

# **Prison health care is a tough bill to swallow**

## **Decades of neglect make obeying a federal court mandate painfully expensive**

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Although much has been accomplished in the past two years to deliver constitutionally acceptable medical care to California's 170,000 prisoners, much more remains to be done. The state's prison medical care system did not slip into its current condition overnight. It took decades of neglect, underinvestment and increasing overcrowding to create the conditions of chaos and dysfunction that now exist. The conditions led a federal court judge to conclude that the constitutional rights of prisoners to medical care were being violated and that the extraordinary remedy of a "receivership" was necessary.

Bringing prison medical care up to constitutional standards will require a significant investment of resources, both one-time capital expenses and an increase in ongoing operational expenses. Needless to say, this is not a good time to be putting additional demands on the state's budget. But there simply is no choice. The state of California has a constitutional obligation to improve its prison medical care system, and I am convinced the only way to satisfy that obligation is by making substantial investments today that will make up for 30 years of systematic underinvestment in prison medical care.

I was appointed on Jan. 23 by U.S. District Court Judge Thelton E. Henderson to succeed Robert Sillen as the federal receiver in charge of delivering medical care to California's prisoners. In the first eight weeks following my appointment, I have undertaken a rapid assessment of the initiatives begun by my predecessor and produced a draft strategic plan of action that concisely sets forth my vision for bringing prison medical care services up to federal constitutional standards.

We are working with the state Department of Finance to determine the overall costs of implementing the plan. Within the next week, we will release a new version of the plan which includes those estimated costs. It is already clear, however, that capital expenditures for new health care facilities and the upgrading of existing clinics in overcrowded prisons will be in the billions of dollars, and additional operational costs will be in the hundreds of millions of dollars.

On the other hand, we anticipate generating tens of millions of dollars in annual savings for an improved pharmaceutical program and reduced use of clinical registry services. Other savings may be found in less reliance on outside hospital services and in avoiding costly, duplicative laboratory services. I will do everything in my power to ensure that dollars are spent wisely and cost-effectively. But make no mistake about it: Improving prison health care, as ordered by the

federal court, is going to require more resources than are currently allocated by the California Legislature.

The court's opinion in *Plata v. Schwarzenegger* documents pervasive, fundamental organizational weaknesses and failures within the Department of Corrections and Rehabilitation and within other California agencies that have undermined our state's ability to provide constitutionally adequate health care services in its prisons.

My tasks as receiver are threefold:

- Establish constitutionally adequate prison medical care as quickly as practicable.
- Coordinate remedial efforts with three other class-action cases concerning prison mental health, dental care and Americans With Disability Act issues to avoid duplication of effort, and to properly manage limited public resources.
- Establish health care delivery systems that will be sustainable after the receivership winds down operations, so that responsibility for prison medical care reverts to the state in a timely and cost-effective manner, I hope within three to five years.

There is no great mystery about what needs to be done. Constitutionally adequate health care occurs when patient-inmates are given timely access to competent medical and clinical personnel informed by accurate patient records and supported by appropriate housing, medical facilities, equipment and processes, and timely access to prescribed medications, treatment, specialists and appropriate levels of care.

Unfortunately, adequate health care has not routinely existed within the Department of Correction's medical system for decades. Access has not been timely. The number of medical personnel has been inadequate, and competence has not been assured. Accurate and complete patient records often are unavailable. Adequate housing for the disabled and aged does not exist. The medical facilities, when they exist at all, are in an abysmal state of disrepair. Basic medical equipment is often not available. Medications and other treatment options are too often not available.

To solve these many problems we need to restore adequate levels of competent medical and related administrative staffing in California's prisons, establish the basic medical support systems necessary for clinicians to make accurate diagnoses and plan appropriate clinical responses, and undertake a massive, two-prong construction program that will:

- Upgrade existing clinical facilities so that basic medical services are provided despite increases in population.
- Build the additional health care facilities needed today to provide minimal health services and housing for approximately 10,000 prisoner- patients who require long-term care because of chronic medical problems, chronic mental health conditions and problems related to age and disabilities.

Substantial progress has already been made in some areas. For example, my predecessor did a great job of establishing processes to weed out incompetent clinicians, and to recruit and hire a large number of nurses and physicians, although difficulties recruiting physicians and other clinicians in the Central Valley continue. We are in the final stages of "building out" a statewide information technology network to 33 prisons scattered so that we can, for the first time in the Department of Corrections' history, centrally store and manage health care information about patient-inmates while making that information immediately available to clinicians in the field where they need it and when they need it. Pharmaceutical procurement has improved dramatically, and we will soon convert to a system of centralized distribution, which will improve productivity and reduce costs. In addition, we have established an approved drug formulary for medical, mental health and dental prescriptions, an improvement that will save California taxpayers tens of millions of dollars annually.

San Quentin State Prison has been used as a "pilot project" to test new processes, new staffing programs and new health care delivery models. As a result, California's oldest institution provides a continuity of care that previously did not exist for its prisoner- patients.

We have already learned a great deal about what works and what does not work, and based on the initiatives proposed in the strategic plan, we will take the lessons learned at San Quentin and apply them to other prisons in 2008 and 2009.

Finally, the Office of the Receiver proposed, helped design and worked to implement the first-ever formal audit of health care processes at a prison, a 128-element audit conducted by the staff at the inspector general's office. After this audit process is refined over the coming months, we should be in a position where performance and improvements can be systematically measured and reported by the inspector general to the public, the administration and the Legislature. The Office of the Receiver must be held accountable, and this type of public reporting is one important way of doing that.

Progress has been made, but there is still a lot to do. California's criminal justice system incarcerates 170,000 men and women in its state prisons, and as a result, the state has no choice but to allocate a large portion of its budget to those prisons and to provide constitutionally sufficient health care for those prisoners. Simply stated, the state can no longer lock up increasing numbers of inmates without experiencing a commensurate increase in prison medical care expenditures.

For California's criminal justice system, the same as in your life and mine, there is no free lunch.

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