

## 4 correctional healthcare game changers from 2011

### Healthcare is now the most common legal issue raised by inmates

By Lorry Schoenly

Another year is here and we can look back on plenty of correctional healthcare news from 2011. What top stories from the past year are most memorable to you? Here are my top picks for 2011 game changers along with suggested action to reduce their impact.

#### #1 Legal eagles rule the roost

Healthcare is now the most common legal issue raised by inmates according to a [Harvard Civil Liberties Law Review article](#). The legal system has led the way in correctional healthcare reform even before the landmark *Estelle v. Gamble* Supreme Court case of 1976. In that case, the Supremes ruled that healthcare was a prisoner's Eighth Amendment right. Continued case law has further delineated that right. Lack of healthcare, inadequate healthcare, faulty or denied healthcare are frequent claims of inmate defendants. Not only are the costs of healthcare skyrocketing, so are the costs of medical liability insurance. The financial burden of defending against spurious and serious claims is high.

**Game changer actions:** Do everything you can to strengthen the healthcare delivery system to reduce serious medical claims. This means solid communication and tracking of outside services and diagnostics. In addition, monitor medication delivery and formulary practices. Medication administration is a high risk and problem-prone area of correctional healthcare.

Consider implementing basic customer service principles to reduce spurious legal claims. Closely monitor inmate grievances in this sector. Early intervention can stem later legal cases. Remember, even if a claim is invalidated, legal costs can still be incurred in developing a defense.

#### #2 Cost shifting along the corrections pipeline

Although [California](#) is the state prison system most in the news about overcrowding, other states are looking for ways to reduce incarceration costs by shifting custody responsibilities to local jurisdictions or mental health services. From a medical perspective, there are renewed calls for improved compassionate release processes.

**Game changer actions:** Appropriate early release of severely ill and dying prisoners can reduce prison health care costs but burden other systems such as long term care and indigent care services. A practical review of current [compassionate release](#) policies and procedures is warranted.

#### #3 Will medicaid save the day?

Changing federal health law has some state prison systems scrambling to evaluate the use of Medicaid funds for hospital care bills accumulated by inmates needing acute medical or surgical treatment.

Until recently, governments routinely covered healthcare costs of those citizens serving time. With the exploding costs of providing this healthcare, strapped governments are seeking alternatives. The affordable health care act passed last year allows for Medicaid funding of appropriate inmate's acute health care costs starting in 2014. However, some states, such as North Carolina, are investigating methods for recouping medical costs through current Medicaid funding.

**Game changer actions:** The move to Medicaid funding of acute health care services will mean major revisions to the documentation and billing processes of correctional health care delivery. State and local governments need to begin developing skill and capacity in this area in order to acquire funding.

#### **#4 Transgender transformations**

Court cases involving the State of Wisconsin and the Federal Bureau of Prisons will change the landscape of correctional healthcare for [transgender inmates](#). The recent popular 'freeze-frame' standard which keeps transgender individuals set at the treatment level in which they entered the criminal justice system has been soundly dismissed by the courts as inadequate healthcare.

Those diagnosed with Gender Identity Disorder (GID) are now required to receive 'current accepted standards of care', even if that means initiation of treatment while in custody. GID treatment can include psychotherapy, hormone treatment and gender reassignment surgery.

**Game changer actions:** These court ruling make it imperative that jails and prisons evaluate current medical practices for transgender inmates. A standard protocol for GID treatment based on community standard should be developed. GID treatment can be resource-intensive so budgetary issues will also need to be considered.