

LOCAL

Prison policy change makes sick prisoners needlessly suffer, says lawsuit

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Key Points

In most cases, prisoners were not given adequate replacements for banned drugs

More prisoners could be added if suit gains class-action status

A group of Delaware prisoners has sued the state's prison system and its private health care contractor claiming they've been left to suffer chronic and sometimes debilitating pain after officials banned certain pain medicines.

Aside from complaints involving the pandemic, the lawsuit is the first large-scale litigation filed against Centurion of Delaware, the private health care provider for the state's prison system.

Centurion won a \$47 million contract to provide health care for those imprisoned by the state starting in 2020, taking over after years of complaints and scandal involving the prisons' prior health care provider.

The lawsuit names 24 plaintiffs. All but one are currently in a Delaware prison.

Editor's note: Read the full complaint at the end of this story.

They each claim that they suffer from chronic pain or nerve damage caused by a range of issues from gunshot wounds to things like degenerative joint and spinal conditions, pain that was treated by medications that were effectively banned by the prison in 2019, the lawsuit states.

The suit claims that after that, inadequate alternatives were provided. In some cases, they were given psychiatric drugs or alternative methods such as "distraction" and yoga, which

leave the prisoners suffering behind bars.

The ban along with the lack of effective alternatives amounts to deliberate indifference to prisoners' medical needs in violation of their constitutional rights, according to the suit. The lawsuit will eventually seek class-action certification to represent a larger pool of prisoners in similar circumstances.

The complaint names as defendants Delaware Department of Correction officials; Centurion and employees of the company; and the prisons' pharmacy contractor, Correct RX Pharmacy Services. Officials for the Delaware Department of Correction declined to comment and have not responded to the lawsuit in court.

Policy change effectively discontinued use of some chronic pain medications

The complaint specifically takes aim at a 2019 prison policy change that the lawsuit said effectively discontinued the use of certain pain management medications that carry risk for abuse. Those medications include opioids, opiates, neuromodulators and muscle relaxers. The most common named by the lawsuit are Tramadol, Lyrica and Gabapentin.

The list includes drugs that have documented abuse potential and medicines where abuse issues have been documented in other correctional settings, according to reporting from the Associated Press.

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The complaint argues that each of the named plaintiffs had a legitimate use for such medication and, at a doctor's order, had been using them effectively, sometimes for years. Attorneys for the plaintiffs advised them against commenting for this story, fearing the effect it would have on the litigation.

Their stories, as relayed in the complaint, are fairly similar.

Bryan Cordrey is a 33-year-old prisoner at James T. Vaughn Correctional Center near Smyrna. He suffers from various medical issues that involve degenerative spine problems leaving him with chronic back pain, along with numbness and tingling in his hands and one of his legs, the lawsuit states. He also began suffering back spasms in 2017.

Treatment with over-the-counter medications up until 2017 left him in “tremendous pain,” the lawsuit states. Later he was prescribed a regimen that included Motrin, Gabapentin and Tramadol, which improved his function and alleviated his pain, according to the lawsuit.

In 2019, due to the new policy, he was taken off the Tramadol and Gabapentin, his pain worsened and he reported “aching pains” with “shooting burning pain to” his “extremities,” pain that often left him unable to dress himself without assistance. He now treats his pain with Ibuprofen and occasional Lidoderm patches, which “have repeatedly proved ineffective,” according to the complaint.

As their medication was being tapered, some of the men were told they needed to get to the root of the pain, despite the cause of the pain having already been diagnosed by doctors, according to the lawsuit.

In most cases, no effective alternative options for pain management were provided other than over-the-counter medications like Tylenol, Ibuprofen or Aleve or recommendations that the prisoner try “yoga” or “breathing techniques.”

Amy Jane Agnew, a New York attorney representing the men, said some were provided with psychotic medications which basically “knocked them out.”

“Prison is the punishment,” Agnew said. “Sitting in a cell without proper pain management is not the punishment.”

The lawsuit claims that the policy and how it’s been implemented goes against the guidance of the National Commission on Correctional Healthcare, which audits and provides accreditation to the state's prison systems' health care bureaucracy.

The organization’s position statement on the management of non-cancer chronic pain states that the use of medications like those curtailed by the 2019 policy change is “troublesome” because of the high percentage of prisoners with a history of substance abuse issues, but that their environment in prison provides the opportunity for officials to keep a closer eye on both their health and how the medication is being used.

The lawsuit argues that treatments like diet modification, exercise and non-medicinal treatments are not as readily available inside prison as they are in the outside world. As well, prisoners often wait longer than those in the outside world to see specialists, receive diagnostic testing, surgeries and follow-up care so the use of pharmaceuticals takes on a greater “therapeutic importance” in prison.

Recognizing concerns about prisoners diverting their medicine for illicit use, Agnew said prison officials have adopted safeguards that include the daily administration of such medicine, often one-on-one in the presence of a nurse as well as the potential for some medicines to be diluted in water and consumed in front of a nurse. Drug testing also occurs in prison, she said.

The policy at the foundation of the lawsuit was implemented under the prison system's prior health care provider, Connections Community Support Programs.

Connections faced waves of lawsuits over medical neglect that sometimes led to death since it won the state's contract for prison medical care in 2014. The nonprofit was sued by the federal government for billing fraud and failing to keep track of narcotics at its non-prison centers. Connections declared bankruptcy shortly after it was dropped as the prison's health care provider in 2020.

Prison lawsuits accused the nonprofit of inadequate staffing and cost-cutting measures that proved both deadly and torturous for prisoners.

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The policy at the heart of the chronic-pain lawsuit targets medicines that are ripe for abuse, but Agnew speculated there may be a financial imperative behind it as well. She's litigating another similar legal challenge in New York state and said evidence has shown that cost-cutting was part of the motivation for discontinuing the use of some medications there.

Beyond the chronic pain lawsuit and a larger lawsuit about how Centurion and prison leadership has handled the COVID-19 pandemic behind bars, Centurion has been accused of neglect in a series of lawsuits since they took over the job.

As well, prison officials acknowledged corrective action plans being put in place regarding Centurion staffing in a meeting with state lawmakers earlier this year. Delaware Online/The News Journal also has pending information requests regarding recent audits by National Commission on Correctional Healthcare.

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