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Philadelphia Promises Proper Medical Care of Diabetics Under Arrest

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Diabetics arrested by police in Philadelphia would be guaranteed proper medical care during their time in jail under the terms of a proposed settlement filed in U.S. District Court on Thursday of a class-action lawsuit brought by the American Diabetes Association.

If approved by U.S. District Judge Petrese B. Tucker, the settlement will also provide \$206,000 in compensatory damages to be divided among class members. Court papers define the class as "persons with diabetes who were in the custody of the Philadelphia Police Department between Feb. 11, 1998 and March 31, 2001, and claim they were denied timely and appropriate medical care or diet."

Plaintiff's attorney Alan Yatvin of Popper & Yatvin said the settlement calls for eligible claimants to be paid between \$200 and \$5,000 depending on the facts of their claim.

Yatvin and attorney David Rudovsky of Kairys Rudovsky Epstein & Messing started the case in February 2000 on behalf of Stephen Rosen, a Philadelphia man who claimed in court papers he ended up in an emergency room after a night in jail because police would not allow him to take his blood sugar test kit or any medication into his cell.

More than 17 million Americans suffer from diabetes, the country's fifth leading cause of death by disease whose complications include heart disease and stroke, blindness, kidney disease and amputations.

The lawsuit, *Rosen v. City of Philadelphia*, soon swelled with additional plaintiffs who said they, too, suffered serious consequences as a result of being denied proper care after an arrest.

The plaintiffs' legal team swelled too when the American Diabetes Association joined the suit and brought

in a trio of free lawyers. Attorneys Joseph B.G. Fay, Kenney Kulak and Joseph Dever of Morgan Lewis & Bockius worked on the case pro bono.

Yatvin said the plaintiffs' team divided its labors, with Yatvin and Rudovsky focusing on the individual plaintiffs and their claims for damages, while the Morgan lawyers focused on the claims for injunctive relief.

Under the settlement, the city has promised to implement a police training program and a series of jailhouse procedures designed to prevent any diabetic detainee from suffering medical consequences after an arrest.

All adult detainees with diabetes will be taken immediately to the city's Main Offender Processing Unit - as opposed to a district police station - where they will have blood glucose testing performed upon arrival.

The settlement also promises that medically appropriate food and medication will be made available.

The American Diabetes Association also has the right to monitor the city's compliance with the settlement.

For 18 months following the court approval, the settlement provides that the city will turn over computer data and other records relating to people with diabetes who are arrested to the association for review.

The city and the American Diabetes Association will also co-produce a training video on the needs of people with diabetes in custody, which will be incorporated into Philadelphia police training. The association will also design a poster describing diabetes, its symptoms, and appropriate treatment, which shall be placed and maintained in each area where prisoners are detained.

Deputy City Solicitor Jeffrey M. Scott, speaking on behalf of the Philadelphia Police Department and the Office of the City Solicitor, said the city "commends the American Diabetes Association on the significant initiatives achieved through this [settlement], which positively supplements the previously instituted training and written policies and procedures of the Philadelphia Police Department regarding the treatment of detainees with diabetes."

Michael A. Weiss, the national chairman of the American Diabetes Association, said he hopes that the settlement "will become a national model."

Yatvin said he applauded the city "for its willingness to make the city of Philadelphia Police Department a national model for care of medically needy prisoners, and for acknowledging through this significant monetary settlement, the past gaps that may have existed in its policies on care and treatment."

The city has also agreed to pay \$85,000 in attorney fees, Yatvin said. The fee award, which must be approved by Tucker, will be shared by Yatvin and Rudovsky since the Morgan lawyers were working pro bono.

Yatvin said the fees are probably less than half the amount that he and Rudovsky would have been paid if they had submitted a bill for all of their hours over the three years of litigation at their usual hourly rates.