



Kate Loewe <kate@rjvlawfirm.com>

## McClendon: Sept. 16, 2025 Med CAP Production and up coming visit

**Kate Loewe** <kate@rjvlawfirm.com> Mon, Oct 6, 2025 at 2:45 PM  
To: "Rahn, Taylor" <taylor@roblesrael.com>, Jennifer R James <jrjames@salud.unm.edu>, Alexandra Freedman Smith <asmith@smith-law-nm.com>, Doreen McKnight <doreen@smith-law-nm.com>, Benjamin A Fuller <BFULLER@salud.unm.edu>, Melissa Maldonado <melissa@rjvlawfirm.com>, Kelly Waterfall <kelly@rjvlawfirm.com>, Adam Flores <adam@nmcivilrights.com>, Joseph Sanchez <josephsanchez@bernco.gov>, M Kumar <emailofkumar@gmail.com>

Dear all,

I am writing to follow up on my September 29 email.

Please provide the records requested. I am finalizing my letter to Dr. Kumar and do not want to be a naysayer if there are things happening but we haven't been provided the information. I want to provide as fair an assessment as I can. At this point it is almost too late to incorporate, but they are still helpful.

OMIs we previously requested OMI for each of the three people who have died since Dr. Kumar's visit. OMI is very slow with us these days. If MDC has the OMI and/or the causes of death for Ms. Quintero, Mr. Acee, and Mr. Tafoya, please share them. Today is the 45th day since our request for Mr. Tafoya so we anticipate receiving records for Dr. Kumars visit.

Relatedly, at the access meeting we discussed the tracking of corrective actions from M&Ms. Taylor stated (correct me if I am wrong) that these were tracked in CQI meeting minutes. I noted that previous CAP productions state that there is a tracker for CAPs coming from M&Ms. I reviewed and found this information in a CAP update from 3/14/2025 update. See attached. It contains a link for the UNMH M&M Action plan, but I was unable to access it in the past and it has since expired. Additionally, upon reviewing Dr. Kumar's report from April, he notes that there is a tracker for CAPs and it was shown to him. [Doc. 1769 at 12]. Please provide these so that we are prepared for the visit.

On Tue, Sep 30, 2025 at 7:03 AM Kate Loewe <kate@rjvlawfirm.com> wrote:  
Resending with Dr Kumar included.

On Mon, Sep 29, 2025 at 5:48 PM Kate Loewe <kate@rjvlawfirm.com> wrote:  
Dear Counsel,

I am writing for three reasons.

**First**, to ask again that Defendant provide the CAP document production from August. Dr. Kumar's new CAP was not finalized until 8/11 - please provide the documentation for the preceding time period. Not receiving this information hinders our monitoring and preparation for Dr. Kumar's visit.

**Second**, to ask that you ensure any materials provided to Dr. Kumar are provided to us. I raise this in preparation for his visit, but also to avoid any confusion or confrontation regarding the basis for findings with respect to the CAP or COA1. Provided is defined broadly here as shared with Dr. Kumar whether it is via email or via screen share or otherwise during a meeting.

**Finally**, I write to address the first production to the expert under the new CAP.

The CAP outlines documents to be provided to the monitor on a monthly basis. These include project plans for each of the 17 items. On September 16, 2025, Defendant produced 5 Simple Project Plans (nursing guidelines, operational supervision, PTC staffing and patient monitoring, staffing levels, and staffing plan) and a two page written plan. No other documents were provided.

We are concerned that only 5 initial plans were provided with tentative dates, and that Defendant indicated that these will be progressed through as able based on limited human resources.

Based on this initial production, we are concerned about the implementation of the CAP. For Plaintiffs, this was long awaited, and although it was not finalized until 8/11/25, many of the items are not at all new and should have already been in progress. Here are three examples of things that raise concerns:

**Item 11 addresses the PTC.** Full staffing of the PTC was an item in the previous CAP. Last fall, we were told it would be fully staffed by 11/28/24, shortly after a client died in intake after being transported to MDC in the throes of methamphetamine intoxication. The PTC briefly opened, and then Defendant stopped staffing it again. The 2025 CAP calls for the PTC to have patient monitoring established with 95% staff trained on the new forms within 30 days (of August 18). The dates in the plan are outside of the 30 day mark, and with respect to monitoring patients the plan states "Open PTC as staff become available" - with an end date of 11/1/2025. Perhaps this means that it will be open before then, but it is not apparent from the plan.

**Item 6 addresses Orders and Tasks** - No initial plan or anything else was provided. In our letters to Dr. Kumar we have repeatedly raised concerns about the entering and completion of orders and the systemic issues with ensuring completion. From our perspective, identifying and rectifying the systemic problems with orders is paramount. Item 6 required the clinical team to identify the names of all required order sets within 30 days (of August 18) and to provide, in the least, an initial project plan. No plan was provided and Item 6 is not listed as a priority in the written plan.

**Item 14 addresses Withdrawal Management and MOUD** - The time frame for this item is to "establish and implement within 45 days, with required training completed by at least 95% of designated staff within 60 days." The only information provided to the monitor in the first monthly CAP update was "CAP item 14, Withdrawal Management, will be addressed as a separate project." No other information was provided. No initial plan was provided.

It is our understanding that initial plans were the bare minimum of items for the first monthly production. We are concerned that there is a misunderstanding about the timelines and deliverables for the CAP.

That said, we are heartened to learn that the long awaited **nursing guidelines** had not only been identified, but approved, and built out in the EMR. As Defendant claims these are complete, please provide the evidence of completion (e.g. Copies of the approved Nursing Guidelines for the identified 10 conditions).

We look forward to meeting with the teams working on the CAP and Dr. Kumar during the upcoming visit to discuss the CAP.

If we are missing anything, or misunderstanding something, please let us know.

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**Katherine Loewe**

(she/hers)

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Thank you.

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