

San Diego County Behavioral Health Services
 Statement of Deficiencies/Violations and Plan of Correction

Statement of Deficiencies/Violations and Plan of Correction

Name of Provider: Alvarado Parkway Institute (API)		Survey Conducted by: Michael Phillips, Supervising Attorney Jewish Family Service Patient Advocacy Program		
Contact Information: Patrick Ziemer, CEO		Date Survey Completed: June 3, 2009		
Item Number	Summary statement of deficiencies or violations	Item Number	Provider's Plan of Correction (each corrective action should be cross-referenced to the appropriate deficiency)	Planned Completion Date
000	Initial Comments: Michael Phillips of the Jewish Family Services (JFS) Patient Advocacy Program reported a potential issue at API to Alfredo Aguirre, San Diego County Mental Health Director. He then directed JFS to conduct a full review of the treatment of the U.S. Immigration and Customs Enforcement (ICE) detainees in the LPS Unit at API with respect to the Lanterman-Petris-Short Act (LPS). The findings of violations of patients rights are as follows:	000	Initial Comments: Law enforcement officers who maintain custody and direct supervision of their detainee (the hospital's patient) are responsible for the use, application and monitoring of restrictive devices (handcuffs, manacles, shackles, other chain-type restraints) for custody, detention, and public safety reasons in accordance with Federal and State law. State Operations Manual Appendix A – Survey Protocol, Regulations and Interpretive Guidelines for Hospitals §482.13(e) The use of such devices are considered law enforcement devices, and are never used by hospital staff to restrain patients. The hospital is responsible for an appropriate assessment and the provision of safe, appropriate care to its patient (the law enforcement officer's detainee). The hospital has relied on the U.S. Immigration and Customs Enforcement's (ICE) authority to shackle detainees and to deny patient rights protected under the Lanterman-Petris-Short Act (LPS) as a security measure. The hospital has consistently followed all denial of rights reporting requirements of the County. U.S. Immigration and Customs Enforcement (ICE) maintains custody and direct supervision of their detainee (the hospital's patient) throughout his or her inpatient stay. In a letter dated May 5, 2009, Disabilities Rights of California challenged the Federal Government's authority to shackle detainees and to deny LPS patient rights. To date, ICE has not wavered from their stated authority, however, they have failed to provide the hospital with documentation outlining their authority to shackle detainees and deny patient rights protected under LPS. The hospital will submit any documentation it receives regarding ICE's authority to shackle detainees and to deny patient rights	05/19/2009

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000		000	protected under LPS to the local Mental Health Services Director and to the Director of the Patient Advocacy Program. Because the hospital's interests are in providing quality patient care as opposed to the political arena of the Federal Government and Disability Rights of California, all direct admissions of ICE detainees have been suspended until ICE provides the hospital with documentation of their authority. ICE detainees are only admitted as mandated by EMTALA. If ICE asserts their stated authority and proceeds with the use of shackles for reason of custody, security or added protection for patients, staff members and members of the public then the hospital will document and report the incident to the local Mental Health Services Director and to the Director of the Patient Advocacy Program. Additionally, the hospital will apply for Program Flexibility (Title 22 DIV5 CH2 ART2-71127(b)) to the Department of Public Health Licensing and Certification related to Federal Detainees who require special precautions due to their dangerous propensities.	05/19/2009
01	<u>Welfare and Institution Code 5325 (a)-Right to wear his or her own clothes:</u> All ICE detainees were denied the right to wear their own clothes; they wear hospital gowns for the duration of their stay. There is no documentation to support the decision.	01	The hospital will ensure a detainee's right to wear his/her available clothing except when individually determined that upholding his/her right poses an imminent risk. Documentation to support the decision to deny a detainee's right with good cause will be recorded in the medical record.	07/02/2009
02	<u>Welfare and Institution Code 5325 (a)-Right to keep and be allowed to spend a reasonable sum of his or her own money:</u> All ICE detainees were denied the right to keep and be allowed to spend a reasonable sum of his or her own money, without any documentation to support the decision.	02	Although detainees have not historically come into the hospital with their own money, the hospital will ensure a detainee's right to keep and be allowed to spend a reasonable sum of his/her own money except when individually determined that upholding his/her right poses imminent risk. Documentation to support the decision to deny a detainee's	07/02/2009

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02		02	right with good cause will be recorded in the medical record.	07/02/2009
03	<u>Welfare and Institution Code 5325 (c)-Right to see visitors everyday:</u> All ICE detainees were denied the right to see visitors everyday, without any documentation to support the decision.	03	The hospital will ensure a detainee's right to see visitors except when individually determined that upholding his/her right poses an imminent risk. Documentation to support the decision to deny a detainee's right with good cause will be recorded in the medical record.	07/02/2009
04	<u>Welfare and Institution Code 5325 (d)-Right to have reasonable access to a phone to make and receive confidential calls or to have calls made:</u> All ICE detainees were denied the right to have reasonable access to a phone, to make and receive confidential calls or to have calls made, except to call the Jewish Family Service patient Advocacy Program, without any documentation to support the decision.	04	The hospital will ensure a detainee's right to have reasonable access to a phone, to make and receive confidential calls or to have calls made except when individually determined that upholding his/her right poses an imminent risk. Documentation to support the decision to deny a detainee's right with good cause will be recorded in the medical record.	07/02/2009
05	<u>Welfare and Institution Code 5325 (e)-Right to have reasonable access to letter-writing materials, including stamps, and to mail and receive unopened correspondence:</u> All ICE detainees were denied the right to have ready access to letter-writing materials, including stamps, and to mail and receive unopened correspondence, without any documentation to support the decision.	05	The hospital will ensure a detainee's right to have ready access to letter-writing materials, including stamps, and to mail and receive unopened correspondence except when individually determined that upholding his/her right poses an imminent risk. Documentation to support the decision to deny a detainee's right with good cause will be recorded in the medical record.	07/02/2009
06	<u>Welfare and Institution Code 5325 (h)-Right to see and receive services of a patient advocate who has no direct or indirect responsibility for the person receiving mental health services:</u> ICE detainees were not denied the right to see and receive services of a patient advocate but private conversations were difficult. There was no documentation to support the removal of the right to privacy.	06	The hospital will ensure a detainee's right to privacy except when individually determined that upholding his/her right poses imminent risk. Documentation to support the decision to deny a detainee's right with good cause will be recorded in the medical record.	07/02/2009
07	<u>Welfare and Institution Code 5325 (i)-Right to receive a clients rights handbook:</u> ICE detainees were not given a clients rights handbook.	07	The hospital will ensure that all detainees are given a clients rights handbook. Documentation of receipt of a client's rights handbook will be recorded in the medical record.	07/02/2009
08	<u>Welfare and Institution Code 5326-Rights may only be denied for good cause:</u> All ICE detainees were denied rights as a condition of admission and no lesser restrictive method is	08	The hospital will ensure a detainee's rights may only be denied for good cause. Documentation to support the decision to deny a detainee's right with good cause	07/02/2009

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08	attempted prior to denial, without any documentation to support the decision	08	will be recorded in the medical record.	07/02/2009
09	<u>Welfare and Institution Code 5325.1 (a)-Right to treatment services which promote the potential of the person to function independently:</u> All ICE detainees were shackled to their beds for most of the day as a condition of admission.	09	When an ICE detainee is admitted to the hospital as mandated under EMTALA, hospital staff will inform the law enforcement officer that shackles cannot be used. If ICE asserts their stated authority and proceeds with the use of shackles for the reason of custody, security or added protection for patients, staff members and members of the public then the hospital will document and report the incident to the local Mental Health Services Director and to the Director of the Patient Advocacy Program. Additionally, the hospital will apply for Program Flexibility (Title 22 DIV5 CH2 ART2-71127(b)) to the Department of Public Health Licensing and Certification related to Federal Detainees who require special precautions due to their dangerous propensities.	07/02/2009
10	<u>Welfare and Institution Code 5325 (b)-Right to dignity, privacy and humane care:</u> ICE detainees were treated differently, and are in the line of sight of one or more security guards at all Times.	10	The hospital will ensure a detainee's right to privacy except when individually determined that upholding his/her right poses imminent risk. Documentation to support the decision to deny a detainee's right with good cause will be recorded in the medical record. Additionally, the hospital will apply for Program Flexibility (Title 22 DIV5 CH2 ART2-71127(b)) to the Department of Public Health Licensing and Certification related to Federal Detainees who require special precautions due to their dangerous propensities.	07/02/2009
11	<u>Welfare and Institution Code 5325 (c)-Right to be free from harm, including unnecessary or excessive physical restraint, isolation, medication, abuse, or neglect:</u> All ICE detainees were shackled to their beds for most of the day as a condition of admission	11	When an ICE detainee is admitted to the hospital as mandated under EMTALA, hospital staff will inform the law enforcement officer that shackles cannot be used. If ICE asserts their stated authority and proceeds with the use of shackles for the reason of custody, security or added protection for patients, staff members and members of the public then the hospital will document and	07/02/2009

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11		11	report the incident to the local Mental Health Services Director and to the Director of the Patient Advocacy Program. Additionally, the hospital will apply for Program Flexibility (Title 22 DIV5 CH2 ART2-71127(b)) to the Department of Public Health Licensing and Certification related to Federal Detainees who require special precautions due to their dangerous propensities.	07/02/2009
12	<u>Welfare and Institution Code 5325 (c)-Right to social interaction and participation in community activities:</u> All ICE detainees were shackled to their beds for most of the day as a condition of admission and have no such access.	12	The hospital will ensure a detainee's right to social interaction and participation in community activities except when individually determined that upholding his/her right poses imminent risk. Documentation to support the decision to deny a detainee's right with good cause will be recorded in the medical record. If ICE asserts their stated authority and proceeds with the use of shackles for reason of custody, security or added protection for patients, staff members and members of the public then the hospital will document and report the incident to the local Mental Health Services Director and to the Director of the Patient Advocacy Program. Additionally, the hospital will apply for Program Flexibility (Title 22 DIV5 CH2 ART2-71127(b)) to the Department of Public Health Licensing and Certification related to Federal Detainees who require special precautions due to their dangerous propensities.	07/02/2009
13	<u>Welfare and Institution Code 5325.1 (h)-Right to physical exercise and recreational activities:</u> All ICE detainees were shackled to their beds for most of the day as a condition of admission although they are allowed to do push-ups and sit-ups presumably while shackled.	13	The hospital will ensure a detainee's right to physical exercise and recreational activities except when individually determined that upholding his/her right poses imminent risk. Documentation to support the decision to deny a detainee's right with good cause will be recorded in the medical record. If ICE asserts their stated authority and proceeds with the use of shackles for the reason of custody, security or added protection for patients, staff members and members of the public	07/02/2009

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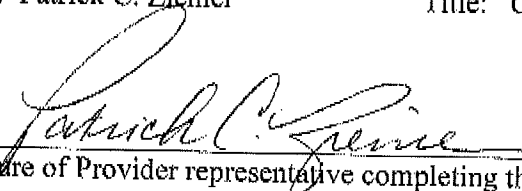
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13		13	then the hospital will document and report the incident to the local Mental Health Services Director and to the Director of the Patient Advocacy Program. Additionally, the hospital will apply for Program Flexibility (Title 22 DIVS CH2 ART2-71127(b)) to the Department of Public Health Licensing and Certification related to Federal Detainees who require special precautions due to their dangerous propensities.	07/02/2009

Name: Patrick C. Ziemer

Title: Chief Executive Officer

Date: July 6, 2009



Signature of Provider representative completing the Plan of Correction