



PENNSYLVANIA INSTITUTIONAL LAW PROJECT

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December 20, 2022

Via E-mail and First-Class Mail

Warden Cheryl Steberger
Shane Goodman
Ashley Garcia
Lancaster County Prison
625 E. King Street
Lancaster, PA 17602

RE: Collin Shaab #10-3325, Medication for Opioid Use Disorder

Dear Warden Steberger, Mr. Goodman, and Ms. Garcia:

On behalf of the Pennsylvania Institutional Law Project (PILP), we are writing regarding Collin Shaab (#10-3325) who has been incarcerated at Lancaster County Prison since March 2022. We urge to you take immediate action to prevent further harm and long-term injury to Mr. Shaab by providing him with his medically-necessary prescription, Suboxone.

The Pennsylvania Institutional Law Project (PILP) is a legal aid organization dedicated to representing incarcerated and institutionalized persons regarding their civil rights and other civil claims through advocacy and litigation in federal courts. We seek to ensure the health, safety, and humane treatment of incarcerated individuals throughout Pennsylvania.

Mr. Shaab has opioid use disorder (“OUD”) and it has wreaked havoc on his life for many years. Around three and half months before he was incarcerated at Lancaster County Prison, Mr. Shaab sought treatment and was prescribed Suboxone by Lancaster General Health Physicians. A letter confirming as much is attached here. This treatment is medically necessary for Mr. Shaab and allowed him to lead a more stable and successful life.

On March 19, 2022, Mr. Shaab was arrested and brought to Lancaster County Prison. During intake, he informed medical staff that he has OUD and had been taking Suboxone. At first, prison staff told Mr. Shaab that they did not offer Suboxone. He was provided with Vivitrol but after having an allergic reaction, was taken off of it.

Mr. Shaab’s criminal attorney has inquired into this matter herself and both his attorney and Mr. Shaab have provided copies of the attached letter from Mr. Shaab’s medical providers.

The only response they have received is that Lancaster County Prison only does continuation, not induction. This response is perplexing as Mr. Shaab was on Suboxone prior to his incarceration, and therefore he is eligible for continuation.

Mr. Shaab suffered through days of painful withdrawal symptoms as a result of Lancaster County Prison's failure to provide him with his medication. Mr. Shaab's OUD had been successfully managed by medication for opioid use disorder ("MOUD"), also known as medication-assisted treatment ("MAT"), and his "withdrawal is a counterproductive, painful experience"¹ and causes excruciating physical consequences. Even after the initial withdrawal period, Mr. Shaab continues to suffer from post-acute withdrawal syndrome ("PAWS"). PAWS consists of symptoms that can persist for weeks or months and fluctuate in severity, manifesting as feelings of anxiety, panic, depression, sleep disturbances, obsessive compulsive behaviors, difficulty maintaining relationships, and continued cravings.

Furthermore, the continued denial of MOUD leads to an increased risk of relapse, overdose and death.² Within the first two weeks after release, the risk of death from overdose is 12.7 times higher than for the general population.³

Broad consensus in the medical and scientific communities, as well as the National Commission on Correctional Health Care (NCCHC) and the National Sheriffs' Association, is that MOUD is necessary to effectively treat OUD. The National Sheriff's Association and NCCHC have noted many benefits to providing MOUD in a carceral setting, including "stemming the cycle of arrest, incarceration, and release associated with substance use disorders (SUDs)," "contributing to the maintenance of a safe and secure facility for inmates and staff," "reducing costs," among other benefits.⁴ They also state that the choice of medication "should be a shared decision between clinician and patient" and that providers "should consider the patient's preferences, past treatment history, and treatment setting" when deciding on the appropriate treatment.⁵

"Scientific evidence shows that MOUD, in particular agonist MOUD, reduces illicit drug use, overdose deaths, and crime. The U.S. Substance Abuse and Mental Health Services Administration (SAMHSA), a division of the federal Department of Health and Human Services, has concluded that "just as it is inadvisable to deny people with diabetes the medication they need

¹ See *Smith v. Aroostock Cty.*, 376 F. Supp. 3d 146, 163 n.21 (D. Me. 2019).

² Nat'l Institute of Drug Abuse, Principles of drug addiction treatment: A research-based guide (3d ed. 2018), <https://nida.nih.gov/download/675/principles-drug-addiction-treatment-research-based-guide-third-edition.pdf?v=74dad603627bab89b93193918330c223> (last visited Feb. 2, 2022).

³ Elizabeth Needham Waddell, et al, *Reducing overdose after release from incarceration*, Health & Justice (July 2020), <https://healthandjusticejournal.biomedcentral.com/articles/10.1186/s40352-020-00113-7> (last visited Dec. 15, 2021).

⁴ The National Sheriff's Association and National Commission on Correctional Healthcare, *Jail-Based Medication-Assisted Treatment Promising Practices, Guidelines, and Resources For The Field* (Oct. 2018), <https://www.sheriffs.org/publications/Jail-Based-MAT-PPG.pdf>.

⁵ *Id.*

to help manage their illness, it is also not sound medical practice to deny people with OUD access to FDA-approved medications for their illness.”⁶

While Mr. Shaab is in your custody, it is your duty to provide him with adequate medical care. It is well-settled law that the Fourteenth and Eighth Amendments to the United States Constitution impose a duty on jailers to ensure the safety and well-being of those whom they imprison.⁷ This duty requires you to provide MOUD to those in custody diagnosed with opioid use disorder. “Where knowledge of the need for medical care is accompanied by the intentional refusal to provide that care,” the Constitution is violated.⁸

Further, the denial of MOUD to Mr. Shaab implicates Lancaster County Prison’s obligations under the Americans with Disabilities Act (“ADA”) and Rehabilitation Act (“RA”). Lancaster County Prison is subject to Title II of the ADA and Section 504 of the RA,⁹ which prohibit covered entities from precluding an individual with a disability from participating in a program, service or activity because of their disability and require them to provide “reasonable accommodations” to individuals with disabilities.¹⁰ Mr. Shaab is unquestionably an individual with a disability for the purposes of ADA and RA and is entitled to their broad protections.¹¹ Recent guidance from the United States Department of Justice specifically states that failure to continue an incarcerated person on their legally-prescribed MOUD constitutes a violation of the ADA.¹²

Several federal courts have also now required facilities to provide MOUD and have found that the failure to do so likely violates the ADA and Constitution.¹³ Your failure to provide Mr.

⁶ SAMHSA, Medications for Opioid Use Disorder for Healthcare and Addiction Professionals, Patients, and Families, Treatment Improvement Protocol Tip 63, at ES-2 (2020), https://store.samhsa.gov/sites/default/files/SAMHSA_Digital_Download/PEP21-02-01-003.pdf (last visited Feb. 2, 2022).

⁷ *Estelle v. Gamble*, 429 U.S. 97, 106 (1976).

⁸ *Spruill v. Gillis*, 372 F.3d 218, 235 (3d Cir. 2004) (quotation omitted).

⁹ *See Pa. Dep’t of Corr. v. Yeskey*, 524 U.S. 206, 210 (1998); 29 U.S.C. § 794(b)(1)(A).

¹⁰ *See* 42 U.S.C. § 12132; 29 U.S.C. § 794; *Furgess v. Pa. Dep’t of Corr.*, 933 F.3d 285, 287 (3d Cir. 2019).

¹¹ *See e.g., Taylor v. Phoenixville Sch. Dist.*, 184 F.3d 296, 306 (3d Cir. 1999).

¹² U.S. Department of Justice, Civil Rights Division, *The Americans with Disabilities Act and the Opioid Crisis: Combating Discrimination Against People in Treatment or Recovery* (April 5, 2022), https://www.ada.gov/opioid_guidance.pdf.

¹³ *P.G. v. Jefferson Cty.*, No. 21-388, 2021 U.S. Dist. LEXIS 170593 (N.D.N.Y. Sept. 7, 2021); *Smith v. Aroostook Cty.*, 376 F. Supp. 146, 160-62 (D. Me 2019) (granting motion for preliminary injunction under the ADA when jail refused to provide plaintiff with buprenorphine “without regard to her medical needs and without any true justification”); *Pesce v. Coppinger*, 355 F. Supp. 3d 35, 47-48 (D. Mass. 2018) (granting motion for preliminary injunction because a blanket policy denying prescribed methadone treatment was likely to violate both the ADA and Eighth Amendment). *See also Strickland v. Delaware Cty.*, No. 21-4141, 2022 U.S. Dist. LEXIS 71347 (E.D. Pa. April 19, 2022) (motion to dismiss Fourteenth Amendment and ADA claims

Shaab with Suboxone has already caused him to experience symptoms of painful withdrawal, and your continued denial exposes him to an unacceptable risk of even greater harm.

In order to ameliorate these serious consequences, we request that you immediately provide Mr. Shaab with Suboxone.

Given the seriousness of these issues, please respond in writing by January 3, 2023. In your response, please explain in detail how you will address the concerns we have raised here and whether you intend to ensure that Mr. Shaab has access to this medically-necessary prescription.

If you do not agree to take immediate steps to remedy the denial of Suboxone for Mr. Shaab, or if we do not receive a response by the appointed time, we may seek relief in federal court. If you would like to discuss this further you can reach Sarah Bellos at sbellos@pilp.org or by phone at 215-925-2966.

Thank you for your attention to this matter.

Sincerely,



Sarah Bellos
Attorney



Su Ming Yeh
Executive Director

Encl. Letter from Shirley Beale, CRNP, Lancaster General Health

CC via e-mail: Adrianna Scotto
Warden Joe Shiffer
Toni Warfel
Christina Fluegal

denied where Plaintiff alleged that he “asked for medically accepted treatment and was denied pursuant to an official policy”).