



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

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Larry Hogan, Governor – Boyd K. Rutherford, Lt. Governor - Van T. Mitchell, Secretary

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August 13, 2015

Summary Report – Turning Point Investigation/Settlement

I. Complaints/ Investigation

From March 5, 2014 to March 7, 2014, the Behavioral Health Administration (BHA) received two complaints about the operations of the Turning Point Clinic, including allegations of exceedingly long wait times of up to 8 hours for patients waiting for treatment.¹ The allegations described patients waiting for long periods outside the building during severe weather and reports of violence and danger at the location. On March 19, 2014, the Administration initiated an investigation into these allegations; the investigation spanned for several months and ended on August 8, 2014.

The Office of Health Care Quality (OHCQ) conducted three separate investigations on: March 19, 2014, April 10, 2014, and April 17, 2014. During those investigations, BHA and OHCQ reviewed personnel files, patient records, counselor to clients ratio, program records, policies and procedures, the Office of the Chief Medical Examiner (OCME) data, and interviewed patients and staff to determine whether violations had occurred.

On March 7, 2014, a telephone complaint was received by Susan R. Steinberg, Esq. Assistant Inspector General, Department of Health & Hygiene, 201 W. Preston Street, from Jacqueline Robarge, Director of Power Inside with serious concerns about Turning Point Methadone Treatment Program. (See attachment)

Another complaint was received from Tyler Pursley, a former patient of Turning Point, on March 5, 2014. Mr. Pursley had numerous complaints. (See attachment)

Based upon the results of the investigation conducted by BHA and OHCQ, Turning Point was found to have violated the following laws, rules and regulations:

¹ In July of 2014, Delegate Talmadge Branch contacted Secretary Sharfstein to report complaints that he had received about Turning Point. BHA had already initiated an investigation against Turning Point as a result of previous complaints. For more information, see the attachment.

1. Turning Point was determined to be in violation of COMAR 10.47.01.03 A(6) which states, "A program shall report critical incidents to the Administration within 5 business days of the incident."
2. Turning Point was determined to be in violation of COMAR 10.47.01.04(5) which states, "Programs shall report diversion of any controlled substance to the Administration as soon as diversion is discovered."
3. Turning Point was determined to be in violation of COMAR 10.47.01.07 A(1)(a)(f) which states, "A program shall treat each patient with consideration, respect and full recognition of the patients' human dignity and individuality and ensure patients' privacy and confidentiality."
4. Turning Point was determined to be in violation of COMAR 10.47.01.07 A(1)(c) which states, "A program shall prevent physical or mental abuse by the program staff."
5. Turning Point was determined to be in violation of COMAR 10.47.02.11. C(1) which states, "The patient to alcohol and drug counselor ratio may not exceed 50 patients to one full-time counselor" and "An opioid maintenance therapy program shall have hours that meet the needs of the patients."
6. Turning Point was determined to be in violation of COMAR 10.47.01.03 D(2)(b) which states, "Manage the program by implementing a program service plan, approved by the Administration, that is based on the levels of treatment to be provided as defined in COMAR 10.47.02.03 - .11 and describes how the program shall comply with the regulatory requirements, is updated annually, and includes a description of the program's scope that includes target population and other program characteristics."

II. Settlement Process/Timeline

- On October 30, 2014, Assistant Attorney General Michael Gorfinkle, Rhonda Callum, Lisa Hadley (Medical Director/State Opioid Treatment Authority), and Erin McMullen (Acting Chief of Staff) attended a settlement conference to see if the matter could be settled prior to scheduling a formal hearing. The parties were not able to come to an agreement. One particularly contentious issue was BHA's request to implement an expansion ban that would prohibit Turning Point from admitting new patients.
- On November 7, 2014, an *Intent to Impose Immediate Sanctions* was submitted by BHA based on the findings. The *Intent to Impose Immediate Sanctions* was developed with close consultation from the Attorney General's Office.
- March 9, 2015, A pre-hearing conference was held, and dates were scheduled for the parties to turn over evidence. A hearing date was also scheduled for May 2015.
- March 9-27, 2014, The parties held settlement discussions.

III. Settlement Agreement

On April 21, 2015, the BHA and Turning Point Clinic entered into a six month Settlement Agreement. The parties agreed to be bound by the terms of that agreement. Under the agreement, Turning Point acknowledged that it is required to meet the Terms and Conditions set forth in the Settlement Agreement. If Turning Point is found not to have complied with Settlement Agreement at the close of the Two Months Review, Turning Point shall refrain from serving any new patients, including new patients that would replace patients that have been discharged, until the expiration of the Settlement Agreement.

The following is a report of the items included in the Settlement Agreement:

1. Critical Incident Reporting: (i) Turning Point will report all critical incidents, as defined in

COMAR, to the Administration within 5 business days of the date that the Respondent has actual knowledge of the critical incident. Reports of critical incidents that involve the death of a patient must include the name of the person who reported the death to Respondent, if known, the date the program learned of the death, the circumstances involving the death known to Respondent, and the staff person reporting the critical incident to the Administration. Turning Point shall submit to the Administration an updated written policy on the report of critical incidents. The updated policy shall specify: (i) the measures that Turning Point will take, and the system changes, if any, that Turning Point will make to ensure that critical incidents are timely reported; and (ii) how Turning Point intends to monitor compliance with the updated policy.

2. **Reporting Incidents of Drug Diversion:** Turning Point shall review all internal incidents reports for the past 6 months prior to the date of this Settlement Agreement and report to the Administration all incidents of diversion of licit drugs dispensed by Respondent. The report shall include: (i) the date of each incident; (ii) the description of the incident (including patients involved); (iii) the name of the person reporting the incident (if possible); and (iv) a description of how the incident was handled by Turning Point. Turning Point shall also submit to the Administration an updated written policy on preventing diversion of licit drugs it dispenses. The updated policy shall specify: (i) the measures that the Turning Point will take and the system changes, if needed, that Turning Point will make to assure licit drugs it dispenses will not be diverted; and (ii) how Turning Point intends to monitor compliance with the updated policy. The updated policy shall also include a written description of how Turning point will monitor its security cameras, including a description of the use of security cameras and preservation of the camera recordings.
3. **Waiting Line:** Turning Point agrees to implement the following policies concerning wait time for patients. Only patients who arrive on time or who arrive up to 20 minutes before any scheduled appointment, shall be admitted to Turning Point's waiting room ("Wait Time Policy"). Turning Point will include in its "Patient Handbook" a statement of its appointment and Wait Time Policy and encourage its patients to be on time for their appointments. Turning Point shall include in its Patient Handbook notice that (i) patients will not be admitted into Turning Point's waiting room if they arrive more than twenty minutes before an appointment; (ii) patients arriving more than twenty minutes before an appointment may not enter the building, and may be subjected to the weather; (iii) any patient arriving more than twenty minutes before an appointment and who waits outside the building may be observed from the street and identified as a Turning Point patient, and patients may risk a breach of their confidentiality if they fail to comply with the Wait Time Policy; (iv) patients are not permitted to loiter outside Turning Point's premises if they arrive more than twenty minutes before an appointment; and (v) patients are not permitted to remain outside of Turning Point's premises after an appointment. Turning Point shall make allowances for special circumstances to permit early admission to be arranged with the patient at the time an appointment is scheduled to accommodate patients who must arrive more than twenty minutes before a scheduled appointment. Turning Point shall also make allowances for inclement weather to the extent it has adequate space in its waiting room to accommodate patients who arrive more than twenty minutes before a scheduled appointment. Turning Point will include in its Patient Handbook an acknowledgement and acceptance by its patients of Turning Point's Wait Time Policy and their agreement to follow it as a condition of being accepted as a patient. Turning Point is not required to prevent individuals from loitering outside its premises.
4. **Security Staffing:** Turning Point shall assign guard L.E. to duties inside Turning Point's premises. Turning Point shall also conduct training for security staff that consists of Conflict Resolution, Health and Safety, Communication Skills, and Professional Conduct Training.
5. **Operating Hours and Patient to Counselor Ratio:** Turning Point shall: (i) ensure that all of its dosing windows are open from, at a minimum, 5:30 a.m. until 3:30 p.m., Monday to Friday; (ii) complete construction of an additional 3 dosing windows with a reasonable time period subject to financing, building permits, zoning restrictions, architectural plans, drawings and designs, construction contracts, and for other reasons that are not controlled by Turning Point; and (iii) maintain a ratio of 50 patients to 1 full time counselor. In order to ensure compliance with this corrective action, Turning Point shall submit to the Administration a written report stating: (i) the hours of operation for the clinic and the staffing pattern for medication dosing windows for those hours of operation; (ii) the number of active patients as of March 1, 2015; and (iii) an updated

organizational chart that identifies all current staff, titles and number of hours worked per week. In calculating the ratio of 50 patients to 1 full time counselor, the Administration shall use only the number of full-time counselors, and will not count other staff of Turning Point.

6. Program Service Plan and Removal of Signage: Turning Point shall: (i) submit to the Administration an updated program service plan; and (ii) remove the sign on the clinic property that states "in and out within 15 minutes."

IV. Update

On Wednesday, June 17, 2015, BHA conducted a two month site survey to determine Turning Point Clinic's compliance with the Settlement Agreement thus far. Based on the two month review conducted by the BHA on Wednesday, June 19, 2015, Turning Point was found to be in compliance with all the terms of the Settlement Agreement at this time. Turning Point must continue to comply with the Terms and Conditions set forth in the Settlement Agreement until the expiration of the Settlement Agreement (six months from April 21, 2015). Turning Point will have one more site visit prior to the end of Settlement Agreement, October 21, 2015, to ensure that they have continued to comply with the Terms and Conditions set forth.