Nos. 14-15, 17, 19-32, 34-39, 74, 98, 104, 119, 132, 134, 137, 140-42), at least 17 Continuous Quality Improvement ("CQI") reports (ECF 544, Nos. 6-7, 58, 61-70, 78, 143-45), and at least six Wexford Corrective Action Plans ("CAPs") (ECF 544, Nos. 8-13). All of the information discussed in the motion practice was obtained well before the events at issue in this case.

181. Additionally, the discovery and reports produced in *Lippert et al. v. Ghosh et al.*, No. 10-CV-04603 (N.D. Ill.) put Wexford on notice of its widespread constitutional violations in providing prison medical care. Most significantly, the 45-page report published by a panel of court-appointed experts in December 2014 (ECF 339) outlined in detail how Illinois' healthcare program under Wexford was "unable to meet minimal constitutional standards" due to issues like: (1) unfilled and inadequate leadership positions, (2) the hiring of underqualified clinicians,

(3) severe understaffing, (4) inadequate clinic space, sanitation, and equipment, (5) insufficient supervision and facility oversight, (6) substantial delays in medically processing patients through the reception process, (7) disorganized, improper, and untimely medical records, (8) insufficient diagnosing and monitoring of patients' conditions, (9) arbitrary cancelation of prisoners' sick call requests, (10) a "cookie cutter" approach to chronic disease management, (11) "excessive" delays in off-site medical appointments, and (12) an "incomprehensible" failure to identify and respond to serious medical conditions, among other issues.

182. By the time that Mr. Hallum suffered at the hands of NMCD and Wexford, Wexford and NMCD were both well aware of each of the above unconstitutional patterns and practices, including Wexford's dire need to implement better hiring, retention, training, and supervision policies to prevent these rampant constitutional violations from continuing to occur.

183. Wexford's extensive and longtime failures to provide adequate care are further evidence of its deliberate indifference to the constitutional violations caused by its widespread deficiencies in hiring, retention, training, and supervising. Likewise, NMCD evinced its deliberate indifference to these unconstitutional practices through its refusal to provide proper supervision and oversight of these practices despite the risk known to it.

### **CAUSES OF ACTION**

#### **COUNT I: DELIBERATE INDIFFERENCE TO SERIOUS MEDICAL NEED**

##### **In Violation of Article II, § 13 of the New Mexico State Constitution**

**(Against NMCD and Wexford)**

184. Each paragraph of this Complaint is incorporated as if fully restated herein.

185. Under NMSA § 41-4A-3(C), NMCD is liable for its own state constitutional violations and for the unconstitutional conduct of Wexford and the individuals acting under NMCD's authority, including the CNMCF Warden, Lieutenant Hall, Nurse Peralta, Nurse Chrystal, Doe Doctors One through Seventeen, and Doe Corrections Officers One through Ten.



This is because NMCD is a “public body” under the New Mexico Civil Rights Act, and accordingly, it “shall be held liable for conduct of individuals acting on behalf of, under color of or within the course and scope of the authority of the public body [NMCD].” NMSA § 41-4A-3(C).

186. Similarly, Wexford is a “public body” for purposes of claims arising under the New Mexico Civil Rights Act, as Wexford was acting under color of state law, or within the course and scope of the authority of NMCD, at all times relevant to this Complaint, and as such, was acting on behalf of NMCD as a state agency or entity. *See* NMSA § 41-4A-2.<sup>60</sup> Accordingly, under NMSA § 41-4A-3(C), Wexford is liable for its own state constitutional violations and for the unconstitutional violations of the individuals acting under its authority, including Nurse Peralta, Nurse Chrystal, and Doe Doctors One through Seventeen.

187. NMCD and Wexford are subject to liability under the New Mexico Civil Rights Act for all actions and inactions in violation of Mr. Hallum’s constitutional rights under the New Mexico Constitution, as outlined in further detail above.

188. The abovenamed entities and individuals each possessed responsibility for the decisions that resulted in the violation of Mr. Hallum’s state constitutional right to be free from cruel and unusual punishment regarding the deliberate indifference to his serious medical needs while in NMCD custody, as described more fully above.

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<sup>60</sup> Wexford’s categorization as a “public body” under the New Mexico Civil Rights Act, and its simultaneous exclusion from immunity as a “governmental entity” or “local public body” under the New Mexico Tort Claims Act, is consistent with analogous federal precedent holding private actors accountable for violations of the U.S. Constitution when acting as state actors under color of state law, while simultaneously denying them qualified immunity and finding that they are not governmental entities entitled to such immunity. *See, e.g., Ancata v. Prison Health Servs., Inc.*, 769 F.2d 700, 703 (11th Cir. 1985) (finding that private prison medical contractor and its employees were state actors liable for their U.S. Constitutional violations), *cited approvingly in Van Riper v. Wexford Health Sources, Inc.*, 67 Fed. Appx. 501, 504 (10th Cir. 2003) (holding Wexford liable as a state actor regarding U.S. Constitutional violations and denying summary judgment); *see also Phillips v. Tiona*, 508 Fed. Appx. 737, 751-52 (10th Cir. 2013) (holding that private prison contractor and its employees were not entitled to sovereign or qualified immunity for their unconstitutional actions committed as state actors under color of state law).

189. Based on the information personally known to each of the abovenamed entities and individuals at the time that each committed the acts complained of above, each entity and individual was aware of the substantial likelihood that Mr. Hallum would continue to face a severely painful and potentially life-threatening medical condition unless he received additional medical services that he was not receiving or otherwise scheduled to receive.

190. These entities and individuals were aware of and deliberately disregarded the substantial risk of harm to Mr. Hallum that would ensue because of their failures to provide him with constitutionally adequate medical care, as described more fully above. Among other things, these entities and individuals were made aware of Mr. Hallum's substantial risk of harm due to his persistent expressions of intolerable and worsening pain; his frail physical appearance; his inability to walk or sit himself upright; his yellow skin and eyes; his bloody urine; and his inability to digest foods and liquids for days.

191. The deliberate indifference of the abovenamed entities and individuals caused Mr. Hallum to experience worsening, extensive, and unnecessary pain (first harm) and suffer from delayed diagnoses of severe sepsis, aortic valve endocarditis, and worsening non-drainable abscesses (second harm). Ultimately, these harms resulted in Mr. Hallum being required to undergo heart surgery to replace his aortic valve and to endure the long-term physical and psychological effects of this procedure (third harm).

192. Mr. Hallum's harms were sufficiently serious injuries that a reasonable doctor or patient would find them important and worthy of immediate treatment. Without treatment, Mr. Hallum's worsening severe pain caused him to lose the ability to take care of his most basic needs so that he could not even stand or consume food and water. His subsequently diagnosed medical conditions were life-threatening, and he will suffer life-long severe disabilities from

them. Accordingly, Mr. Hallum's severe pain and medical conditions significantly affected his daily activities.

193. The medical and security personnel at CNMCF would not or could not provide Mr. Hallum with necessary medical care, as evidenced by his multiple near-death experiences while under the supervision of medical personnel at CNMCF. As a result, his period of incarceration became life-threatening—and nearly a death sentence—because his serious medical needs were ignored.

194. Additionally, CNMCF medical and security personnel failed to make special provisions for Mr. Hallum in light of his serious medical needs. They would not even give him a wheelchair so that he could maneuver around the prison facility.

195. Separately, the CNMCF Warden's pointless refusal to permit Mr. Hallum to speak with his children and other family members while he was near death due to NMCD's lack of oversight of its unconstitutional medical care provider, and to only allow him a few minutes to discuss life-altering surgical procedures with his mother, constitutes cruel and unusual punishment under the state constitution.

196. Also, Nurse Peralta, Lieutenant Hall, and Doe Doctor Six each enacted cruel and unusual punishment against Mr. Hallum when they either took away his wheelchair or attempted to take his wheelchair while knowing that he could not walk and would be forced to endure needless, severe pain after the wheelchair was taken away. Nurse Peralta and Lieutenant Hall both watched Mr. Hallum crawl around the prison facility in agony after being deprived of the wheelchair, and their refusals to get him assistance constitute further acts of cruel and unusual punishment.

197. Finally, NMCD engaged in cruel and unusual punishment against Mr. Hallum and

other NMCD prisoners when it re-hired Wexford in 2019 while knowing that New Mexico’s own lawmakers had publicly accused Wexford of “torture” and “murder,” and where the governor had, in the recent past, mandated that NMCD fire Wexford and find a healthcare provider who could provide constitutionally adequate medical care in New Mexico prisons.

198. In re-hiring Wexford, NMCD was aware of and disregarded the substantial risk that Wexford would expose all NMCD prisoners to unconstitutional conditions of confinement and place them in very real danger of severe harm, including death. NMCD’s decision to contract with Wexford for medical services in 2019 and onward was an act of deliberate indifference to the serious medical needs of NMCD prisoners—particularly because NMCD re-hired Wexford without implementing any additional oversights than existed in the parties’ previous contract.

199. NMCD is not shielded by qualified immunity for its deliberate indifference to Mr. Hallum’s serious medical needs, or for the deliberate indifference and cruel and unusual punishment displayed by Wexford and the abovenamed individuals, because NMCD is a “public body” under NMSA § 41-4A-2. And under § 41-4A-4 of the New Mexico Civil Rights Act, “no public body or person acting on behalf of, under color of or within the course and scope of the authority of a public body shall enjoy the defense of qualified immunity for causing the deprivation of any rights, privileges or immunities secured by the bill of rights of the constitution of New Mexico.” Consequently, NMCD and Wexford are prohibited from asserting qualified immunity here.

200. Moreover, qualified immunity could not shield any of the abovenamed entities or individuals for their cruel and unusual punishment even if it were an available defense because of the well-documented 10<sup>th</sup> Circuit precedent notifying medical and prison personnel that it

constitutes cruel and unusual punishment when such personnel fail to take reasonable measures to provide a patient with access to medical attention and/or deny medical care to a patient with serious medical needs, as occurred in Mr. Hallum's case with each of the abovenamed individuals. *See, e.g., Sealock v. Colorado*, 218 F.3d 1205 (10th Cir. 2000) (confirming that prison personnel violate protections against cruel and unusual punishment when a prisoner complains of chest pain, a sign of medical emergency, yet prison personnel delay taking him to a hospital, even if the delay is only several hours).

**COUNT II: VIOLATION OF DUE PROCESS RIGHT TO BODILY INTEGRITY**  
**In Violation of Article II, § 18 of the New Mexico State Constitution**  
**(Against NMCD and Wexford)**

201. Each paragraph of this Complaint is incorporated as if fully restated herein.

202. As previously explained, under NMSA § 41-4A-3(C), NMCD is liable for its own violations of Mr. Hallum's substantive due process rights to bodily integrity as well as those committed by Wexford, the CNMCF Warden, Lieutenant Hall, Nurse Peralta, Nurse Chrystal, Doe Doctors One through Seventeen, and Doe Corrections Officers One through Ten.

203. Likewise, Wexford is liable for its own violations of Mr. Hallum's substantive due process rights to bodily integrity as well as those committed by Nurse Peralta, Nurse Chrystal, and Doe Doctors One through Seventeen.

204. Because the abovenamed Defendants' conduct toward Mr. Hallum was especially demeaning and humiliating concerning Mr. Hallum's body, these actors have violated Mr. Hallum's substantive due process right to bodily integrity under the New Mexico State Constitution.

205. Mr. Hallum has a fundamental right to bodily integrity, personal safety, privacy, and freedom from unlawful invasion and violation of his person, and not to be subjected to an

unsafe environment in which he was vulnerable to physical and emotional injury.

206. The abovenamed entities' and individuals' acts were intentional, conscience-shocking, wanton, arbitrary and capricious, and in gross and reckless disregard of, and deliberate indifference to, Mr. Hallum's constitutional rights. Upon information and belief, these acts were done maliciously and sadistically to cause harm, as they were not reasonably related to any legitimate penological interest.

207. Defendants' acts not only violated Mr. Hallum's right to bodily integrity, but they also undermined the state's own interests in (1) protecting the integrity and ethics of the medical profession, and (2) protecting vulnerable groups, including poor, elderly, and disabled persons, from abuse and neglect.

208. Although, in the federal context, bodily integrity rights are typically associated with physical violations of a sexual nature and the right to decline medical procedures, Mr. Hallum's bodily integrity was equally violated when he was brought to the brink of death and then forced to crawl in agony through prison facilities and into medical-transport vehicles without assistance as Defendants stood by watching, all while denying him the life-saving medical care for which he unrelentingly pleaded as he withered away and turned yellow.

209. Defendants' conduct was especially egregious because it involved circumstances where they had time to deliberate rather than make quick decisions. They chose to subject Mr. Hallum to these terrifying, degrading, and life-threatening circumstances—repeatedly, over time, and after deliberation.

210. Such treatment approximates torture, and its severity implicates Mr. Hallum's substantive due process rights, particularly in the context of the state constitution, which

provides broader protections than the federal constitution.<sup>61</sup> These government actors were abusing their power to the highest degree and wielding it as an instrument of oppression in violation of Mr. Hallum's substantive due process rights.

211. Again, NMCD and Wexford cannot raise a qualified immunity defense for any of these entities' or individuals' unconstitutional acts pursuant to NMSA § 41-4A-4.

**COUNT III: VIOLATION OF EQUAL PROTECTION UNDER THE LAW**  
**In Violation of Article II, § 18 of the New Mexico State Constitution**  
(Against NMCD and Wexford)

212. Each paragraph of this Complaint is incorporated as if fully restated herein.

213. As previously explained, under NMSA § 41-4A-3(C), NMCD is liable for its own violations of Mr. Hallum's equal protection rights as well as those committed by Wexford, Lieutenant Hall, Nurse Peralta, Nurse Chrystal, Doe Doctors One through Seventeen, and Doe Corrections Officers One through Ten.

214. Likewise, Wexford is liable for its own violations of Mr. Hallum's equal protection rights as well as those committed by Nurse Peralta, Nurse Chrystal, and Doe Doctors One through Seventeen.

215. The abovenamed entities and individuals continuously refused to provide Mr. Hallum with a wheelchair despite his inability to walk or otherwise maneuver himself around the prison facility, and their collective refusal to acknowledge Mr. Hallum's blatant and persistent disability violated his rights to equal protection of the laws under the New Mexico State Constitution.

216. Mr. Hallum was similarly situated to other CNMCF prisoners who were provided

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<sup>61</sup> See, e.g., *Morris v. Brandenburg*, 2015-NMCA-100, ¶¶ 23, 29 (recognizing that "the New Mexico Constitution provides greater rights than those provided in the federal constitution in the areas of double jeopardy, search and seizure, and equal protection," and noting that Article II, § 18 of the New Mexico Constitution has "the potential for broader protections" than the U.S. Constitution) (internal cites omitted).

with wheelchairs in all relevant respects: namely, none of them could walk or otherwise maneuver around the prison facility without the assistance of a wheelchair.

217. Mr. Hallum received disparate treatment compared to these similarly situated prisoners, because he was not provided with a wheelchair or permitted to use one, while the other similarly situated prisoners were given access to their own wheelchairs, which they were able to use and bring with them at any time.

218. The disparate treatment that Mr. Hallum experienced—*i.e.* not being allowed to use a wheelchair despite needing one—was not reasonably related to any legitimate penological interest, nor was it substantially related to an important government interest.

219. There is no important or legitimate penological interest in privileging some immobile prisoners with wheelchairs while preventing other immobile prisoners, such as Mr. Hallum, from accessing these wheelchairs to engage in the same types of activities in the same prison housing units.

220. The arbitrary denial of necessary medical equipment that Mr. Hallum endured was neither substantially related nor rationally related to any state interest. Upon information and belief, there is no conceivable rational basis by which Defendants could have distinguished Mr. Hallum's need for a wheelchair from those CNMCF prisoners who were provided with wheelchairs, particularly in light of Defendants' comments to Mr. Hallum that there were simply no wheelchairs available.

221. Accordingly, Mr. Hallum's disparate treatment was not supported by any firm rationale or evidence in the record, and his state constitutional right to equal protection of the laws was therefore violated.

222. Pursuant to NMSA § 41-4A-4, NMCD and Wexford cannot raise a qualified



immunity defense for any of these entities' or individuals' unconstitutional acts.

**COUNT IV: NEGLIGENT OPERATION OF A PUBLIC BUILDING**

**Under New Mexico Tort Law and the Tort Claims Act (NMSA § 41-4-6)**

(Against NMCD, Wexford, and Lieutenant Hall, Nurse Peralta, Nurse Chrystal,  
Doe Doctors One through Seventeen and Doe Corrections Officers One through Ten  
in their individual capacities)

223. Each paragraph of this Complaint is incorporated as if fully restated herein.

224. NMCD and Wexford both acted through their respective employees, staff, and agents (including the abovenamed Defendants) to cause Mr. Hallum's serious medical conditions and resulting heart surgery. Upon information and belief, NMCD and Wexford, by and through their employees, staff and agents, knew of Mr. Hallum's history of drug use and medical history and failed to provide necessary and proper medical care to protect Mr. Hallum's health and safety.

225. The abovenamed Defendants ignored information provided by Mr. Hallum and his cellmate concerning Mr. Hallum's dire physical state. The Defendants also failed to timely warn or otherwise alert proper medical professionals about Mr. Hallum's condition, and they exacerbated his medical problems by denying him access to proper medical care and failing to follow individualized medical protocols established for Mr. Hallum that they knew would address his medical condition. These Defendants also failed to follow through with and enforce NMCD policies and contractual provisions related to prisoners with medical issues.

226. Moreover, the Defendants were advised of Mr. Hallum's special medical needs and had policies designed to address those needs, but on multiple occasions failed to follow those policies, which resulted in severe physical and psychological injury to Mr. Hallum.

227. Additionally, NMCD and Wexford failed to adequately staff CNMCF to ensure that there were sufficient NMCD and Wexford personnel to satisfactorily respond to, and aid,

prisoners with medical conditions. NMCD and Wexford failed to establish sufficient facilities and staff capable of providing the medical care that they sought to deliver to prisoners with serious medical conditions.

228. By disregarding prisoners' serious medical needs, negligently identifying and supervising ill prisoners, ignoring information provided to them about prisoners' medical conditions, failing to follow and enforce proper medical and emergency procedures and safety policies, understaffing and undertraining personnel regarding medical emergencies and safety policies, and contravening medical advice for prisoners, the abovenamed Defendants created a foreseeable dangerous condition whereby prisoners, including Mr. Hallum, would become dangerously ill and possibly lose their lives.

229. Moreover, upon information and belief, the Defendants failed to maintain CNMCF in a safe and sanitary condition, so prisoners faced a heightened risk of infection, and such infections were prone to increase in severity more rapidly due to the unsanitary overall prison conditions. For example, the showers had mildew, there were insects in the food and kitchenware, and the laundry machines would make fabrics dirtier, so that all white clothes and linens would turn a brown color after being washed. Because of this, Mr. Hallum felt resigned to wash his bedsheets by hand, but he needed to use the broken laundry machines to wash his clothing and underwear.

230. Accordingly, the Defendants did not adequately perform duties that were essential to the safety of prisoners utilizing the public CNMCF building. As such, Defendants' negligence created a condition on the premises that was dangerous to the general prison population, and this condition injured Mr. Hallum.

231. The abovenamed Defendants each knew that they were operating and maintaining

CNMCF in a way that created a dangerous condition threatening the security of the entire prison population—and the prisoners in need of medical assistance in particular. The Defendants’ actions and inactions constituted an ongoing practice at CNMCF that was, at minimum, negligent.

232. The failure to respond appropriately to an emergency medical situation constitutes a potential threat to everyone in the facility because such a condition can occur at any time and affects even those prisoners without any special health needs. Additionally, the Defendants’ indifference towards Mr. Hallum’s particular medical needs makes it more likely that all similarly situated prisoners are at risk.

233. Defendants’ negligent actions and omissions combined to create an unreasonably dangerous condition and risk of injury at CNMCF, placing Mr. Hallum and other prisoners in a far worse position than the reasonable and expected risks of prison life, and ultimately causing Mr. Hallum severe bodily injury and nearly death.

234. Overall, NMCD’s and Wexford’s customs, policies, and practices created a general condition of unreasonable risk to NMCD’s prisoners due to negligent safety practices concerning identifying and addressing medical emergencies and serious medical conditions.

235. The abovenamed Defendants wholly failed to exercise reasonable care to prevent and correct these dangerous conditions at CNMCF. Defendants cannot turn a blind eye to threats to the prisoners’ safety.

236. At all relevant times, the abovenamed Defendants were acting within the scope of their duties in the operation and/or maintenance of the CNMCF facility, as they were acting in relation to safety policies necessary to protect those who used this public building.

237. Immunity for any “public employee” is waived for Defendants’ negligence under

NMSA § 41-4-6, as Mr. Hallum's injuries arose from an unsafe, dangerous, and defective condition on property owned and operated by the government.

**COUNT V: NEGLIGENT OPERATION OF A MEDICAL FACILITY**

**Under New Mexico Tort Law and the New Mexico Tort Claims Act (NMSA § 41-4-9)**  
(Against NMCD, Wexford, and Nurse Peralta, Nurse Chrystal, NMCD Secretary of Corrections, and Doe Doctors One through Seventeen in their individual capacities)

238. Each paragraph of this Complaint is incorporated as if fully restated herein.

239. In operating the CNMCF medical facility, NMCD, NMCD's agent medical contractor Wexford, and the individual medical providers, were all under a duty to use ordinary care to avoid or prevent what a reasonably prudent person would foresee as an unreasonable risk of injury to another.

240. NMCD has authority and control over all NMCD correctional facilities and the medical units within those correctional facilities, including CNMCF. Additionally, NMCD has clinical oversight of its contractors' medical decision-making and health services operations. Upon information and belief, the duties of the NMCD Secretary of Corrections include oversight of NMCD's medical contractors and the operation and maintenance of healthcare facilities inside NMCD prisons.

241. Moreover, NMCD and the Secretary of Corrections must enforce the PSC and terminate independent contractors if the care provided does not meet NMCD standards, generally accepted medical standards, and/or constitutional definitions of adequate healthcare. Accordingly, NMCD and the Secretary of Corrections are involved in the clinical decision-making and supervision of the medical units inside NMCD facilities.

242. NMCD and the Secretary of Corrections did not enforce the PSC or take proper enforcement actions against Wexford, resulting in inadequate healthcare to its prisoners, including Mr. Hallum. The failures of NMCD caused Mr. Hallum's severe infection and heart

injuries, which required heart surgery.

243. At all relevant times, NMCD, the Secretary of Corrections, and Wexford were responsible for the clinical decision-making and supervision of clinical decision-making at CNMCF, and Doe Doctors One through Seventeen were responsible for clinical decision-making at CNMCF as well.

244. Wexford's medical staff at CNMCF lacked sufficient expertise to assess, treat and manage Mr. Hallum's health conditions. As such, Wexford had a duty to properly refer Mr. Hallum to be seen by a physician who could effectively treat him.

245. NMCD refused or otherwise failed to enforce this duty despite knowing that Wexford was violating this duty. Upon information and belief, NMCD knew that Wexford was not properly and adequately treating Mr. Hallum's medical conditions or referring him to outside medical providers who could effectively and timely treat him. Consequently, the actions and inactions of NMCD for the medical care of Mr. Hallum were, at minimum, negligent.

246. Moreover, both NMCD and Wexford negligently failed to provide adequate medical facilities to treat prisoners' medical conditions in NMCD facilities, which both Defendants unsuccessfully attempted to do in Mr. Hallum's case, when his medical records clearly indicated that he required off-site medical care.

247. NMCD is ultimately responsible for providing adequate healthcare to those it incarcerates, and to protect those prisoners from risks associated with increased likelihood of infection or other medical emergencies. Specifically, with elevated risks of harm, NMCD has an increased duty of care to vulnerable prisoners, including Mr. Hallum.

248. Similarly, Wexford has a duty to provide adequate medical care to the prisoners to whom it has contracted with NMCD to provide medical services. Wexford, too, is directly

responsible for protecting those prisoners from risks associated with increased likelihood of infection or other medical emergencies. And Wexford's duty of care is similarly increased in situations concerning vulnerable prisoners like Mr. Hallum.

249. Given Mr. Hallum's medical and intravenous drug use history, NMCD and Wexford knew of his heightened risk for developing severe infection, and they should have ensured that he received timely, proper screening, supervision, and treatment for his infection.

250. Both NMCD and Wexford failed in multiple instances to properly screen, treat, and medically supervise Mr. Hallum, and their negligence in failing to provide adequate medical care foreseeably and caused Mr. Hallum's injuries.

251. Additionally, upon information and belief, Doe Doctors One through Seventeen were each involved in clinical decision-making for Mr. Hallum during the events outlined in this Complaint, and each was present at the CNMCF medical unit at some point during this timeframe.

252. The Doe Doctors' actions and inactions breached their duty of care owed to Mr. Hallum and other prisoners and foreseeably caused Mr. Hallum's infection to rapidly progress to the point where he faced life-threatening heart surgery and suffers long-lasting and severe medical consequences.

253. Immunity for any "public employee" is waived for these Defendants' negligence under NMSA § 41-4-9, as all public employee Defendants were acting within the scope of their duties in the operation of CNMCF's medical facility/clinic.

#### **COUNT VI: NEGLIGENT PROVISION OF HEALTHCARE SERVICES**

##### **Under New Mexico Tort Law**

(Against Wexford and Nurse Peralta, Nurse Chrystal, and Doe Doctors One through Seventeen in their individual capacities)

254. Each paragraph of this Complaint is incorporated as if fully restated herein.

255. In undertaking the diagnosis, care and treatment of Mr. Hallum, Wexford and its employees, staff, and agents (including Doe Doctors One through Seventeen) were under a duty to possess and apply the knowledge, skill, and care that is used by reasonably well-qualified healthcare providers in the local community.

256. Wexford and its employees, staff, and agents (including the abovenamed Defendants) breached their duties and were negligent in the management of Mr. Hallum's health and well-being.

257. The negligence, errors, and other acts and omissions of Wexford and its agents include, but are not limited to:

- a) Failing to provide adequate staff, adequately paid staff, and adequately trained staff at CNMCF to care for inmates such as Mr. Hallum, with the full knowledge that such inadequate staffing practices would place inmates such as Mr. Hallum at risk of injury;
- b) Negligently hiring, retaining, training, and supervising staff at CNMCF, with the full knowledge that such negligent staffing practices would place inmates such as Mr. Hallum at risk of injury;
- c) Failing to provide proper prevention planning for emergent and worsening infection, infection and sepsis prevention policies and procedures, and infection-prevention training, so that Mr. Hallum's infection was permitted to worsen to the point where it became life threatening;
- d) Failing to provide and implement proper care plans that would adequately meet Mr. Hallum's needs, including his risk for severe infection;
- e) Failing to provide a safe environment;

- f) Failing to ensure that Mr. Hallum received adequate supervision and assistance devices to prevent emergent infections from growing;
- g) Failing to have adequate and effective policies, procedures, staff and equipment to adequately supervise Mr. Hallum;
- h) Failing to adequately monitor Mr. Hallum; and
- i) Failing to recognize Mr. Hallum's emergent need for a higher level of care that could not be provided at CNMCF.

258. These acts and failures to act by Wexford and its employees, agents, apparent agents and contractors were at minimum, negligent, and upon information and belief, willful, wanton and in reckless disregard for the safety and well-being of Mr. Hallum.

259. At all relevant times, the abovenamed Defendants were private employees and entities acting within the scope of their duties, as permitted by law, to provide healthcare services to NMCD prisoners. The acts and omissions complained of here were undertaken by the abovenamed Defendants within the scope of those Defendants' employment, contract, agency and/or apparent agency.

260. All acts complained of herein were authorized, participated in, or ratified by NMCD and Wexford, or their administrators, managers, officers or directors or shareholders.

261. As a result of the acts or omissions of the abovenamed Defendants, Mr. Hallum foreseeably suffered from severe sepsis, aortic valve endocarditis, and abscesses; and he had to undergo heart surgery and spend over a month in the hospital in persistent and severe pain.

262. Immunity is waived for any "public employee" Defendant's negligence under NMSA § 41-4-10, as the abovenamed Defendants were each directly charged with making clinical decisions and providing health care services related to the curing or prevention of



impairments to the body.

**COUNT VII: MEDICAL MALPRACTICE**

**In Violation of New Mexico Common Law**

(Against NMCD, Wexford, and Nurse Peralta, Nurse Chrystal and Doe Doctors One through Seventeen in their individual capacities)

263. Each paragraph of this Complaint is incorporated as if fully restated herein.

264. At all relevant times, the above Defendants were each healthcare providers providing health services to Mr. Hallum and other NMCD prisoners.

265. In undertaking the diagnosis, care, and treatment of Mr. Hallum, the abovenamed Defendants had a duty to possess and apply the knowledge, skill, and care that was ordinarily used by reasonably well-operated medical facilities and well-qualified healthcare providers under similar circumstances, giving due consideration to the locality involved.

266. Defendants breached their duties and were, at minimum, negligent in the management of Mr. Hallum's health and safety in the following ways, *inter alia*:

- a) Failing to evaluate, treat, and manage Mr. Hallum's severe medical condition;
- b) Failing to develop, employ, and follow appropriate policies and procedures with regard to the assessment, treatment, and management of Mr. Hallum's severe medical condition;
- c) Failing to create an appropriate treatment plan;
- d) Failing to implement an appropriate treatment plan;
- e) Failing to take the reasonable steps to acquire proper treatment of Mr. Hallum;
- f) Failing to refer Mr. Hallum to appropriate specialists;
- g) Failing to timely transfer Mr. Hallum to an appropriate medical facility; and
- h) Failing to protect and preserve the health of Mr. Hallum.

267. Upon information and belief, the relevant professional standards of acceptable medical care required the abovenamed Defendants to refer Mr. Hallum for further evaluation and hospitalization before June 25, 2021, and certainly before June 27, 2021 when he was eventually transported for emergency off-site medical care.

268. The abovenamed Defendants failed to acknowledge the significance of, and timely act on, Mr. Hallum's severe and unrelenting symptoms of a medical emergency, particularly in light of his documented prior medical history.

269. In addition, Defendants had a clearly established duty to abide by UNMH's medical directive that Mr. Hallum be sent to an off-site skilled nursing facility upon his discharge back to CNMCF on July 13, 2021, which Defendants repeatedly ignored, causing Mr. Hallum to undergo yet another near-death hospitalization.

270. Based on the above, the Defendants' conduct foreseeably created a broader zone of risk to Mr. Hallum and other similarly situated prisoners with a heightened risk of infection or other medical vulnerabilities.

271. As a result, the acts and omissions of Defendants directly and caused Mr. Hallum's medical injuries complained of herein.

272. Immunity is waived for any abovenamed "public employee" Defendants under the New Mexico Tort Claims Act, NMSA § 41-4-1 *et seq.*

**COUNT VIII: NEGLIGENT TRAINING, STAFFING, AND SUPERVISION**

**Under New Mexico Tort Law and the Tort Claims Act (NMSA §§ 41-4-6 and 41-4-9)**

(Against NMCD, Wexford, and CNMCF Warden, NMCD Secretary of Corrections, CNMCF Health Services Administrator, CNMCF Medical Director, Wexford Regional Medical Director, Wexford Regional Manager, Wexford Regional Director of Nursing Wexford Quality Improvement Coordinator, CNMCF Director of Nursing, and CNMCF Infection Control Nurse in their individual capacities)

273. Each paragraph of this Complaint is incorporated as if fully restated herein.

274. At all times relevant to this Complaint, the abovenamed Defendants were each responsible for training, staffing, and supervising personnel operating the CNMCF facility, including personnel responsible for the medical-access gatekeeping and/or medical wellbeing of CNMCF prisoner patients. These personnel were employed by NMCD and/or Wexford.

275. Upon information and belief, the abovenamed Defendants were each responsible for supervising NMCD and/or Wexford personnel in the actual day-to-day operation and maintenance of the CNMCF facility.

276. These Defendants failed to ensure that CNMCF was adequately staffed with medical and security personnel who were sufficiently trained to render aid to prisoners with medical conditions. Upon information and belief, these Defendants also failed to follow through with or otherwise enforce NMCD's policies and related contract provisions regarding prisoners with medical issues, which they were each responsible for overseeing.

277. More specifically, Wexford had a duty to properly screen, supervise, educate, and train its employees regarding proper treatment of prisoners with infection and/or increased risk of infection.

278. Pursuant to the PSC, Attachment I, "Service Delivery Standards" Section, Wexford's "regional medical director and regional manager [were] responsible for assuring the delivery of services described [t]herein." Similarly, according to the "Infectious Disease" Section, Wexford's "infection control nurse" at CNMCF was responsible "for the infection control program." So, these Defendants also shared Wexford's duty to properly screen, supervise, education and train its employees.

279. On information and belief, Wexford and its supervisory agents failed to properly screen, supervise, educate and train its employees, contractors, and agents regarding how to

appropriately and adequately assess, treat, and manage, Mr. Hallum's multiple medical conditions, including sepsis, endocarditis, and abscesses.

280. Similarly, given CNMCF's history of rapidly-escalating infections, particularly in prisoners with a history of intravenous drug use, NMCD and its abovenamed agents knew of the heightened risk of its prisoners to develop severe infection and should have trained their agents and employees to recognize and intervene in light of the infection risk factors displayed by Mr. Hallum and other similarly situated NMCD prisoners.

281. Given Mr. Hallum's medical and intravenous drug use history, NMCD and Wexford knew of his heightened risk for developing severe infection and should have trained their agents and employees to monitor and care for such patients at chronic risk for infection, and to make the appropriate recommendations, treatment plans, and referrals.

282. Defendants' insufficient implementation of safety protocols created dangerous conditions arising from the operation of the CNMCF facility and were, at minimum, negligent.

283. The abovenamed Defendants, in the exercise of reasonable care, should have discovered the dangerous conditions and should have protected against prisoners' injuries by controlling the conduct of the NMCD and Wexford personnel over which they had supervisory authority, including the individual Doe Doctors and Corrections Officers named in this Complaint.

284. These supervisory Defendants failed to use ordinary care in their training, staffing, and supervising practices. And they knew that their practices regarding training, staffing, and supervising NMCD and Wexford personnel created an unreasonable risk of injury to Mr. Hallum and similarly situated NMCD prisoners.

285. These dangerous conditions were severe and foreseeable, so the abovenamed

Defendants had a heightened duty of care to oversee, discover, and prevent CNMCF personnel's dangerous responses to prisoner medical emergencies.

286. Accordingly, Defendants negligently violated their duties of care and failed to provide services necessary to safely operate a public prison facility and medical facility.

287. The above Defendants' negligent training, staffing, and supervision were the causes of Mr. Hallum's severe injuries.

288. Immunity is waived for any abovenamed "public employee" Defendants' supervisory negligence under NMSA §§ 41-4-9 because Defendants' negligent decisions, actions, and inactions constitute clinical decisions.

289. Immunity is also independently waived for any abovenamed "public employee" Defendants under NMSA § 41-4-6 because these Defendants' negligent training, staffing, and supervision were directly tied to the operation of the CNMCF building. CNMCF was ordinarily dangerous even in the absence of these Defendants' inadequate supervision, and these dangerous conditions required supervision and were known or should have been known to Defendants.<sup>62</sup>

### **COUNT IX: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

#### **In Violation of New Mexico Tort Law**

(Against Wexford, and Lieutenant Hall, Nurse Peralta, Nurse Chrystal,  
Doe Doctors One through Seventeen and Doe Corrections Officers  
One through Ten in their individual capacities)

290. Each paragraph of this Complaint is incorporated as if fully restated herein.

291. Upon information and belief, the abovenamed Defendants each denied Mr. Hallum proper and necessary medical care and proper supervision given his medical history and

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<sup>62</sup> See, e.g., *Silva v. State*, 1987-NMSC-107, ¶¶ 17-18 (finding that the NMCD Secretary of Corrections could be held liable under NMSA §§ 41-4-6, 41-4-9 and/or 41-4-10 for improper management and enforcement, including staffing, training, and supervision, regarding "the operation or maintenance of the corrections and medical care facilities and health care services").

the severity of his medical condition—conduct which was extreme, outrageous, socially reprehensible, and beyond the bounds of common decency.

292. Moreover, the Defendants were Mr. Hallum's only source of medical assistance while he was incarcerated, and they acted as gatekeepers to deny Mr. Hallum access to medical specialists and resources that he desperately needed. As such, Defendants had a special relationship with Mr. Hallum which gave them extraordinary, nearly unilateral power to damage and otherwise control his medical interests. This special relationship accordingly lowered the level of conduct required to be actionable as intentional infliction of emotional distress.

293. Upon information and belief, the abovenamed Defendants denied Mr. Hallum access to the appropriate specialists for his medical conditions and contravened the medical directives of UNMH medical specialists regarding life-saving care, either intentionally or in reckless disregard of Mr. Hallum's health and wellbeing.

294. As a result, Mr. Hallum suffered extreme and severe emotional distress, which included the emotional trauma of needing to undergo emergency, life-threatening heart surgery and spending a month in the hospital in debilitating pain and on death's doorstep. A reasonable person, normally constituted, would be unable to cope adequately with the mental distress engendered by Mr. Hallum's circumstances.

**COUNT X: BREACH OF CONTRACT, THIRD PARTY BENEFICIARY**  
**In Violation of New Mexico Contract Law**  
**(Against NMCD and Wexford)**

295. Each paragraph of this Complaint is incorporated as if fully restated herein.

296. As an NMCD prisoner in the custody of NMCD, Mr. Hallum was a third party beneficiary to NMCD's contract with Wexford that was in place at all times relevant to this Complaint and through which Wexford was obligated to provide Mr. Hallum adequate medical

care.

297. As an intended beneficiary to the contract for medical services between NMCD and Wexford, Mr. Hallum has standing to enforce the terms of the contract. *See, e.g., Owens v. Haas*, 601 F.2d 1242, 1248-1251 (2d Cir. 1979), *cert. denied*, 444 U.S. 980 (1979) (holding that “it would appear likely that the prisoners can claim third party beneficiary status as ones to whom a duty is owed” and enforce the contract between the U.S. Bureau of Prisons and the County of Nassau), *cited approvingly by Moaz v. Denver Int’l Airport*, 747 F. App’x 708, 710 (10th Cir. 2018).

298. During the timeframe relevant to this Complaint, Wexford and its agents materially breached multiple provisions of Wexford’s contract with NMCD, and these violations were a cause of Mr. Hallum’s injuries.

299. Mr. Hallum’s and his family’s repeated complaints that CNMCF personnel were ignoring Mr. Hallum’s serious medical condition were more than sufficient to provide NMCD and Wexford with notice of the abovementioned contractual violations, and Wexford had multiple subsequent opportunities to cure them.

**COUNT XI: RESPONDEAT SUPERIOR AND AGENCY**  
**Under New Mexico Tort Law and the New Mexico Tort Claims Act**  
(Against NMCD and Wexford)

300. Each paragraph of this Complaint is incorporated as if fully restated herein.

301. NMCD and Wexford are responsible to Mr. Hallum under the doctrine of *respondeat superior* for the conduct of their respective employees, staff, and agents previously identified.

302. As such, NMCD and Wexford are liable for damages caused by their employees and other agents while working within the scope of their employment under the doctrines of *respondeat superior* and agency, in an amount to be determined at trial.

**COUNT XII: RES IPSA LOQUITUR**

**Under New Mexico Tort Law and the New Mexico Tort Claims Act**

(Against NMCD, Wexford, and Nurse Peralta, Nurse Chrystal, Doe Doctors One through Seventeen, and Doe Corrections Officers One through Ten in their individual capacities)

303. Each paragraph of this Complaint is incorporated as if fully restated herein.

304. The injuries and damages suffered by Mr. Hallum were caused by the wanton, willful, and reckless actions and inactions of all Defendants.

305. It was the responsibility of NMCD and Wexford to manage and control their security and medical staff regarding the care and treatment of Mr. Hallum.

306. The events causing the injuries and damages to Mr. Hallum were of a kind which would not ordinarily occur in the absence of negligence on the part of NMCD, Wexford, and their agents.

307. The doctrine of *res ipsa loquitur* is applicable as a theory of negligence, causation, and damages in this case and appropriately pleaded herein.

**COUNT XIII: CIVIL CONSPIRACY TO DENY MEDICAL CARE**  
**In Violation of Article II, § 13 of the New Mexico State Constitution**  
**and New Mexico Tort Law**

(Against NMCD, Wexford, and Lieutenant Hall, Nurse Peralta, Nurse Chrystal,  
Doe Doctors One through Seventeen, and Doe Corrections Officers  
One through Ten in their individual capacities)

308. Each paragraph of this Complaint is incorporated as if fully restated herein.

309. The facts illustrated above show a conspiracy on the part of NMCD, Wexford, and their agents to deny Mr. Hallum necessary, proper and constitutionally minimal medical care under the state constitution and under New Mexico tort law.



310. Minimally, from the period of June 20, 2021 through August 9, 2021, the abovenamed Defendants entered into an agreement, or a shared general objective, to deny Mr. Hallum the off-site medical care that he desperately needed.

311. These Defendants engaged in a collective concerted action to prevent Mr. Hallum from receiving the specialized medical care he required, all doing their part to continually deny him access to off-site medical facilities and doctors.

312. As a result of this conspiracy and the abovenamed Defendants' conduct during the conspiracy, Mr. Hallum suffered severe physical and emotional distress.

**COUNT XIV: POLICY AND PRACTICE OF DENIAL OF MEDICAL CARE**  
**In Violation of Article II, § 13 of the New Mexico State Constitution**  
(Against NMCD and Wexford)

313. Each paragraph of this Complaint is incorporated as if fully restated herein.

314. As previously explained, under NMSA § 41-4A-3(C), NMCD is liable for its own policies and practices which constitute cruel and unusual punishment against Mr. Hallum, as well as the policies and practices of Wexford which amount to cruel and unusual punishment against Mr. Hallum. And Wexford is liable for its own policies and practices amounting to cruel and unusual punishment against Mr. Hallum.

315. As a private corporation acting pursuant to its agreement with NMCD to provide medical services to New Mexico State prisoners, Wexford was at all relevant times to this Complaint acting under color of, or within the course and scope of, the authority of NMCD. Within NMCD's authority, Wexford was acting as the provider of healthcare services to prisoners incarcerated at CNMCF. Accordingly, both NMCD and Wexford were responsible for the creation, implementation, oversight, and supervision of all policies and procedures followed by employees and agents of Wexford and CNMCF/NMCD.

316. Mr. Hallum's injuries were caused by Wexford's policies and practices, which are imputed to NMCD and for which NMCD is liable.

317. Wexford maintains a policy, practice, and custom of under-reporting the severity of medical and mental health emergencies and denying appropriate medical and mental health care to prisoners. On information and belief, Wexford medical staff working in NMCD facilities lack the necessary medical backgrounds to provide adequate care and are trained to ignore or under-report symptoms of medical and mental health emergencies, which amounts to deliberate indifference to the serious medical needs of prisoners presenting symptoms of such emergencies, including Mr. Hallum.

318. On information and belief, Wexford supervises its employees to ignore or under-report symptoms of medical and mental health emergencies, which amounts to deliberate indifference to the serious medical needs of prisoners presenting symptoms of such emergencies, including Mr. Hallum.

319. On information and belief, Wexford ratifies the conduct of its employees who ignore or under-report symptoms of medical and mental health emergencies through review and approval of these employees' performance, and through the decision to continue the employment of such individuals who ignore and under-report medical and mental health emergencies of NMCD prisoners, which amounts to deliberate indifference to the serious medical needs of prisoners presenting symptoms of such emergencies, including Mr. Hallum.

320. At all times relevant to this Complaint, Wexford and NMCD had notice of a widespread practice by their employees and agents at CNMCF and other NMCD facilities under which prisoners with serious medical conditions, including Mr. Hallum, were routinely denied access to proper or sufficient medication and medical attention. Upon information and belief, it

was common to observe prisoners of CNMCF and NMCD with clear symptoms of serious medical and/or mental concerns whose requests for medical care were routinely denied or completely ignored. Upon information and belief, a significant portion of these denials of medical and mental health care resulted in substantial injury or death.

321. More specifically, there was a widespread practice under which employees and agents of Wexford and NMCD, including correctional officers and medical personnel, failed or refused to: (1) report, diagnose, and properly examine, monitor, and treat prisoners with serious medical and/or mental health conditions, including failing to provide proper medications to prisoners with serious medical and/or mental health conditions; (2) respond to prisoners who requested medical and/or mental health services; (3) respond to prisoners who exhibited clear signs of medical and/or mental health need or illness; (4) adequately document and communicate the medical and mental health needs of prisoners to the appropriate correctional officers and/or medical or mental health staff; or (5) timely refer prisoners for emergency or other offsite medical services.

322. Additionally, there was a widespread practice under which Wexford personnel severely understaffed its medical and mental health facilities and failed adequately to train and supervise its personnel on necessary medical and mental health procedures.

323. These widespread practices were allowed to proliferate because Wexford and NMCD directly encouraged, and were the moving forces behind, the specific misconduct at issue. Wexford and NMCD also failed to adequately hire, retain, train, supervise, and control correctional officers and medical personnel by failing to adequately punish and discipline prior instances of similar misconduct, thereby directly encouraging future abuses like those which harmed Mr. Hallum.

324. Wexford and NMCD knew of the substantial risk of serious or fatal consequences that could be caused by their unconstitutional policies, practices, customs, failures to train, and failures to supervise, hire, and retain appropriately credentialed staff, as occurred in Mr. Hallum's case. However, they intentionally continued to perpetuate these unconstitutional policies and practices despite the known risks.

325. NMCD is sued herein for its own unconstitutional patterns and practices and because Wexford was acting on its behalf when it maintained its unconstitutional policies, practices, and customs; failed to train and supervise; failed to hire and retain adequately qualified medical personnel; and ratified its employees' and agents' misconduct, all of which amounts to deliberate indifference to prisoners' serious medical and/or mental health needs.

326. These policies and conduct were the moving force behind the violations of Mr. Hallum's state constitutional rights and his injuries. Mr. Hallum's injuries were caused by employees and contractors of NMCD and Wexford, including but not limited to the individually-named Defendants, who acted pursuant to the unconstitutional policies and practices of NMCD and Wexford while engaging in the misconduct described in this Complaint.

327. Upon information and belief, Wexford maintained these policies and practices in order to maximize profit and without regard to its constitutional and medical obligations to NMCD prisoners who were entrusted to Wexford's care.

328. Pursuant to NMSA § 41-4A-4, NMCD and Wexford cannot raise qualified immunity defenses for any of these unconstitutional policies or practices.

### **JURY DEMAND**

329. Plaintiff respectfully demands a six-person jury on all issues so triable.

### **RELIEF REQUESTED**

WHEREFORE, Plaintiff requests judgment as follows:

- A. The statutory damages legally allowable under the New Mexico Civil Rights Act against both NMCD and Wexford separately as distinct public bodies each individually liable for up to “the maximum recovery limit” outlined in NMSA § 41-4A-6;
- B. Compensatory damages against all Defendants, jointly and severally, in an amount to be determined by this Court as adequate for pain, suffering, and injuries to Mr. Hallum under the New Mexico Tort Claims Act, and New Mexico tort, contract, and common law, including compensation for Wexford Defendants’ intentional infliction of emotional distress;
- C. Punitive damages in an undetermined amount against Wexford;
- D. Costs incurred by Mr. Hallum, including pre-judgment and post-judgment interest;
- E. Reasonable attorneys’ fees; and
- F. Such other and further relief as the Court deems just and proper.

Respectfully Submitted:

COLLINS & COLLINS, P.C.

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-and-

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July 6, 2021

**NOTICE OF TORT CLAIM**

New Mexico Corrections Department  
P. O. Box 27116  
Santa Fe, NM 87502-0116  
***Via Fax only to (505) 827-8533***

Risk Management Claims Bureau  
P.O. Box 6850  
Santa Fe, NM 87502  
***Via Fax only to (505) 827-2969***

Office of General Counsel  
c/o Chief Deputy General Counsel, Brian Fitzgerald  
New Mexico Corrections Department  
PO Box 27116  
Santa Fe, NM 87502-0116  
***Via Fax only to (505)-827-8533***

Our Client: Phillip Hallum (NMCD#: 85641)  
Subject: Emergency Hospitalization  
Defendants: New Mexico Corrections Department (NMCD), Wexford Health Sources  
Date of Incidence: June 26, 2021

**Tort Claims Notice and Preservation of Evidence**

Gentlemen\Mesdames:

We are writing on behalf of the above captioned client and matters. This letter is intended to provide written notice to the above captioned parties under the Tort Claims Act, NMSA 1978, §§ 41-4-1 to -4-27 regarding the actions and inaction of Central New Mexico Correctional Facility (CNMCF), New Mexico Corrections Department (NMCD), Wexford Health Sources, Inc., and the State of New Mexico (and their employees, staff contractors and other agents) for the reckless, grossly indifferent disregard for the civil rights and safety of Phillip Hallum outlined below.

**Facts:**

On or about June 26, 2021, Mr. Phillip Hallum was transported by ambulance to the University of New Mexico Hospital (UNMH). According to Mr. Hallum's family, prior to his hospitalization, he reported being in extreme pain for days. Furthermore, he was unable to walk and had blood in his urine. According to other inmates, he had become incoherent prior to his emergency transport to the hospital. Mr. Hallum had pled for days for medical attention but his please were ignored. The lack of attention and withholding of appropriate medical care constitute deliberate indifference to the health and welfare of Mr. Phillip Hallum.

**Preservation of Evidence:**

Under the laws prohibiting spoliation of evidence, please take all necessary steps to preserve the following evidence associated with the subject incident:

1. The full and complete inmate file for Mr. Phillip Hallum, to include all grievance and disciplinary files.
2. All medical records obtained or otherwise received for Mr. Hallum
3. All requests by NMCD, its staff, agents, or contractors, for Mr. Hallum's medical records from any outside medical providers.
4. All correctional officer daily logs for the duration of Mr. Hallum's incarceration at the CNMCF for the period June 1, 2021, to the present.
5. All cell check logs for checks on Mr. Hallum for the for the period June 1, 2021, to the present.
6. All recorded calls involving Mr. Hallum as a party to the call.
7. All video and audio recordings related to the subject:
8. Any other "Writings, Records and Photographs" as defined under Rule 11-1001 of the New Mexico Rules of Evidence:
  - a. A "writing" consists of letters, words, numbers, or their equivalent set down in any form.
  - b. "recording" consists of letters, words, numbers, or their equivalent recorded in any manner.
  - c. "photograph" means a photographic image or its equivalent stored in any form.
9. Any paper or electronic files and other data generated by and/or stored on your computers and storage media (e.g., hard disks, floppy disks, backup tapes), or any other electronic data, such as voice mail in connection with the subject incident. All electronic



records must be maintained and preserved even if there are hard copy printouts of said records.

10. All written notes, recordings, meeting minutes, written correspondence of any kind, witness interviews, witness statements, reports to regulatory authorities and any other writing related to or associated with Mr. Hallum.

Please also preserve all items above in the original electronic format in which they are entered, created, stored, maintained, and archived.

Please contact us should you have any questions. Thank you for your consideration of this matter.

Sincerely,

COLLINS & COLLINS, P.C.

**/s/Parrish Collins**

Parrish Collins  
PC/gtg

-----Original Message-----

From: ccapcscans@gmail.com <ccapcscans@gmail.com>

Sent: Tuesday, July 6, 2021 2:10 PM

To: Guy Gambill <guy@collinsattorneys.com>

Subject: TASKalfa 3212i Job end report mail

Job No.: 017336

Result: OK

End Time: Tue 06 Jul 2021 14:10:05

File Name: 7.6.21 TCN with Spoliation.pdf

Category: Sending Jobs

Result Job Type Address

-----  
OK FAX 5058278533

Thanks,

-----Original Message-----

From: ccapcscans@gmail.com <ccapcscans@gmail.com>

Sent: Tuesday, July 6, 2021 2:08 PM

To: Guy Gambill <guy@collinsattorneys.com>

Subject: TASKalfa 3212i Job end report mail

Job No.: 017338

Result: OK

End Time: Tue 06 Jul 2021 14:08:12

File Name: 7.6.21 TCN with Spoliation.pdf

Category: Sending Jobs

Result Job Type Address

-----  
OK FAX 5058278533

Thanks,

-----Original Message-----

From: ccapcscans@gmail.com <ccapcscans@gmail.com>

Sent: Tuesday, July 6, 2021 2:07 PM

**COLLINS & COLLINS, P.C.**  
Attorneys at Law  
P. O. Box 506  
Albuquerque, NM 87103  
Telephone: (505) 242-5958 Fax (505) 242-5968

August 12, 2021

**NOTICE OF TORT CLAIM**

New Mexico Corrections Department  
P. O. Box 27116  
Santa Fe, NM 87502-0116  
***Via Fax only to (505) 827-8533***

Risk Management Claims Bureau  
P.O. Box 6850  
Santa Fe, NM 87502  
***Via Fax only to (505) 827-2969***

Office of General Counsel  
c/o Chief Deputy General Counsel, Brian Fitzgerald  
New Mexico Corrections Department  
PO Box 27116  
Santa Fe, NM 87502-0116  
***Via Fax only to (505)-827-8533***

Our Client: Phillip Hallum (NMCD#: 85641)  
Subject: Emergency Hospitalization  
Defendants: New Mexico Corrections Department (NMCD), Wexford Health Sources  
Date of Incidence: August 10, 2021

**Tort Claims Notice and Preservation of Evidence**

Gentlemen\Mesdames:

We are writing on behalf of the above captioned client and matters. This letter is intended to provide written notice to the above captioned parties under the Tort Claims Act, NMSA 1978, §§ 41-4-1 to -4-27 regarding the actions and inaction of Central New Mexico Correctional Facility (CNMCF), New Mexico Corrections Department (NMCD), Wexford Health Sources, Inc., and the State of New Mexico (and their employees, staff contractors and other agents) for the reckless, grossly indifferent disregard for the civil rights and safety of Phillip Hallum outlined below.

**Facts:**

On or about August 10, 2021, Mr. Phillip Hallum had to be taken to the University of New Mexico Hospital (UNMH) from the Central New Mexico Correctional Facility's Long-Term Care Unit (CNMCF-LTCU) by emergency transport. Mr. Hallum had been returned to the CNMCF-LTCU following his recent discharge from the UNMH where he had been hospitalized with endocarditis, osteomyelitis, and severe sepsis. Medical staff at UNMH had recommended that he be discharged to a Skilled Nursing Facility (SNF) in the community where he would be able to complete his course of treatment. Acting against medical recommendation, the administration of the correctional facility opted to return Mr. Hallum to prison, gravely endangering his health and safety and seriously infringing upon his Civil Rights.

**Preservation of Evidence:**

Under the laws prohibiting spoliation of evidence, please take all necessary steps to preserve the following evidence associated with the subject incident:

1. The full and complete inmate file for Mr. Phillip Hallum, to include all grievance and disciplinary files.
2. All medical records obtained or otherwise received for Mr. Hallum
3. All requests by NMCD, its staff, agents, or contractors, for Mr. Hallum's medical records from any outside medical providers.
4. All correctional officer daily logs for the duration of Mr. Hallum's incarceration at the CNMCF for the period August 1, 2021, to the present.
5. All cell check logs for checks on Mr. Hallum for the period August 1, 2021, to the present.
6. All recorded calls involving Mr. Hallum as a party to the call.
7. All video and audio recordings related to the subject for the period
8. Any other "Writings, Records and Photographs" as defined under Rule 11-1001 of the New Mexico Rules of Evidence:
  - a. A "writing" consists of letters, words, numbers, or their equivalent set down in any form.
  - b. "recording" consists of letters, words, numbers, or their equivalent recorded in any manner.
  - c. "photograph" means a photographic image or its equivalent stored in any form.
9. Any paper or electronic files and other data generated by and/or stored on your computers and storage media (e.g., hard disks, floppy disks, backup tapes), or any other electronic data, such as voice mail in connection with the subject incident. All electronic

records must be maintained and preserved even if there are hard copy printouts of said records.

10. All personal belongings of Phillip Hallum including all contents in his cell, bunk, or other area, where his/her personal items are stored. This specifically includes all documents of any kind, diaries, calendars, notebooks.
11. Any electronic tablets or other devices purchased or otherwise assigned to Phillip Hallum. The electronic devices must be stored and preserved as of August 10, 2021.
12. All written notes, recordings, meeting minutes, written correspondence of any kind, witness interviews, witness statements, reports to regulatory authorities and any other writing related to or associated with Mr. Hallum.

Please also preserve all items above in the original electronic format in which they are entered, created, stored, maintained, and archived.

Please contact us should you have any questions. Thank you for your consideration of this matter.

Sincerely,

COLLINS & COLLINS, P.C.

/s/Parrish Collins

Parrish Collins  
PC/gtg

cc: Jim Reinhart, Wexford Health Sources, Inc.  
Cynthia Romero









\*\*\*DOCUMENT VITAL SIGNS EACH TIME PATIENT SEEN: T; HT; WT; BMI, P; R; O<sub>2</sub>, BP; Peak Flow, INITIALS\*\*\*

ALLERGIES (Red Ink)

Hallum, Phillip				CMRU
[REDACTED] /81 #85641				
Patient Name	NMCD#	DOB	Facility	

\*\*\*DOCUMENT VITAL SIGNS EACH TIME PATIENT SEEN: T; HT; WT; BMI, P; R; O<sub>2</sub>, BP; Peak Flow, INITIALS\*\*\*

ALLERGIES (Red Ink)

Hallum, Phillip			CMRU
[REDACTED] 81 #85641	NMCD#	DOB	Facility



July 12, 2021

To: New Mexico Department of Corrections Parole Board

From: Tiffany Romero Peralta, ACNS-BC Geriatric Unit CNMCF

New Mexico Department of Corrections Parole Board:

Inmate Phillip Hallum, 85641, is currently hospitalized at the University of New Mexico Hospital in Albuquerque, New Mexico. He has multiple diagnosis including endocarditis, sepsis and open wounds. Inmate Hallum will require extensive IV Antibiotics with an end of treatment date after his projected release/parole date currently listed.

While Wexford will work with the New Mexico Corrections Department to arrange home health care for Inmate Hallum upon release, he is pending parole to Oklahoma. While home health care would be a means for the patient to receive his IV Antibiotics, Dr. Richardson, the attending physician for Mr. Hallum has stated that home health care is not an option for Mr. Hallum. The recommendation from the University of New Mexico is to have the patient placed at a Skilled Nursing Facility in Albuquerque until the completion of his IV Antibiotics.

Our recommendation would be to have this patient paroled while he remains inpatient at the University of New Mexico Hospital. If the patient is paroled while he is inpatient, the caseworkers will be able to place the patient at a skilled nursing facility where he will receive the remainder of his treatment. In order to have the patient placed at a skilled nursing facility, he must be paroled, as the facilities will not accept an actively incarcerated patient.

If you have further questions or concerns, please contact me.

Tiffany R Romero Peralta, ACNS-BC

CNMCF Geriatric Unit

505-383-3394/505-225-6968



NEW MEXICO CORRECTIONS DEPARTMENT  
HEALTH SERVICES REQUEST FORM

Date of Request (Fecha de solicitud): 4-21-21

FOR MEDICAL USE ONLY

Date Received: 6/22/21

Time Received: 2200

Print Name (Imprimir su nombre): Phillip Hallum NMCD #: 85641

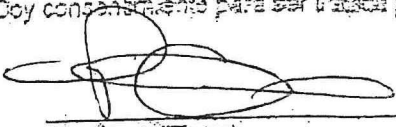
Housing Location (Ubicación de su vivienda): 109

Nature of problem or request (Naturaleza de su problema o solicitud):

(Circle One/Circle una opción) Medical - Medical Psychiatry - Siquiátrica Dental - Dental

I would like to get checked for  
Hep-C and get blood draw.

I consent to be treated by healthcare staff for the condition described. (Doy consentimiento para ser tratado por el personal médico por la condición ya antes descrita.)

  
Signature (Firma)

PLACE THIS SLIP IN MEDICAL REQUEST BOX OR DESIGNATED AREA  
(Poner este documento en la caja de asuntos médicos u otra área designada)

DO NOT WRITE BELOW THIS AREA (No escriba debajo de esta línea)

Triaged by: JKP  
Signature/Title

Referred to: ☒ Nursing ☐ Physician ☐ Midlevel

☐ Psychiatry ☐ Dental

Date/Time: 6/22/21 2200

☐ Other: \_\_\_\_\_

Called Down at: \_\_\_\_\_ (for urgent issue only)

Notes: Schedule to provider

NEW MEXICO CORRECTIONS DEPARTMENT  
HEALTH SERVICES REQUEST FORM

Date of Request (Fecha de solicitud):

06-21-21

FOR MEDICAL USE ONLY

Date Received: 6/21/21

Time Received: 2300

Print Name (Imprimir su nombre):

Orvil H. Hall

NMCD #:

85641

Housing Location (Ubicación de su vivienda):

109

Nature of problem or request (Naturaleza de su problema o solicitud):

(Circle One/Círculo una opción)

Medical - Médica

Psychiatry - Psiquiatría

Dental - Dental

up all night with body aches  
and migraine headache

I consent to be treated by healthcare staff for the condition described. (Doy consentimiento para ser tratado por el personal médico por la condición ya antes descrita.)

Signature (Firma)

PLACE THIS SLIP IN MEDICAL REQUEST BOX OR DESIGNATED AREA  
(Poner este documento en la caja de solicitudes médicas u otra área designada)

DO NOT WRITE BELOW THIS AREA (No escribir debajo de esta línea)

Triaged by:

PN

Signature/Title

Referred to:

☒ Nursing ☐ Physician ☐ Midlevel

☐ Psychiatry ☐ Dental

Date/Time:

6/21/21 2300

☐ Other:

Called Down at:

(for urgent issue only)

Notes:

See WP

HSR#

Date/Time

6.22.21  
1738

Offender Information:

Hallum, Phillip

81 #85641

Last Name

First Name

MI

ID#:

**HEADACHE**

Subjective, Objective, Assessment	Plans
<b>S)</b>	<b>P)</b>
Have you experienced any recent head trauma, seizures, migraines, allergies, hypertension, stress? <u>NO</u>	<b>Refer to Provider:</b>
Can you touch your chin to the chest without opening your mouth? <u>Yes</u>	<ul style="list-style-type: none"> <li>If any recent head injury reported</li> <li>Patient complains of or Nurse notes stiffness of neck</li> <li>Patient is confused, or vital signs abnormal</li> <li>Pain localized at eyes, ears</li> <li>Nausea or vomiting reported</li> <li>Dizziness or photophobia noted</li> <li>Diplopia noted</li> <li>Headache continues despite treatment protocol</li> <li>First occasion of SEVERE headache</li> <li>Comment "Worst headache I have ever had" and patient appears in acute distress</li> </ul>
Are you drowsy or confused? Was there an aura before the onset? <u>Yes x4</u> <u>aura</u>	<b>Nursing Intervention:</b>
Where is the pain (is the pain generalized or localized around the eyes, ears, throat, etc.)? <u>through out head - all over</u>	<ul style="list-style-type: none"> <li>For relief of discomfort, may offer:</li> <li>Acetaminophen 325 mg - take 1-2 tablets p.o. b.i.d. x 3 days p.r.n.</li> </ul>
Describe the pain <u>Intensifies to movement</u>	<b>OR</b>
Is there nausea, vomiting, dizziness, blurred vision, diplopia or photophobia? <u>NO per pt.</u>	<ul style="list-style-type: none"> <li>Ibuprofen 200 mg, 2 tabs p.o. t.i.d. p.r.n. (max OTC dose is 1200 mg per day) x 3 days</li> <li>Cool compresses to head if desired</li> </ul>
How long have you had the headache? <u>1 day</u>	<b>Patient Teaching:</b>
Do you have a history of similar episodes? If so, what treatment is effective? <u>NO</u>	<ul style="list-style-type: none"> <li>Relative to cause of headache.</li> <li>Take Rx as instructed.</li> <li>Referral to Physician clinic if symptoms persist, or if they intensify (i.e., development of stiff neck, nausea, vomiting).</li> </ul>
Any recent ingestion of medication? <u>NO</u>	<b>Follow-Up:</b>
Allergic to medication? <u>N/A</u>	Return to sick call if no improvement in 3 days.
<b>O)</b>	
T P R BP WT	
Observe for substance abuse (i.e., altered level of consciousness, needle marks, slurred speech, etc.) <u>Observed</u>	
PERRLA, hand grasps <u>WNL</u>	
General appearance <u>Healthy</u>	
Ability to touch chin to chest with mouth closed (test for stiff neck) <u>Yes</u>	
Visual acuity	
<b>A)</b>	
Alteration in Comfort	

Signature/Title

*Al Bland*

**HEADACHE**



DATE	TIME	
0/2/0/21	2130	Pt has c/o abd pain & distention, 10/10.
BP	100/45	Ø relief. Apx has been going on for 7 days
PULSE	121	1 BM 7 days ago. Was given a suppos-
O2	89-90% RA	itory Ø relief. Pt also has c/o of hard
Respirations	18	time breathing. VS have elevated heart rate
TEMP (F)	98.3	and low O2. Pt exhibits labored breathing
HT (inches)		abd distention, abd is firm, low bowel
WT (lbs.)		activity, eyes are jaundiced. Called
BMI		provider @ 2150, orders to send
Peak Flow:		pt to ER via ambulance for abnormal
		VS to rule out gall bladder, also
		orders to put pt on O2 <del>at</del> to maintain
		Sat sets >90% - <del>el</del> Clem
0/2/0/21	2300	Received orders to start pt on IL
		LR. AMR arrived. did not complete.
		pt is also refusing to wear O2. -el

ALLERGIES(Red Ink)			
		CNMCF	CMRU

### Location

Form #201, Rev. 2019

\*\*\*DOCUMENT VITAL SIGNS EACH TIME PATIENT SEEN: T; HT; WT; BMI, P; R; O<sub>2</sub>; BP; Peak Flow, INITIALS\*\*\*

[illegible]

### ALLERGIES (Red Ink)

Hallum , Phillip		CMRU	
██████████/81 #85641	NMCD#	DOB	Facility





\*\*\*DOCUMENT VITAL SIGNS EACH TIME PATIENT SEEN: T; HT; WT; BMI, P; R; O<sub>2</sub>, BP; Peak Flow, INITIALS\*\*\*

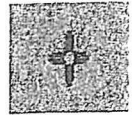
[illegible]

ALLERGIES (Red Ink)

Hallum, Phillip			CMRU
[REDACTED] /81 #85641	NMCD#	DOB	Facility

# PROGRESS NOTE

NM DEPARTMENT OF CORRECTIONS



DATE	TIME	
6/25/21	0800	S) Present to medical stating
BP	100/70	"I can't move, my back hurts. It
PULSE	110	only started hurting when I got
O2	96	the phenogen shot." This
Respirations	16	is more than 1 wk. I can't
TEMP (F)	98.6	get up to go and eat." When
HT (inches)	5'9	this started I had nausea and
WT (lbs.)	189	vomiting. NOW I can't walk
BMI		No bowel movement in 5 days
Peak Flow:		When Urination is dark and scant"
		0) Appears in pain
		P) Gave urine container. Told to
		return with sample. - Wanda H. R
6/26/21	0910	S) I am still feeling pain, unable to walk. Sees
		unable to eat, Urin very dark.
98		O: VIS was explained to I/M that he needs to walk
86		and if he has a kidney stone it will keep moving it
16		down. Ask I/M to get up from W/C and try walk.
10158		Got up with struggle and started walking slowly
963		and steady appears to be in pain. Weighs himself
		and wt 185. hump clear BS present & 4 quads. Tach
		to touch abd. Soft to touch. Joints not red
		or BM x 6 days.
		A: Attention in Health maintenance
		P: Will call Provider on call, SAC
		Called on Call Provider and heard order. Refr
		to Provider's orders. - SAC
		Called for I/M and gave <sup>phen</sup> Phenogen 25g I/M on
		Rt buttock area. I/M stated can not get inside
		suppository gave permission for this nurse to insert
		Dulox Supp and i Dulox Supp inserted rectal 2.
		witness at site. Went back to room. - SAC

ALLERGIES(Red Ink)

Hallum, Phillip #85641  
DOB: [REDACTED] /1981

Inma

\*\*\*DOCUMENT VITAL SIGNS EACH TIME PTIENT SEEN: T;P;R;BP;WT;HT;INITIALS\*\*\*

NMCD Approved

Medical Record Section 2

CNMCF

Facility

CMRU

Location

Form #201, Rev. 2019

# PROGRESS NOTE

NM DEPARTMENT OF CORRECTIONS

DATE	TIME	
6-24-21	1030	St. Status got up last night and was unable to walk. After
BP	116/80	immediate to patient status it took him a long time to walk
PULSE	82	short distance.
O2	96% on	V/S were. Able to move all extremities, also
Respirations	18	wheelchair. Was seen 6/23/21 for vomiting and
TEMP (F)	97.2	unable to hold anything, was given Plavix.
HT (inches)		25. Im x 1. Was told to bring exercise to medical
WT (lbs.)		next time he vomit and I/M were brought any
BMI		exercise track.
Peak Flow:		A: Alertness in Health Maintenance
		P: informed Provider of I/M 's of symptoms
		and provider gave order for Tylenol and is schedule
		for provider appt
		E: informed I/M of exercise while in bed saying
		down to move all extremities. And I/M said he
		was doing all that. — JCL

ALLERGIES (Red Ink)

Phillips, Phillip #85641

DOB: [REDACTED] /1981

NMCD#

CNMCF

Facility

CMRU

Location

\*\*\*DOCUMENT VITAL SIGNS EACH TIME PTIENT SEEN: T;P;R;BP;WT;HT;INITIALS\*\*\*

NMCD Approved

Medical Record Section 2

Form #201, Rev. 2019

HSR#

Date/Time

6.23.21  
1800

**Offender Information:**

Hallum, Phillip #85641

DOB: [REDACTED] /1981

ID#:

Last Name

First Name

MI

**NAUSEA AND VOMITING**

Subjective, Objective, Assessment	Plans
<b>S)</b>	<b>P)</b>
When did symptoms begin? <u>6.20.21</u>	<b>Refer to Provider:</b>
Is the nausea accompanied with vomiting? If vomiting, describe frequency and type of vomitus. <u>yes @ least once a day? &amp; forceful</u>	<ul style="list-style-type: none"> <li>• Temperature, pulse, respirations, blood pressure, and weight</li> <li>• Assess the bowel sounds and note any area of tenderness/abdominal distention</li> <li>• If complaining of emesis, observe for 30 minutes</li> <li>• If emesis present, note color and consistency, any evidence of "coffee grounds" emesis, or bright red blood</li> </ul>
Are you experiencing other associated symptoms (i.e., weakness, vertigo, headache, fever, anorexia, abdominal pain, menstrual history, sexual contact)? <u>None</u>	
Are you on any medication? <u>0</u>	
Has there been any exposure to noxious fumes, chemicals, or recent head trauma? <u>Chemicals @ work</u>	<b>Nursing Intervention:</b>
Have you had recent emotional distress? <u>None</u>	<ul style="list-style-type: none"> <li>• Clear liquids as tolerated x 24 hours</li> <li>• Consider medical lay-in/activity restriction prn</li> <li>• Pepto-Bismol 15 ml p.o. t.i.d. x 24 hours if indicated</li> <li>• Avoid laxatives, antacids, and aspirin use</li> <li>• No kitchen duty until no vomiting for 48 hours</li> </ul>
Describe your bowel habits and when was your last bowel movement? <u>WNL Per Pt</u>	
When did symptoms begin? <u>Sunday 6.20.21</u>	<b>Patient Teaching:</b>
Is the nausea accompanied with vomiting? If vomiting, describe frequency and type of vomitus. <u>yes - emesis 1/day - witnessed</u> <u>emesis - green/thin watery</u>	<ul style="list-style-type: none"> <li>• Importance of fluids to prevent dehydration</li> <li>• Importance of rest to conserve energy.</li> <li>• If symptoms persist after 24 hrs. return to Physician sick call.</li> </ul>
<b>O)</b>	<b>Follow-Up:</b>
T 97.3 P 132 R 20 BP 116/75 WT 200	Return to sick call if symptoms worsen or persist for more than 24 hours.
Assess the bowel sounds and note any area of tenderness/abdominal distention <u>BSx4 Hypoactive</u>	
If complaining of emesis, observe for 30 minutes	
If emesis present, note color and consistency, any evidence of "coffee grounds" emesis, or bright red blood <u>green &amp; watery</u>	
<b>A)</b>	
Alteration in Comfort	

Signature/Title

G. Bland



**Central NM Correctional Facility**

PO Drawer 1328  
Los Lunas, NM 87031  
(505) 865-1622

**Incident Report Cover Sheet**

**Date of Incident:** 06/26/2021

**Type of Incident:** Type 1


**Nature of Incident:** Emergency Transport

**Location of Incident:** CMRU Medical

**Time of Incident:** 2020

**Inmates Involved:** Hallum, Phillip #85641

**Staff Involved:** Lt. Cody Hall

**Supervisor Reviewing report:** Lt. David Verrett 

**Supervisor submitting report:** Lt. Cody Hall

On June 26, 2021 at approximately 2020 I Lt. Cody Hall was called via radio to report to the medication line to deal with a separate incident. I noticed inmate Hallum, Phillip #85641 sitting in a wheelchair. I spoke with inmate Hallum and asked if he was feeling okay. Inmate Hallum told me no he has been feeling bad for the past several days. I asked RN Chrystal if she would see inmate Hallum to make sure he was okay because I noticed his eyes were yellow. RN Chrystal stated "no he was already seen by medical earlier today. At approximately 2050 I called RDC medical and asked if RN Emma Damon would come over and evaluate inmate Hallum. At Approximately 2105 RN Damon Arrived and I had inmate Hallum escorted back to medical. RN Daman began evaluating him then attempted to contact the On-Call Provider Dr. Roundsville and he didn't answer. At approximately 2132 RN Damon made a second attempt to contact Dr. Roundsville with no answer. She then contacted DON Denis who gave RN

Damon Dr. Cox's phone Number. After contacting Dr. Cox she advised to send inmate Hallum to UNMH ER. RN Damon then called AMR and the refused to take inmate Hallum due to no prior approval from a provider at UNMH. RN Damon then contacted Valencia County Dispatch and they contacted AMR. At Approximately 2250 I Lt. Cody Hall transported inmate Hallum to RDC Medical so that an IV could be started on him. At approximately 2310 AMR arrived and placed inmate Hallum in the ambulance. Inmate Hallum departed the facility with AMR and a transport team consisting of Officers Felix Martinez and Michael Mardanes. Notifications to Duty Officer Capt. Misty Garley.

# INPATIENT NOTES

Richardson, Rebecca B MD  
Attending Physician  
Department of Internal Medicine

Signed Date: 07/12/21

Signed Date: 07/12/21

Dictate Date: 07/12/21

## Inpatient Provider Progress Note

Date of Service: 7/11/2021 10:19 MDT

Document Status: Auth (Verified)

### I.D.:

HPI: 40 year old incarcerated male with IVDU presents with severe sepsis secondary to Serratia bacteremia, aortic valve endocarditis, pyelonephritis, splenic infarcts, with worsening nondrainable abscesses seen on CT scan, on long term IV antibiotics

Length Of Stay: 14 Days

### 24 Hour Events:

No acute events

### Subjective:

Patient says he is doing okay. He is doing all things that he needs to to get stronger. He is eating and drinking. He he is able to walk with a walker. He is having increased pain in his foot with walking after the I&D.

### Objective:

#### Vitals & Measurements

Vital Signs	Recent	(Ranges for last 30 hrs)
Temperature:	36.6	(36.5 - 37.1)
Ht Rt Monitored:	108	(94 - 109)
SBP Cuff:	112	(105 - 137)
DBP Cuff:	74	(51 - 74)
MAP Cuff:	92	(69 - 92)
Resp Rate:	18	(16 - 28)
SpO2:	93	(91 - 99)
Oxygen Therapy:	Room air	(Room air - Room air)

#### Physical Exam:

General: Laying in bed, appears uncomfortable, cachectic  
Eyes: No scleral icterus or injection, no splinter hemorrhages  
HEENT: Temporal wasting, fair dentition  
Cardiovascular: did not appreciate murmur, mildly tachycardic, regular rhythm  
Pulmonary: Clear to auscultation bilaterally, no wheezes or crackles  
Extremities: I&D site without exudate or surrounding erythema.  
Neuro: Moving all extremities equally. Lower extremity strength is 4/5 and equal bilaterally.  
Sensation is intact  
Psych: Cooperative and interactive  
Skin: No Osler nodes or splinter hemorrhages appreciated

### Medications:

#### Inpatient

acetaminophen tab (scheduled), 650 mg= 2 tab, By Mouth, q 6 hrs  
Ativan inj, 1 mg= 0.5 mL, IV Push, q 8 hrs, PRN  
Benadryl tab/cap, 25 mg= 1 cap, By Mouth, q 6 hrs, PRN  
ertapenem  
gentamicin inj  
hydrOXYzine pamoate (Vistaril), 25 mg= 1 cap, By Mouth, q 3 hours, PRN  
Lovenox - prophylaxis dosing, 40 mg= 0.4 mL, Subcutaneous, q 24 hours  
multivitamin, therapeutic + minerals, 1 tab, By Mouth, once a day  
oxyCODONE tab, 10 mg= 2 tab, By Mouth, q 4 hrs, PRN  
polyethylene glycol 3350, 17 gram= 1 packet, By Mouth, once a day, PRN  
senna, 8.6 mg= 1 tab, By Mouth, BID

\*\*\*DOCUMENT VITAL SIGNS EACH TIME PATIENT SEEN: T; HT; WT; BMI, P; R; O<sub>2</sub>, BP; Peak Flow, INITIALS\*\*\*

ALLERGIES (Red Ink)

Hallum, Phillip [REDACTED] /81 #85641			CMRU
Patient Name	NMCD#	DOB	Facility





\*\*\*DOCUMENT VITAL SIGNS EACH TIME PATIENT SEEN: T; HT; WT; BMI, P; R; O<sub>2</sub>, BP; Peak Flow, INITIALS\*\*\*

ALLERGIES (Red Ink)

Hallum, Phillip			CMRU
██████████ 81 #85641	NMCD#	DOB	Facility



July 12, 2021

To: New Mexico Department of Corrections Parole Board

From: Tiffany Romero Peralta, ACNS-BC Geriatric Unit CNMCF

New Mexico Department of Corrections Parole Board:

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While Wexford will work with the New Mexico Corrections Department to arrange home health care for Inmate Hallum upon release, he is pending parole to Oklahoma. While home health care would be a means for the patient to receive his IV Antibiotics, Dr. Richardson, the attending physician for Mr. Hallum has stated that home health care is not an option for Mr. Hallum. The recommendation from the University of New Mexico is to have the patient placed at a Skilled Nursing Facility in Albuquerque until the completion of his IV Antibiotics.

Our recommendation would be to have this patient paroled while he remains inpatient at the University of New Mexico Hospital. If the patient is paroled while he is inpatient, the caseworkers will be able to place the patient at a skilled nursing facility where he will receive the remainder of his treatment. In order to have the patient placed at a skilled nursing facility, he must be paroled, as the facilities will not accept an actively incarcerated patient.

If you have further questions or concerns, please contact me.

Tiffany R Romero Peralta, ACNS-BC

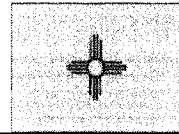
CNMCF Geriatric Unit

505-383-3394/505-225-6968

## NEW MEXICO CORRECTIONS DEPARTMENT

## Physician's Orders

(USE BLACK PEN ONLY)



Site: CNMCF

1. P.T. Assessment & Mgmt  
 2. Weekly OPAT lab 3 days prior to OPAT  
 3. Clarification Gentamicin 320mg IV Q24° EOT 8/14/21

Physician's Signature

Date/Time 7/14/21 10:15 am

Noted by

Date/Time 7/14/21 @ 10:30

24HR Chart Check

Date/Time

Tramadol 50mg PO TID PRN x 24 hrs

Site: CNMCF

till Oxycodone comes in  
 Senna 8.6mg PO BID PRN x 30 days

TORB: Tiffany Peralta / Country Club 7/13/21 1900

Physician's Signature

Date/Time 7/14/21 10:10 am

Noted by

Date/Time 7/13/21 1900

24HR Chart Check

Date/Time

Site: CNMCF

Hydroxyzine 25mg PO TID x 1 week

TORB: Dr Vera / Country Club 7/13/21 1910

Physician's Signature

Date/Time 7/14/21 10:10 am

Noted by

Date/Time 7/13/21 1900

24HR Chart Check

Date/Time

Site: CNMCF

Tylenol 650mg Q6° scheduled x 30 days

Ertapenem 1gm/100ml IV Q24° EOT 8/14/21

Gentamicin 330mg IV Q24° EOT 8/14/21

Oxycodone 10mg PO TID PRN x 30 days

TORB: Tiffany Peralta / Country Club 7/13/21 1900

Physician's Signature:

Date/Time 7/14/21 10:10 am

Noted by:

Date/Time 7/13/21 1900

24HR Chart Check

Date/Time

ALLERGIES (RED INK):

Cefepime

Hallum, Phillip

1981 #85641

ENT NAME

NMDC#

DOB

NMCD Approved

Medical Records Section 2

Form # 221

REV. 10/2019

## INFIRMARY ADMISSION ORDER SHEET

DATE	TIME	#	Physician Orders
7/14/21	10:10 am	1.	Admit to Infirmary Level: <input type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 <input type="checkbox"/> Chronic
		2.	Diagnosis: IVDU, Serratia Septicemia, Endocarditis
		3.	Precautions/Isolation: Multiple Abscesses: spleen, Proas.
		4.	Vital Signs: q shift
			Notify provider if: temp > 101.5, pulse > 60 or > 120, B/P systolic > 190 or < 90, diastolic > 120 or < 60, or very different than prior values; resp. > 22
		5.	Weights: <input checked="" type="checkbox"/> Weekly <input type="checkbox"/> Other:
		6.	Activity: As Tolerated.
		7.	Diet: Reg Extra Boiled egg with Breakfast & Dinner
		8.	Labs: q opat lab.
		9.	EKG: <input type="checkbox"/> Yes <input type="checkbox"/> No
		10.	Special needs: (e.g. oxygen, catheter, IV, accuchecks, dressings, etc.) - P.T. refusal
		11.	As needed: <input type="checkbox"/> Yes <input type="checkbox"/> No Acetaminophen-325 mg 2 tabs po every 6 hours PRN for mild pain, headache, fever x ____ days <input type="checkbox"/> Yes <input type="checkbox"/> No Ibuprofen-400 mg po every 6 hours PRN for pain x ____ days <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No MOM-30 cc's po every 6 hours PRN for constipation x 90 days <input type="checkbox"/> Yes <input type="checkbox"/> No Ranitidine 150mg po BID PRN for indigestion or heartburn x ____ days <input type="checkbox"/> Yes <input type="checkbox"/> No Loratadine- 10 mg po once daily PRN for nasal congestion x ____ days *If patient dosed with same medication 3 times within 3 days, inform provider.
		12.	Medication orders: see order sheet.
			Shamua R. and 7/14/21
ALLERGIES:			

Patient Name:	Hallum, Phillip	ID#	DOB:
	1981 #85641		

DATE	TIME COMPLETED	24 hour chart check	PRINT NAME	NURSE SIGNATURE
7/14/21	2100	✓	Alain	Alain
7/15/21	2100	✓	T. Brown	T. Brown
7/16/21	1843	✓	T. Brown	T. Brown
7/18/21	2135	✓	Alain	Alain
7/19/21	1920	✓	Alain	Alain
7/20/21	2200	✓	Alain	Alain
7/21/21	2240	✓	Alain	Alain
7/22/21	1919	✓	T. Brown	T. Brown
7/25/21	2000	✓	Alain	Alain
7/26/21	2240	✓	Alain	Alain
7/27/21	2245	✓	Alain	Alain
7/28/21	2220	✓	Alain	Alain
7/31/21	1838	✓	T. Brown	T. Brown
8/1/21	2135	✓	Alain	Alain
8/2/21	2200	✓	Alain	Alain
8/3/21	2230	✓	Alain	Alain
8/4/21	1920	✓	Alain	Alain
8/5/21	1845	✓	T. Brown	T. Brown
8/6/21	1845	✓	T. Brown	T. Brown
8/7/21	1830	✓	T. Brown	T. Brown
8/8/21	2000	✓	Alain	Alain

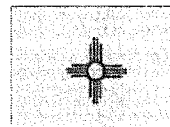
Hallum, Phillip  
 1981 #85641

INMATE NAME

## NEW MEXICO CORRECTIONS DEPARTMENT

## Physician's Orders

(USE BLACK PEN ONLY)



0515 8/9 TO K. Janetzky / DBARRETT  
Send to ER @ UNMH via ambulance

Site: CNMCF

Physician's Signature

*Shannon*

Date/Time

8/9/21 9:00a

Noted by

Date/Time

8/9/21 0520

24HR Chart Check

Date/Time

Renewed:

Site: CNMCF

Senna 8.1mg - PO BID PRN  
Tylenol 650mg PO Q6h

Physician's Signature

*Shannon*

Date/Time

8/9/21 9:00a

Noted by

Date/Time

24HR Chart Check

Date/Time

240  
8/8/21  
2008  
OK  
TORB: K Janetzky / Wanda Of RR 8/8/21 0730  
1) Albuterol nebular treatment NOW x1  
2) Recheck vitals at 0730 and call provider on call.  
Site: CNMCF

Physician's Signature

*Shannon*

Date/Time

8/9/21 9:00a

Noted by

Date/Time

24HR Chart Check

Date/Time

Site: CNMCF

240  
8/5/21  
1843  
P-  
1) Please collect xray NEXT AVAILABLE chest view  
2) NECS sub today Done 8/5/21

Physician's Signature:

*Shannon*

Date/Time

8/5/21

Noted by:

Date/Time

24HR Chart Check

Date/Time

8/5/21 1630

ALLERGIES (RED INK):

Cefepime

Hallum, Phillip

1981 #85641

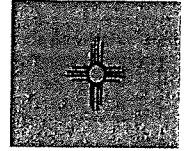
NMDC#

DOB

## NEW MEXICO CORRECTIONS DEPARTMENT

## Physician's Orders

(USE BLACK PEN ONLY)



Site: CNMCF

1. Ibuprofen 400mg po q 6h prn x 30

2. Omeprazole 20mg po q d x 30

Physician's Signature

Date/Time 8/2/21 10:30am

Noted by

Date/Time 8/4/21 @ 1205

Site: CNMCF

UNM OPAT orders sent.

1. Ciprofloxacin 500mg PO Q12hrs EOT 8/14/21

2. Ertapenem 1gram IV @ 2100 Qday EOT 8/14/21

3. Ondansetron 4mg IV prior to ertapenem dose, EOT 8/14/21.

Physician's Signature

Date/Time 7/30/21 10:00am

Noted by

Date/Time 7/30/21

Site: CNMCF

UNM OPAT:

1. Continue Ertapenem 1g IV Qday EOT 8/14/21

2. Dic Gentamicin

3. Ciprofloxacin 750mg PO BID EOT 8/14/21

4. OPAT FU 7/28/21 @ 0900

Physician's Signature

Date/Time 7/22/21 10:30am

Noted by

Date/Time 7/21/21 @ 1415

Site: CNMCF

4. Ibuprofen 600mg q 6h x 14d prn pain

2. Omeprazole 20mg po q d x 14d

3. Heat pack to back q 4h x 7d prn

Physician's Signature:

Date/Time 7/20/21 2:00pm

Noted by:

Date/Time 7/20/21 @ 1705

ALLERGIES (RED INK): Cefepime

Hallum, Phillip

1981 #85641

NMDC#

DOB



HALLUM, PHILLIP

 DOB: [REDACTED]/1981  
 MRN: 44-17551  
 PIN: 335722146

 SEX: M  
 PT: 2  
 FC: W  
 LOC: ATC

## Provider Consultation Report

(Complete and return in SEALED envelope with Correctional Officer)

Reference #: 797764927		Date of Service: 07/28/2021	
Inmate: Hallum, Phillip	Inmate ID: 85641	DOB: [REDACTED]/1981	
Facility: CNMCF	Facility ID:	Phone:	
Practitioner:	Practitioner Type: UNM-OPAT	Location: ABQ, NM	
<p>*** See Attached Certificate of Service for Health Services Authorized ***</p> <p>For security reasons inmates must NOT be informed of recommended treatment or possible hospitalization. Due to security considerations, all recommended tests and treatments are to be scheduled by Wexford.</p>			
Review of Case (Chief complaint, exam findings, etc.):			
Diagnosis and Prescription Suggestions (To be reviewed by Wexford Medical Director): - Ertapenem 1 g q 24 hr - Cipro 750mg PO BID - please give ondansetron 4 mg IV before ertapenem - please give ertapenem @ 21:00 to help w/ nausea			
Can equivalent medication substitution be used? <input type="checkbox"/> Yes <input type="checkbox"/> No		Follow-up needed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
If follow up needed, explain:			
Keenan RYAN Provider Name (Print)		[Signature] Provider Signature	

To be completed by Wexford provider

Recommendation after review of consultant's report:	<input type="radio"/> No further action	<input checked="" type="radio"/> Implement the following
Implement:		
Key above [Signature] Provider Name (Print)		
[Signature] Provider Signature		7/29/21 Date



## \* Final Report \*

Result type: History + Physical  
 Result date: August 09, 2021 13:04 MDT  
 Result status: Auth (Verified)  
 Result title: H&P Admission/Inpatient Cardiology  
 Performed by: Nam MS, Tae-young on August 09, 2021 13:10 MDT  
 Verified by: Garcia, Mark E on August 10, 2021 10:51 MDT  
 Encounter info: 336246665, UH, Inpatient, 8/9/2021 -

## \* Final Report \*

**Chief Complaint:**

SOB

**History of Present Illness:**

Mr. Hallum is a 40 y/o incarcerated male w/ a previous hx of admission for serratia bacteremia w/ multiple abscesses (psoas, splenic) brought in for a 3 day hx of worsening SOB, rapid breathing, tachycardia and a fever of 102 prior to ED admission. Patient also reports associated 1 pillow orthopnea, DOE, PND, swelling on LE, but denies chest pain. He had one episode of vomiting, but no nausea or issues w/ BM/Urination. Patient also endorses drinking 5-8 large bottles of water much more than baseline. PICC line currently in place for OPAT tx of Gentamicin and Ertapenem.

ED Course: 5mcg/min Nitroglycerin, 1mg Ertapenem, 270mg Gentamicin given on admission, 40mg Lasix, shortly afterwards. MICU was consulted for admission however patient deemed stable for floor. Cardiology consulted for admission.

Upon seeing him this afternoon, he reports he is feeling a little bit better since being given his current medications. He reports some persistent SOB, DOE. He denies any chest pain, nausea, vomiting, fevers, or chills. He reports he has urinated a lot with his current medications. He denies any other complaints at this time.

**Review of Systems:**

14 point review of systems negative except otherwise noted in the HPI

**Physical Exam:**Vitals & Measurements

Temperature 37.5 (07:16)  
 Systolic Blood Pressure 141 (12:31)  
 Diastolic Blood Pressure 54 (12:31)  
 Pulse 122 (12:31)  
 SpO2 90 (12:31)  
 Respiratory Rate 36 (12:31)

**General:** Alert and oriented, **lying on his left side visibly uncomfortable.**

**HEENT:** EOMI, normal conjunctiva, normocephalic, normal hearing, moist oral mucosa, no scleral icterus supple, non-tender, JVD 1.5cm above clavicle.

**Lungs:** Faint crackles bilaterally, tachypneic, supraclavicular retractions on RA.

**Heart:** Tachycardic, difficult to auscultate 2/2 to tachypnea, possible

**Past Medical History:**

Endocarditis

**Past Surgical History:**

None

**Social History:**Smoking Status - 08/04/2021

Former smoker

Alcohol

Past, Beer, 6 drinks/episode maximum.

Started age 21 Years. Stopped age 31 Years. Previous treatment: None.

Alcohol use interferes with work or

home: No. Drinks more than

intended: No. Others hurt by

drinking: No. Ready to change: Yes.

Household alcohol concerns: No.,

07/21/2021

Employment/School

Highest education level: Some college.,

07/21/2021

Exercise

Exercise duration: 60. Exercise

frequency: 1-2 times/week. Self

assessment: Fair condition. Exercise

type: PT., 07/21/2021

Home/Environment

Living situation: currently incarcerated.

Family/Friends available for support:

Yes. Is there plumbing in the home?

Yes. Is there a telephone in the

home? Yes. Is there electricity in the

home? Yes., 07/21/2021

Substance Abuse

Never, 07/21/2021

Tobacco

Former smoker, Started age 9 Years.

Stopped age 31 Years., 07/21/2021

**Family History:**

History Unknown: Father, Mother, Brother,

Sister, Maternal Grandfather, Maternal

Grandmother, Paternal Grandfather, Paternal

# What to do next

## Follow-up Recommendations From Your Provider

### ADULT CARDIOTHORACIC DISCHARGE INSTRUCTIONS

Patient Name: Phillip Hallum

Date of Admission: 8/9/2021

Date of Discharge : 8/25/2021

I was admitted to hospital for: Acute heart failure due to severe aortic valve regurgitation

Procedures/test I had done: Aortic Valve replacement with mechanical valve

### CONTACT INFORMATION:

My Doctor was: Dr. Dana Booth

My Medical Service was: Cardiothoracic Surgery

Nursing Unit, I was discharged from: 7-S phone number is 505-272-1022

If I have questions regarding my hospital stay, I should call 505-272-6901

### AFTER LEAVING THE HOSPITAL THE THINGS I CAN DO TO GET BETTER

**-Eat a healthy diet** – protein will help you heal. Protein can be found in lean meats, chicken, fish and beans. Continue any specific diet you were on before surgery.

**-Exercise**- continue to walk at home, taking short walk three times a day and gradually increase the distance you walk. You will be enrolled in a cardiac rehabilitation program if one is available in the area where you live.

**-Breathing exercises**- continue to do your incentive spirometer and flutter valve at home for 2-3 weeks, this helps prevent complications after surgery such as pneumonia.

**-Keep incisions clean.**

**-Take medications as prescribed.**

**-If you smoke, you are advised to please quit.** You can call the Please call the New Mexico Quit line: 1-800-784-8669. This is a free service.

### HOME INSTRUCTIONS:

**-Exercise guidelines:** Walking is an essential part of recovery. When you first get home you will fatigue easily until you build up your strength. Climbing stairs is permitted. Stop any exercises if you experience shortness of breath, dizziness or chest pain. .

**-Do not do any lift, push or pull anything greater than 5 pounds for 8 weeks if you have full sternal incision. If you have a small incision on your side, do not lift anything greater than 5 pounds for 4 weeks.**

**-Sternal Precautions for sternal incision:**

· **Do not push or pull with arms**

· **Hold your cough pillow when getting in or out of bed**

· **Do not raise your elbows higher than shoulders**

· **If you feel any pulling or stretching in your chest stop what you are doing and do not repeat the motion that caused this feeling.**

**-Have someone else do chores** such as opening tight jar lids or heavy doors, vacuuming, sweeping, mopping, raking, mowing lawn for 6 weeks after surgery.

**-No driving** when taking pain medicines. Wear seatbelt while riding in vehicle.

**-You may resume sexual activities** when you feel comfortable.

**-You may shower** daily and wash incisions with a gentle soap and water, do not scrub the incision. Use a separate wash cloth to clean incision and the rest of your body.

· **Leave the incision open to air and no soaking incision in bath tub, hot tub or swimming pool for 4-6 weeks after surgery.**

· **Do not put any lotions, creams or ointments on incisions.**

· **If you had vein taken from your leg, avoid crossing your legs because that impairs circulation, also avoid sitting in one position or standing for prolonged periods of time. While sitting it is a good idea to elevate your legs.**

**-Any remaining sutures or staples will be removed at first post op appointment with your Cardiothoracic Surgeon.**

### COMMONLY EXPERIENCED FOR SEVERAL WEEKS AFTER SURGERY

We told the patient because he came in with heart failure that he should undergo an aortic valve replacement sooner than later and we will place him on the OR schedule on Wednesday, August 11th.

The risks were explained to the patient including stroke, need for blood transfusions, heart block, infection, death, stroke, organ failure. The patient will need continued workup of a CT coronary to be done today or tomorrow prior to taking the patient to surgery. CT Surgery will see the patient tomorrow and follow up with a CT scan and write preoperative orders.

Sherry L. Kenna, ACNP

Signed Date: 08/09/2021

Dictate Date: 08/09/2021

Transcription Date: 08/09/2021

**Signature Line**

Kenna, Sherry L ACNP  
Department of Surgery  
Cardiothoracic Division

Signed Date: 08/09/21

Kenna, Sherry L ACNP  
Department of Surgery  
Cardiothoracic Division

Signed Date: 08/09/21

Dictate Date: 08/09/21

Transcription Date: 08/09/21

**Addendum by Booth, Dana A on August 11, 2021 16:42 MDT (Verified)**

I have seen the patient with Sherry Kenna nurse practitioner. I have reviewed the HPI, past medical/surgical/family/social history and review-of-systems as documented by the nurse practitioner and performed the exam. On exam he has a wide pulse pressure with bounding pulses, he

Printed by: Gellert, Theodore B  
Printed on: 08/25/2021 07:53 MDT

Page 4 of 6

## Elise Funke

---

**From:** Griffin Solomon  
**Sent:** Thursday, April 7, 2022 1:51 PM  
**To:** Parrish Collins; Elise Funke  
**Subject:** FW: [EXTERNAL] IPRA REQUEST 4.6.22 / IPRA 22-264

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

This is in regard to the IPRA I sent out yesterday regarding NCCHC accreditations of NMCD facilities

Griffin Solomon, Legal Assistant  
COLLINS & COLLINS, P.C.  
P.O. Box 506, Albuquerque, NM, 87103-0506  
407 7<sup>th</sup> Street NW, Albuquerque, NM, 87102-2014  
Phone: (505) 242-5958 Fax: (505) 242-5968

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**From:** Fitzgerald, Brian, NMCD <[Brian.Fitzgerald@state.nm.us](mailto:Brian.Fitzgerald@state.nm.us)>  
**Sent:** Thursday, April 7, 2022 1:27 PM  
**To:** Griffin Solomon <[griffin@collinsattorneys.com](mailto:griffin@collinsattorneys.com)>  
**Cc:** NMCD-IPRA <[NMCD-IPRA@state.nm.us](mailto:NMCD-IPRA@state.nm.us)>  
**Subject:** FW: [EXTERNAL] IPRA REQUEST 4.6.22 / IPRA 22-264

Dear Mr. Solomon,

Please be advised that NMCD facilities are not NCCHC accredited and therefore, the Department has no documents responsive to your request.

The Department has now fully responded to your request and is closing this matter. Thank you.

Sincerely,

Brian Fitzgerald  
Chief Deputy General Counsel  
IPRA Records Custodian  
New Mexico Corrections Department

---

**From:** Fitzgerald, Brian, NMCD <[Brian.Fitzgerald@state.nm.us](mailto:Brian.Fitzgerald@state.nm.us)>  
**Sent:** Wednesday, April 6, 2022 4:23 PM

**To:** Griffin Solomon <[griffin@collinsattorneys.com](mailto:griffin@collinsattorneys.com)>  
**Cc:** NMCD-IPRA <[NMCD-IPRA@state.nm.us](mailto:NMCD-IPRA@state.nm.us)>  
**Subject:** FW: [EXTERNAL] IPRA REQUEST 4.6.22 / IPRA 22-264

Dear Mr. Solomon,

This is in response to your IPRA request no. 22-264 set forth below, dated April 6, 2022. The records custodian for the New Mexico Corrections Department (NMCD) has received your request and is in the process of reviewing it.

Pursuant to 14-2-8(D) of the IPRA, you will be provided with this agency's response, including whether the Department has any objections (based on exemptions provided in the IPRA), within 15 days of receipt of your request, on or before April 21, 2022.

However, pursuant to 14-2-10 of the IPRA if the Department determines that your request is excessively burdensome or broad, you will be notified within the timeframe noted above and provided with an estimate of how much additional time will be needed to comply with your request. Thank you.

Sincerely,

Brian Fitzgerald  
Chief Deputy General Counsel  
IPRA Records Custodian  
New Mexico Corrections Department

---

**From:** Griffin Solomon <[griffin@collinsattorneys.com](mailto:griffin@collinsattorneys.com)>  
**Sent:** Wednesday, April 6, 2022 2:13 PM  
**To:** NMCD-IPRA <[NMCD-IPRA@state.nm.us](mailto:NMCD-IPRA@state.nm.us)>  
**Cc:** Maya Durham <[maya@collinsattorneys.com](mailto:maya@collinsattorneys.com)>; Parrish Collins <[parrish@collinsattorneys.com](mailto:parrish@collinsattorneys.com)>; Kelly Vincioni <[kelly@collinsattorneys.com](mailto:kelly@collinsattorneys.com)>; Elise Funke <[elise@collinsattorneys.com](mailto:elise@collinsattorneys.com)>  
**Subject:** [EXTERNAL] IPRA REQUEST 4.6.22

**CAUTION:** This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good afternoon,  
Attached please find an IPRA request dated 4.6.22. Thank you.

Sincerely,

Griffin Solomon, Legal Assistant  
COLLINS & COLLINS, P.C.  
P.O. Box 506, Albuquerque, NM, 87103-0506  
407 7<sup>th</sup> Street NW, Albuquerque, NM, 87102-2014  
Phone: (505) 242-5958 Fax: (505) 242-5968

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