
Recommendations

Recommendation 1. The General Assembly should direct the University of North Carolina Health Care System to modify and expand its 340B program to provide for the purchasing of certain inmate medications in cooperation with the Department of Public Safety.

As shown in Finding 1, 16 states have agreements between their departments of corrections and health departments or hospitals to provide 340B medication pricing. Having access to less-costly medications for HIV/AIDS, Hepatitis C, and other infectious diseases will not only save the State approximately \$13.3 million annually, it also may lead to a greater number of inmates being properly treated and will reduce the risk to the general public once these individuals are released from prison.

The General Assembly should direct the University of North Carolina Health Care System (UNCHCS) to modify its 340B program regarding its qualification as a Disproportionate Share Hospital. In collaboration with DPS Health Services, UNCHCS should be required to acquire the necessary approval, if any, from the U.S. Health Resources and Services Administration (HRSA) to provide inmate medications to inmates with HIV/AIDS and Hepatitis C. Further, UNCHCS and DPS Health Services should enter into a Memorandum of Understanding, modifying and creating policies and procedures as needed to guide the processes by which these medications will be obtained. Ideally, this partnership would use telemedicine and the existing infectious disease clinics already housed at Central Prison Healthcare Complex to treat offenders.

To facilitate this partnership between DPS and UNCHCS, the General Assembly should require the Department of Public Safety to transfer \$25,000 to UNCHCS to fund a legal consultant to assist with program design and spend \$7,000 annually for program auditing as required by HRSA. This recurring expenditure would be offset by the savings achieved from 340B participation. In addition, UNCHCS and DPS Health Services should develop a plan for obtaining additional medications through the 340B program in the future, including but not limited to drugs for treating cancer, neurological conditions, rheumatic diseases, and other costly medical conditions.

Beginning October 1, 2019 and quarterly thereafter until a 340B program is in operation for purchasing HIV/AIDS and Hepatitis C medications, UNCHCS and DPS Health Services should report to the Joint Legislative Oversight Committee on Justice and Public Safety and the Fiscal Research Division on related activities conducted to date and activities planned. In addition, by July 1, 2020 and annually thereafter, UNCHCS and DPS Health Services should report to the Joint Legislative Oversight Committee on Justice and Public Safety on annual savings achieved from purchasing inmate medications through the established 340B program as well as any activities conducted or planned to maintain and expand the number of medications purchased through the program.

Recommendation 2. The General Assembly should direct DPS Health Services to revise its medication administration protocol to require each supply of certain medications worth more than \$1,000 be designated as Direct Observation Therapy.

As Finding 2 discusses, the two highest-cost prescriptions dispensed to inmates are designated as Direct Observation Therapy (DOT), thereby requiring inmates to be observed taking these medications. However, the Program Evaluation Division identified 11 additional prescriptions for conditions other than HIV valued between \$1,138 and \$7,376 each (per supply) that DPS Health Services allows to be kept on an inmate's person. As a result of this protocol, the effectiveness of nearly \$300,000 in annual state expenditures for these high-cost medications may be limited because there are no assurances inmates are taking them.

The General Assembly should direct DPS Health Services to revise its policies and procedures to reflect that any supply of a prescription for the treatment of conditions other than HIV with a per-supply value of \$1,000 or more be designated as DOT. The General Assembly should direct DPS Health Services to report to the Joint Legislative Oversight Committee on Justice and Public Safety by October 1, 2019 on this change in policy.

Recommendation 3. The General Assembly should direct DPS to collect additional data on medications lost during the inmate transfer process, establish internal oversight, controls, and audit activities to limit such losses, and report annually on such losses to the General Assembly.

Finding 3 discusses two primary challenges with DPS Health Services's method of data collection as it pertains to medications lost during inmate transfers.

- First, current management reports do not designate whether medications lost are designated as Keep on Person (KOP) or Direct Observation Therapy (DOT); systematically collecting such data would indicate if a custody staff member or an inmate was responsible for the loss.
- Second, current management reports do not indicate the prison from which an inmate was transferred, which may not have sent the medication, nor do these reports indicate which custody staff member was responsible for DOT medications.

It does not appear that DPS takes corrective or disciplinary action when medications are lost, likely due to a lack of data available on such losses. As Finding 3 shows, medication losses during inmate transfer resulted in additional state expenditures of \$115,665 in Fiscal Year 2016–17.

The General Assembly should direct DPS Health Services to revise its methods of collecting data on medication losses. First, DPS Health Services should be required to develop a mechanism to easily summarize medication losses across the 15 reasons identified in policy. Second, DPS should be required to collect data on the prison from which an inmate was transferred in any cases of medication loss. In addition, the General

Assembly should require DPS to track information on custody officials involved in the transfer process.

The General Assembly should also require DPS to develop internal controls related to the oversight of medications lost during inmate transfers, including establishing disciplinary actions for staff responsible for such losses, based on the data to be collected as part of this recommendation. In addition, the General Assembly should require DPS to initiate an internal audit of its processes for transporting medications during inmate transfer. This report should examine all medication losses incurred during Fiscal Year 2018–19 and should include recommendations to improve controls and promote accountability for medication losses. This report should be submitted to the Joint Legislative Oversight Committee on Justice and Public Safety by December 1, 2019.

Once these additional data collection efforts are in place, the General Assembly should also require the Internal Audit unit of DPS to establish an internal oversight function to investigate any medication losses with a value greater than \$200. Central DPS Health Services staff would be responsible for identifying and implementing corrective action for trends in medication losses. Further, central DPS Health Services staff would be responsible for issuing any disciplinary actions for DPS Health Services prison staff or referring any custody staff to the appropriate DPS unit for such action.

Beginning December 1, 2019 and annually thereafter, the General Assembly should require DPS to report to the Joint Legislative Oversight Committee on Justice and Public Safety on medication losses for the preceding fiscal year with the information obtained from these additional data collection efforts. This report should summarize medications lost and include the name and quantity of each medication lost, its purchase price and total value, the reason(s) for loss, and the entities responsible for losses. The first report should summarize actions DPS plans to take to identify, investigate, and develop corrective actions to limit medication losses during inmate transfers.

Recommendation 4. The General Assembly should direct DPS Health Services to contract with statewide retail pharmacies for local purchasing of limited quantities of medications and develop a data collection and oversight mechanism to ensure adherence to the short-supply policy for local medication purchases.

As Finding 4 discusses, when DPS Health Services prison staff need an immediate supply of a medication, they often purchase limited quantities from a local private pharmacy while awaiting the full order from one of the DPS Health Services pharmacies. In Fiscal Year 2016–17, DPS Health Services spent \$239,287 on such purchases, a 52% increase from five years ago. Information on these purchases is not collected and aggregated either at the individual prison level or across the State's 57 prisons. Likely due to this lack of data collection, DPS Health Services central office staff lack oversight of local purchases and cannot ensure

adherence to the Division's policy of requesting limited quantities from local pharmacies.

The General Assembly should require DPS Health Services to award a statewide contract to a private pharmacy for such local purchases and require prison health services staff to use this pharmacy except under extenuating circumstances and with the written approval of the Director of Central Pharmacy in Apex.

Upon awarding this contract, DPS Health Services should be directed to obtain monthly electronic invoices of prescriptions filled by each prison from the chosen vendor and should develop a mechanism to collect information on purchases made outside the contract. At a minimum, the following information should be collected for each prescription:

- the inmate's prison,
- the requesting provider,
- the medication,
- the quantity, and
- the total value.

Such information would be helpful in identifying prisons that rely heavily on outside private pharmacies. Further, collecting this information would provide a mechanism to ensure adherence to DPS Health Services policy that providers not write prescriptions for more than a 10-day supply when a medication is being filled at a local pharmacy.

In addition, the General Assembly should require DPS to establish a formal oversight mechanism to ensure prescriptions written by providers to be filled at local pharmacies do not exceed the quantities specified in DPS Health Services policy. This oversight mechanism should be headed by the DPS Health Services central office and should use the data discussed above and include corrective actions and disciplinary actions as necessary.

The General Assembly should direct DPS to award a contract for this service by October 31, 2019. The General Assembly should require DPS to report to the Joint Legislative Oversight Committee on Justice and Public Safety by November 1, 2019 on its efforts to award this contract.

Appendices

Appendix A: DPS Health Services Pharmacies Replace Inmate Medications for 15 Reasons

Appendix B: The National Commission on Correctional Health Care's Recommended Guidelines for Charging Inmates a Fee for Health Care Services

Agency Response

A draft of this report was submitted to the Department of Public Safety for review. Its response to the report is provided following the appendices.