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NYC Board of Correction  
1 Centre Street, Room 2213  
New York, NY 10007  
Attn: Michele M. Ovesey, Acting Executive Director & General Counsel

Dear Members of the Board of Correction:

Correctional Health Services (CHS) appreciates the opportunity to review and comment on the draft rules regarding restrictive housing proposed by the Board of Correction (Board).

We applaud the Board of Correction's intent to set parameters in an effort to ensure that punitive segregation (PSEG) is used judiciously, and to establish explicit restrictions in order to help mitigate the detrimental effects of confinement. CHS is grateful to the Board for its partnership in this endeavor and for reflecting CHS input in the proposal.

The proposed rules include provisions to expand the mental health and medical exclusions for punitive segregation. Exclusions for PSEG I would expand to include pregnant individuals, individuals within eight weeks of a pregnancy outcome, individuals caring for a child in the Department of Correction nursery program, and individuals age 55 and older. The mental health exclusion for individuals diagnosed with serious mental illness would broaden to include those diagnosed with an intellectual disability, conforming with CHS current practice.

The proposal underscores a separate exclusion for individuals with serious medical conditions from PSEG I and II. Although this exclusion already exists in the BOC Minimum Standards, the term "serious medical conditions" has never been clinically defined. As a result, the exclusion has proven to be challenging to implement and monitor. To address this and help ensure implementation of this medical exclusion moving forward, the Board has requested CHS to identify certain medical conditions and corresponding markers of acuity and advancement of disease for which separation could present a higher level of risk. For CHS to clinically define, subject to Board approval, exclusionary medical conditions for punitive segregation is groundbreaking. Although the Board's intentions are to exclude individuals at elevated risk in punitive segregation, there is no body of medical literature that reliably guides the assignment of health risk to any individual. There are conditions that are risk factors for outcomes that are worse than baseline harm, but the absolute risk of harm of punitive segregation to an individual is unknowable and cannot be predicted. Moreover, the possibility of risk of worse-than-baseline harm is present for all persons, regardless of clinical condition. The Board's request of CHS to define serious medical conditions for this purpose is innovative and CHS can only attempt to identify health risk. Because the Board is the sole entity that can weigh the health risk against any security benefit, CHS appreciates that the Board will approve this list of conditions and markers, and all future modifications to it.

Importantly, CHS has concerns that the data collection and review requirements provided in the proposed rules are onerous. The additional reporting requirements for CHS would be an enormous undertaking, requiring the redirection of clinical staff effort to a fundamentally clerical activity. Further, the data requested does not help to establish any causal relationships between the process steps counted by the metrics (e.g., number of rounds conducted, encounters completed per housing area) and the desired outcomes (e.g., sustained and appropriate access). CHS looks forward to working with the Board as the rules are being finalized, regarding these concerns.

We are grateful to the Board for providing CHS this opportunity to share additional input on the Board's proposed restrictive housing rules. Thank you for your time and consideration.

Respectfully,

  
Patricia Yang