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Sick Call

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Sick call, conducted by a physician or other person designated by a physician as capable of performing such duty, shall be available to each inmate according to a written procedure for sick call. All inmates must be informed of these procedures including any copay requirements, as well as procedures for submitting grievances, upon admission. Rules of the Tennessee Corrections Institute, Rule 1400-1-.13(11).

While society does not expect that inmates will have unqualified access to health care, a jail official who does not attend to the serious medical needs of an inmate violates that inmate's constitutional right. See *Hudson v. McMillian*, 503 U.S. 1, 9, 112 S.Ct. 995, 1000, 117 L.Ed.2d 156 (1992). See also *Dawson v. Kendrick*, 527 F.Supp. 1252, 1308 (S.D. W.Va. 1981) (holding that the "denial of adequate medical screening, classification, record keeping, sick call procedures and timely access to care at the Mercer County Jail constitutes deliberate indifference to the potentially serious medical needs of the pre-trial detainees and convicted prisoners alike in violation of the Eighth Amendment"); *Facility Review Panel v. Holden*, 356 S.E.2d 457, 460-461 (W.Va. 1987) (holding that failure to medically screen inmates upon admission, to keep medical records, or to hold regular sick call violated prohibition against cruel and unusual punishment under federal constitution).

It has been held that sick call administered by prison security staff instead of medical staff violates constitutional standards and subjects prisoners to cruel and unusual punishment. *Carty v. Farrelly*, 957 F.Supp. 727, 737-738 (D. Virgin Islands 1997). It has also been held that providing inadequate medical staff effectively denies inmates access to diagnosis and treatment and constitutes deliberate indifference. *Inmates of Allegheny County Jail v. Pierce*, 612 F.2d 754, 762 (3d Cir. 1979). However, the mere fact that staff is not on "sick call" seven days a week does not constitute deliberate indifference to the serious medical needs of prisoners so long as emergency treatment is available during weekends and holidays. *Luca v. Scalzo*, 892 F.2d 83 (9th Cir. 1989) (The failure to provide regular medical office hours for two out of every seven days for nonemergency medical needs is not evidence of serious understaffing establishing deliberate indifference.); *Wood v. Housewright*, 900 F.2d 1332, 1335 (9th Cir.1990) (Only delays that cause substantial harm violate the Eighth Amendment.). See also *Gregory v. McGann*, 1992 WL 559661 (N.D. Ind. 1992) (finding policy of one day a week hospital sick call (except for emergencies) does not offend the Eighth Amendment); *Pounds v. Myers*, 76 Fed.Appx. 630 (6th Cir. 2003) (holding that allegations that nurse told inmate that he could be seen for only one complaint per sick call along with one day suspension of sick call privileges failed to state a claim upon which relief could be granted absent any allegation that the delay in receiving treatment had any detrimental effect on inmate's condition); *County of El Paso v. Dorado*, --- S.W.3d ----, 2005 WL 3254498 (Tex. App. 2005) ("Evidence of sick call requests, examinations, diagnoses and medications may rebut an inmate's claim of deliberate indifference.").

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