SYLVIA RIVERA LAW PROJECT

TESTIMONY OF:

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PRESENTED BEFORE:

the Committee on Hospitals jointly with the Committee on Committee on Mental Health, Disabilities and Addiction and the Committee on Criminal Justice

Oversight - Correctional Health

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Members of the Committees,

Thank you for the invitation to testify before you all today on the issue of healthcare in correctional settings. My name is Mik Kinkead and I am a staff attorney and the Director of the Prisoner Justice Project at the Sylvia Rivera Law Project ("SRLP"). SRLP is one of the oldest non-profits in New York City offering legal services to transgender, gender non-conforming, and intersex people (TGNCI people) by TGNCI people. We specifically focus on working with TGNCI people who are low-income and/or people of color at the intersection of transphobia, sexism, racism, and classism.

We offer direct legal services to people in the New York City area, including those held by the NYC Department of Correction (NYC DOC) and people incarcerated by New York State's Department of Correction and Community Supervision (NYS DOCCS). Not only do we serve TGNCI people in the city jails broadly, since August 2015, SRLP has provided legal and cultural programming twice a month to individuals housed in the Transgender Housing Unit (THU). Since that time, I have personally served close to 100 TGNCI individuals in the NYC DOC. We are, to our knowledge, the only TGNCI-lead and specialist organization currently in the NYC DOC.

SRLP has been involved for over a decade in the issues of housing, sexual and physical violence, access to necessities of daily living, and healthcare for TGNCI people held in NYC DOC custody. We have commented extensively at Board of Corrections hearings on these issues, and I am pleased to be able to speak now on the specific issue of healthcare for TGNCI people.

OVERVIEW

Since healthcare operations were turned over to the NYC Health & Hospitals Corporation, the governing policy on transgender medical care has been Policy #MED 24B. This policy, which was revised in July 2015, relies on healthcare practices that are outdated and fail to see the healthcare needs of transgender and gender non-conforming people (TGNC people) as real and necessary.

As a general overview, TGNC people require the same care as our cisgender counterparts. In addition, some of us need care specific to our transitions. Transitions are highly individualized and they require individualized care. Every TGNC person's experiences of gender dysphoria, and the steps we must take to thrive with that dysphoria, are different. There can be no cookie-cutter approach to our healthcare, as indeed, there can be no cookie-cutter approach to *most* healthcare. Transition-related care can range from knowledgable counseling, Hormone Replacement Therapy (HRT), and various different surgeries which reduce feelings of gender dysphoria allowing us to thrive and survive. In addition, we also need the care specific to our bodies regardless of our gender identities - trans men like myself need to continue to receive pap smears and chest exams, transgender women need to receive prostate exams - and all of us continue to need the birth control, STI treatment, and other examinations and care specific to our bodies.

Despite the fact that any TGNC person could stand here and share these basic needs, they continue to overwhelm and confuse medical providers who are not properly trained.

This confusion, in general, leads TGNC people to avoid accessing healthcare. We don't want to explain again and again that we are real. We do not want to deal with being in a vulnerable situation and being misgendered, denied services, laughed at, or worse by those sworn to do no harm. TGNC people have long learned - and passed along to each other - that healthcare in any non-LGBT-specific setting is not a safe option. We at SRLP are trying to change this reality, but it is near impossible when policies like this exist which blatantly write our very real needs out of existence.

THE EXISTING POLICY

There is *significant*, case law stating that - and I hate that I still find myself saying this - transgender people's healthcare needs are real and necessary. One need only look at the 2017 decision in *Cruz v. Zucker,* a case that prompted Governor Cuomo to issue an executive order disallowing private healthcare companies to operate transgender care bans in New York State, to see that there is compelling and recent information on the life-saving effect of comprehensive and individualized care for TGNC people.

Policy #MED 24B, however, states right at the beginning under the title "purpose" that the policy is meant to "minimize the use of non-standard or high dose regimens which may be appropriate under the direct supervision of expert community providers, but may also confer undue risk in the jail environment." No further explanation is offered. Without any context, one surmises that the "risk" individualized HRT care resent, is the risk of us having successful transitions. What this means in practice, is that all TGNC people's medical regimes are changed from whatever was considered to be correct and optimal for their health in the outside, to one universal standard. The policy states it should be twice-daily oral tablets of 3 milligrams of Estradiol and 25 milligrams of Spironolactone daily for women and 200 milligrams of testosterone for men via injection every two weeks.

According to trans health care experts - such as Dr. Amy Bourns who wrote the 2016 *Guidelines and Protocols For Hormone Therapy and Primary Health Care for Trans Clients* or The Endocrine Society's recently updated 2017 *Clinical Practice Guideline on Gender Dysphoria/Gender Incongruence* - recommended dosages of Estradiol may range between 1 and 4 milligrams and Spironolactone should be, at a minimum, 50 milligrams and range up to 200 milligrams twice daily. The generic Spironolactone amount that all transgender women are placed on is below the recommended starting dosage and way below the maximum. Spironolactone is a key part of HRT which allows for the suppression of testosterone. Without it, even on Estradiol alone, women experience mentally horrific physical occurrences which exacerbate any mental healthcare needs. That every woman is placed on this regime - allegedly for their safety - simply because they are in jail, is inexcusable.

There can be no excuse, in New York City, for the NYC Health & Hospitals Corporation to not have or partner with an expert allowing them to continue individualized and correct dosages. There are over five different LGBT-specialist clinics in the city, not to mention entire hospital units, where doctors, nurses, and other medial specialists regularly administer and supervise hormones. For anyone held in the Manhattan Detention Complex, APICHA's Community Healthcare Center is literally only five blocks away. It is astounding that someone's healthcare would be compromised simply due to a lack of specialists in a city that is known for its TGNC healthcare.

It must be shared that, in *general*, the individuals I work with do not experience outright denials of HRT and do not report that NYC Health & Hospitals Corporation employees misgender them or make them feel uncared for. The resounding issue that is reported to me is that the dosages are simply far too low to be effective. In addition, employees don't seem to have answers to larger healthcare questions such as connecting to care upon re-entry or what care looks like upon transfer to NYS DOCCS.

Perhaps explaining the lack of answers to these questions, Policy #MED 24B does not mention anything beyond HRT. Our other medical needs relating to transition care are not provided for under this policy. Nor are there any explicit instructions on working with TGNC people who are recovering from surgeries. Recently, I worked with a woman who had been held in a jail outside of NYC where she wasn't allowed access to her post-surgical needs. Some surgeries that TGNC people have require care for multiple years afterwards. The jail she was held in simply stated that they were unable to determine the medical necessity of her post-surgical care and so had denied it. Given that, again, New York City is a hub for TGNC people and contains many experts on our medical care, having written policies for healthcare workers regarding post-surgical care seems prudent - and lifesaving.

CONCLUSION

In light of all this, NYC Health & Hospitals Corporation must work with TGNCI providers and TGNCI community members to update their existing policy on care and bring it into this century. It is not sufficient to tell individuals with a particular diagnosis that treatment for that diagnosis will be diminished due to them being in jail. It seems unthinkable that healthcare providers would say to any other similarly situated people: "now that you are in jail, your healthcare needs are not real."

SRLP would be happy to continue to work with these committees and the NYC Health & Hospitals Corporation on updating these policies, and we look forward to continuing this work.