IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ISIS BENJAMIN; FANTASIA HORTON; NAEOMI MADISON; BRYNN WILSON; and JOHN DOE; on behalf of themselves and all persons similarly situated, Plaintiffs, v. COMMISSIONER TYRONE OLIVER, in his official capacity; ASSISTANT COMMISSIONER RANDY SAULS, in his official capacity; STATEWIDE MEDICAL DIRECTOR DR. MARLAH MARDIS, in her official capacity; and CENTURION OF GEORGIA, LLC, Defendants.	Case No. 1:25-cv-04470-VMC

DEFENDANT CENTURION OF GEORGIA, LLC'S RESPONSE TO PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT AND PERMANENT INJUNCTION

Centurion of Georgia, LLC opposes Plaintiffs' Motion for Partial Summary Judgment and Permanent Injunction (ECF No. 71). The motion should be denied as to Centurion because Plaintiffs challenge a state law, not a Centurion policy. Under Section 1983 and *Monell v. Dep't of Social Services,* 436 U.S. 658 (1978), Centurion cannot be held constitutionally liable for the policy choices of state officials.

INTRODUCTION

Plaintiffs challenge a state law, Senate Bill 185 ("SB 185"), enacted by the Georgia Legislature and enforced by the Georgia Department of Corrections ("GDC"). SB 185 is the State of Georgia's official policy on the use of hormone replacement therapy to treat inmates diagnosed with gender dysphoria. Centurion did not make the policy, but—as a private healthcare contractor for GDC—Centurion must follow state laws and policies.

By following the law, however, Centurion does not become liable for the State's legislative policy choices. Section 1983 and *Monell v. Dep't of Social Services,* 436 U.S. 658 (1978), limit liability to the decisionmakers responsible for the challenged policy, not persons who must abide by policies set by others. Constitutional liability for policy choices cannot be vicarious or imputed; it can only be imposed against the person who adopted and enforced the policy.

Centurion did not adopt SB 185, and Centurion and its medical providers have provided continuous medical and mental healthcare to patients who are impacted by SB 185. There is no legal or factual basis for finding that Centurion is deliberately indifferent to the plaintiffs' and class members' medical needs. Plaintiffs' motion for summary judgment and permanent injunctive relief should be denied as to Centurion.

BACKGROUND

In May 2025, the Georgia Legislature enacted, and the Governor of Georgia signed, Senate Bill 185. That state law prohibits the use of "state funds or resources" for, among other things, the use of hormone replacement therapies to treat inmates with gender dysphoria. O.C.G.A. § 42-5-2(e)(1)(B).

SB 185 is the law and official policy of the State of Georgia. The policy was adopted by the State's elected representatives. *See* ECF No. 72 at 1-2 (State Defs. Mot. Summ. J.) (explaining that SB 185 is the Legislature's decision on a "hotly contested question of public policy"); *see also* ECF No. 25 at 1-2, 5 (State Defs.' Opp. to Prel. Inj.) (explaining that SB 185 is a legislative "policy choice"); Transcript of Prel. Inj. Hrg. at 34 ("[T]he legislature looked at this and decided as a matter of policy we're not going to do it . . . ."). As the State Defendants have explained, SB 185 "represents *the State's view* that certain controversial sex-change interventions should not be facilitated and funded at taxpayer expense." ECF No. 25 at 5 (State Defs.' Opp. to Prel. Inj.) (emphasis added); Transcript of Prel. Inj. Hrg. at 32 ("It [SB 185] was based on the legislature's determination that this category of interventions is not something the state supports.").

Centurion of Georgia, LLC is a privately-owned healthcare company that provides contractually-specified healthcare to inmates in custody of the Georgia Department of Corrections ("GDC"). As a state contractor, Centurion is obligated to

follow state laws and policies, including SB 185. In June 2025, the Georgia Board of Corrections adopted a preliminary rule implementing SB 185. *See* ECF No. 71 at 3 (citing Georgia Bd. of Corrs. Rule 125-4-4-.13).[1] In July 2025, Centurion began tapering patients off hormone replacement therapy "as requested by GDC to comply with Senate Bill 185." *See* ECF No. 28-1 (Decl. of Dr. Gerald E. Wynne, Centurion Medical Director, at ¶ 4).

Since September 4, 2025, Centurion has abided by the relief ordered in this Court's preliminary injunction order and opinion, ECF No. 50.

ARGUMENT

I. Centurion is not subject to *Monell* liability for adhering to a state law adopted by the Georgia Legislature and implemented by GDC.

Plaintiffs challenge a state law, not a Centurion policy. To prevail on their Eighth Amendment "custom and practice" claim against Centurion, Plaintiffs must prove that *Centurion* had a policy or custom that caused a violation of their Eighth Amendment rights. *See Buckner v. Toro*, 116 F.3d 450 (11th Cir. 1997) (citing *Monell v. Dep't of Social Services,* 436 U.S. 658, 691 (1978)). "This threshold identification [] ensures that a municipality is held liable only for those deprivations resulting from the decisions of its duly constituted legislative body or of those officials whose acts

[1] As Plaintiffs have asserted from the outset, GDC's Health Services Division "adopts and enforces policies, customs, and practices concerning the evaluation and treatment of people with gender dysphoria within GDC . . . ." ECF No. 1 (Compl.) at ¶¶ 27-28.

may fairly be said to be those of the municipality." *Craig v. Floyd Cty., Ga.*, 643 F.3d 1306, 1310 (11th Cir. 2011). So, before imposing liability under *Monell*, the Court must determine if a defendant actually adopted the challenged policy or custom.

It is not sufficient to show that Centurion was following the policy of another party, such as the Georgia Legislature or GDC. When custom and practice claims are leveled against private contractors operating within a state correctional system, courts ask whether the challenged custom or policy was that of the contractor or, in fact, one imposed by the State. *See Howell v. Evans*, 922 F.2d 712, 724-25 (11th Cir. 1991);[2] *see also Whiting v. Wexford Health Sources, Inc.*, 839 F.3d 658, 664 (7th Cir. 2016) ("To prevail on his *Monell* claim, Whiting needs to show that Wexford's policy, practice, or custom, caused a constitutional violation."); *Williams v. Guard Bryant Fields*, 535 F. App'x 205, 211 (3d Cir. 2013). *Johnson v. Karnes*, 398 F.3d 868, 877 (6th Cir. 2005) ("[A] private contractor is liable for a policy or custom of that private contractor, rather than a policy or custom of the municipality."). As these authorities confirm, a private contractor cannot be held liable for abiding by the government's policies.

As explained in *Howell*, the question is whether the private contractor or the state agency was the "final authority" on the matter. 922 F.2d at 725. In *Howell*, the

[2] The *Howell* decision was withdrawn, but the Court later reinstated it. *Howell v. Burden*, 12 F.3d 190 (11th Cir. 1994).

representative of an inmate who died of asthma attack sued both the Georgia Department of Corrections ("GDC") and CMS, a private healthcare provider for GDC, alleging deliberate indifference to the inmate's serious medical needs. *Id.* at 715-16, 723-26. The plaintiff alleged that CMS had a custom and practice of failing to maintain proper equipment and staff to treat asthmatic patients. *Id.* at 724-26. The Eleventh Circuit rejected the custom and practice claim, recognizing that CMS's providers were responsible for providing care to inmates, but that CMS's policymaker at the facility "was not the final authority on the matters of equipment and staff procurement…." *Id.* at 725. As a matter of law, CMS could not be held liable for GDC's policies. *Id.*

Howell controls and requires the same result here. Centurion did not adopt or enforce SB 185; it is a Legislative policy choice embodied in a state law that Centurion is obligated to follow. Plaintiffs have offered no evidence to support a finding that Centurion had its own, separate custom or practice relating to HRT treatment of GDC inmates. To the contrary, as Plaintiffs' pleadings and arguments recognize, Centurion has always followed GDC's policy for treating inmates with gender dysphoria—providing hormone therapy when GDC policy allowed it (prior to SB 185's adopting) and not providing when the Georgia Legislature changed state policy and prohibited hormone therapy for inmates in GDC custody.

Plaintiffs assert in summary judgment briefing that "defendants implemented SB185's hormone therapy ban," ECF No. 71 at 13, but Centurion's implementation of state law at the direction of GDC does not subject Centurion to *Monell* liability. Section 1983 and *Monell* require that each defendant's liability be assessed individually. *See Howell*, 922 F.2d 712, 724-26. Centurion cannot be vicariously liable for the actions or policies of another party, such as the Georgia Legislature or GDC. *Ireland v. Prummell*, 53 F.4th 1274, 1289 (11th Cir. 2022) ("Liability under § 1983 cannot be based on the theory of vicarious liability."). Nor can the State's policy be "imputed" to Centurion to establish liability under Section 1983. *See Hippele v. Palm Beach Cnty. Bd. of Cnty. Comm'rs*, 2010 WL 3123258, at *5 (S.D. Fla. Aug. 9, 2010) (applying *Howell*, 922 F.2d 712).

There is no dispute about the policymaker in this case: SB 185 is the official legislative policy of the State of Georgia. Centurion is bound to follow that policy, as any contractor providing healthcare services to the state would be; but that does not make Centurion liable for a constitutional violation under *Monell*.

The Court should deny Plaintiffs' motion for summary judgment and injunctive relief as to Centurion.

II. Centurion has not been deliberately indifferent to Plaintiffs' serious medical needs.

As explained in Section I, Plaintiffs have not identified a Centurion policy or practice. Moreover, Plaintiffs have not shown that Centurion or any of its medical

providers were deliberately indifferent to plaintiffs' medical needs.

The Eighth Amendment prohibits "cruel and unusual punishments." U.S. Const., amend VIII. Under the Supreme Court's "deliberate indifference" standard, a medical provider violates the "cruel and unusual punishments" clause when he or she acts with "deliberate indifference to serious medical needs of prisoners." *Estelle v. Gamble*, 429 U.S. 97, 105 (1976); *see also Farmer v. Brennan*, 511 U.S. 825, 839 (1994) (equating deliberate indifference to "subjective recklessness as used in the criminal law"). A "prisoner bringing a deliberate-indifference claim has a steep hill to climb." *Keohane v. Fla. Dep't of Corr. Sec'y*, 952 F.3d 1257, 1266 (11th Cir. 2020); *see also Wade v. McDade*, 106 F.4th 1251, 1258-62 (11th Cir. 2024) (discussing heavy burden required to meet deliberate-indifference test).

"[M]edical treatment violates the [E]ighth [A]mendment only when it is so grossly incompetent, inadequate, or excessive as to shock the conscience or to be intolerable to fundamental fairness." *Harris v. Thigpen*, 941 F.2d 1495, 1505 (11th Cir. 1991) (internal quotation marks omitted). When an inmate receives medical attention, "and the dispute is over the adequacy of that attention, courts should be reluctant to question the accuracy or appropriateness of medical judgments that were made." *Id*. at 1507. Proof of continuous care undermines a claim that the defendant had a custom or practice of failing to provide care. *See Hines v. Parker*, 725 F. App'x 801, 806 (11th Cir. 2018) (affirming summary judgment on custom and practice

claim because, among other things, evidence showed that inmate recevied ongoing medical care). A defendant cannot be held liable for an Eighth Amendment violation if he provided "minimally adequate care." *Hoffer v. Sec'y, Fla. Dep't of Corr*., 973 F.3d 1263, 1277 (11th Cir. 2020).

"To set out a claim for deliberate indifference to medical need, [the plaintiff] must make three showings: (1) he had a serious medical need; (2) the [defendant] w[as] deliberately indifferent to that need; and (3) the [defendant's] deliberate indifference and [the plaintiff's] injury were causally related. *Hinson v. Bias*, 927 F.3d 1103, 1121 (11th Cir. 2019); *see Nam Dang by & through Vina Dang v. Sheriff, Seminole Cnty. Fla.*, 871 F.3d 1272, 1279 (11th Cir. 2017). To establish "deliberate indifference" to a serious medical need, Plaintiffs must satisfy both a subjective and objective component:

> Subjectively, the [prison] official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and . . . also draw the inference. Objectively, the official must have responded to the known risk in an unreasonable manner, in that he or she knew of ways to reduce the harm but knowingly or recklessly declined to act.

Marbury v. Warden, 936 F.3d 1227, 1233 (11th Cir. 2019) (citations omitted). To meet his burden under the subjective prong, "a deliberate-indifference plaintiff must show that the defendant official was subjectively aware that his own conduct—again, his own actions or inactions—put the plaintiff at substantial risk of serious harm." *Wade*, 106 F.4th at 1258.

Centurion has provided the plaintiffs with continuous medical and mental healthcare that is within its ability to provide, subject to SB 185's limitations. To minimize any side effects caused by SB 185, Centurion provided a tapering process tailored to each patient's circumstances, rather than abruptly terminate hormone therapy. ECF No. 28-1 at ¶ 5 (Wynne Dec.). Centurion provided ongoing medical monitoring and follow-up visits for all patients undergoing tapering, to ensure that no acute medical issues arose during the tapering process. *Id.* at ¶ 6. In addition, all patients undergoing tapering received an initial mental health evaluation and regularly scheduled follow-up evaluations to monitor and address any mental health issues associated with gender dysphoria. *See id.* at ¶ 6; *see also* ECF No. 25-2 at ¶¶ 7-9 (Declaration of Kathryn Haynes Owen Ph.D., Statewide Mental Health Director for GDC) (discussing access to mental health resources to address any concerns about the implementation of SB 185).

There is no evidence that Centurion or its medical providers have ignored, disregarded, or refused to treat patients diagnosed with gender dysphoria. Instead, it is undisputed that Centurion has provided significant medical and mental healthcare to plaintiffs and the class members.

Plaintiffs have not carried their heavy burden to show that Centurion had a policy or practice of deliberate indifference to their medical needs, so the claims against Centurion must be dismissed.

CONCLUSION

The Court should deny Plaintiffs' motion for summary judgment and a permanent injunction as to Centurion of Georgia, LLC, and should award Centurion attorneys' fees, costs, and whatever additional relief if may be entitled to.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to Local Rules 5.1(B) and 7.1(D), I hereby certify that the foregoing filing complies with the applicable font and size requirements and is formatted in Times New Roman, 14-point font.

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CERTIFICATE OF SERVICE

I certify that on November 17, 2025, I electronically filed the foregoing with the Clerk of the Court using the Court's ECF system, which will automatically send email notification to all counsel of record.

Respectfully submitted,

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