



# Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

December 13, 2014

SENT VIA EMAIL AND FAX

**TIME SENSITIVE**

Phil Mendelson, Chairman  
D.C. Council  
1350 Pennsylvania Ave. NW, Suite 504  
Washington, DC 20004

**RE: Contract with Corizon for Medical Care at D.C. Jail**

Dear Chairman Mendelson:

I am contacting you in reference to the Office of Contracting and Procurement's award of the medical care contract for the District's jail system to Corizon Health, a for-profit company with corporate headquarters located near Nashville, Tennessee.

I serve as the associate director of the Human Rights Defense Center, a non-profit organization that advocates for the rights of people held in detention facilities, and I manage HRDC's office in Nashville. I am also the managing editor of HRDC's monthly publication, *Prison Legal News* (PLN). Over the past 20 years PLN has reported extensively on private, for-profit companies that provide prison and jail medical services, and we have direct experience with respect to litigation involving Corizon, as described below.

I am recognized as a national expert on private corrections-related issues. I have testified before the U.S. House Committee on the Judiciary's Subcommittee on Crime, Terrorism and Homeland Security; have authored chapters in four books on criminal justice topics; and have presented at numerous events about privatization in the prison and jail context, including a Congressional briefing and Congressional Correctional Officers Caucus meeting.

HRDC opposes efforts to privatize medical care in the District's jail system by contracting with Corizon Health, which was formed in 2011 through the merger of Prison Health Services (PHS) and Correctional Medical Services (CMS). Please excuse the length of this letter and exhibits; we believe that contracting with for-profit companies such as Corizon is a serious issue that deserves an equally serious response and consideration by policymakers.

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*Please reply to Tennessee office:*  
5331 Mt. View Road #130, Antioch, TN 37013  
Phone: 615.495.6568 • Fax: 866.735.7136  
afriedmann@prisonlegalnews.org  
www.humanrightsdefensecenter.org

Private prison medical companies operate along the same model as HMOs, in that they provide managed care for prisoners and have a financial incentive to cut costs in order to generate profit. Privatization may have its benefits in other fields; however, in terms of medical care, cutting costs – which is often achieved by delaying care, denying care, understaffing or hiring less experienced employees willing to work for lower wages – can have fatal consequences.

This is especially true in the corrections setting, where prisoners are literally a captive market for private medical providers such as Corizon. Prisoners can not select their own physician, seek a second opinion or go to a different clinic or hospital. They are totally dependent on the medical treatment provided at their facility, and in a privatized system are at the mercy of companies that cut costs in order to generate profit, as that is their corporate goal: To make money.

While most public officials have few concerns over companies making a profit, even within the corrections setting, the human cost of privatized prison and jail healthcare has been widely reported in terms of prisoner deaths, injuries, lawsuits and investigations. The track records of private prison medical providers, including Corizon, speak for themselves and tell a tragic tale. Although numerous egregious cases have been reported concerning the denial of medical care to prisoners by for-profit companies, two deserve special mention.

On August 14, 2009, Ashley Ellis, 23, began serving a 30-day sentence at the Northwest State Correctional Facility in Vermont, where medical care was provided by PHS, one of Corizon's predecessors. She suffered from chronic bulimia, depressive disorder and an opiate addiction stemming from a back injury. Her doctor had sent her medical records to the prison, including an order specifically directing that Ashley receive potassium.

Although she begged PHS employees for potassium (an over-the-counter supplement that costs less than \$10.00), she never received it. PHS staff failed to provide her with her medication and Ashley died within two days, on August 16, 2009. The medical examiner wrote that her cause of death was "Hypokalemic induced cardiac arrhythmia due to anorexia/bulimia nervosa and denial of access to medications." A subsequent investigation by Disability Rights Vermont found that PHS was guilty of several contractual violations which contributed to Ashley's death, including staffing deficiencies. A copy of the cover page of the DRV report is attached as Exhibit 1. The State of Vermont subsequently declined to renew its contract with PHS.

The second case involved Corizon predecessor CMS and a 22-year-old male Delaware prisoner, Anthony Pierce, also known as "the brother with two heads." Anthony suffered from a massive tumor that protruded from his head, around the size of a grapefruit. Despite this very obvious and serious medical condition, CMS staff failed to provide medical treatment for seven months, and Anthony died as a result on March 22, 2002. Media reports about Anthony's death, and about inadequate care provided to other prisoners, resulted in intervention by the U.S. Department of Justice in 2006 and a settlement agreement that required federal monitoring of Delaware's prison healthcare for three years. Attached as Exhibit 2 are X-rays of Anthony's skull, which evidence his obvious medical condition that went untreated by CMS staff. The State of Delaware declined to renew its contract with CMS in 2010.

These two individual cases are merely the tip of a much larger iceberg in which Corizon has lost contracts and been investigated and successfully sued in a number of jurisdictions, as detailed in a comprehensive PLN cover story published in March 2014. More recently, last September and October *The Palm Beach Post* ran an extensive series on problems with privatized medical care in Florida's Department of Corrections, which is mainly provided by Corizon.

On September 26, 2014, Florida DOC Secretary Mike Crews sent a letter to Corizon indicating the state would stop payments to the company unless it improved its provision of medical care. "All too often, we are finding that these corrective action plans are not being carried out and that the level of care continues to fall below the contractually required standard," he wrote. "As of this date, many of the most critical expectations including complete and full staffing, responding to DOC concerns and reducing the number of grievance[s] are often not being met."

It is not an exaggeration to say the D.C. Council's decision with respect to medical care in the District's jail system is one of life or death. Research has found that privatization of healthcare for prisoners leads to increased mortality rates: A study conducted by researchers at U.C. Santa Barbara, published in *Health Economics* in November 2009, concluded that "a 13% increase in percentage of medical personnel employed under contract increases [prisoner] mortality by 1.3%." Extrapolating from that finding, contracting 100% of prisoner medical care to a private, for-profit company would result in an estimated 10% increase in prisoner mortality. As one real-world example, shortly after Florida privatized healthcare in that state's prison system in 2012, the number of prisoner deaths increased to a ten-year high, according to news reports.

There is also the matter of public accountability and transparency. Whereas public agencies are held accountable to the public through public records statutes, such laws often do not apply to private contractors. On the federal level, for instance, the Freedom of Information Act does not extend to private prisons that house federal prisoners – a shortcoming that is the subject of a bill, the Private Prison Information Act (HR 5838), introduced in Congress last week. Thus, it is often difficult for members of the public to obtain information about private contractors even when they perform a governmental function and are paid with public taxpayer funds.

For example, *Prison Legal News* filed a lawsuit against Corizon (then operating as PHS) after it refused to produce records related to legal claims against the company in Vermont – including claims related to the death of Ashley Ellis, described above. The suit settled in February 2012 with Corizon agreeing to produce the requested records, which revealed the company had paid \$1.8 million in six cases. Those cases included claims of denial of medical and mental health care to prisoners, negligence and medical malpractice. See Exhibit 3, attached.

Corizon is no stranger to litigation related to delaying, denying or providing inadequate medical care. A search of the federal court docket system (PACER) indicates that at least 3,200 lawsuits have been filed against Corizon since the company was formed in 2011.

In October 2014, the State of Arizona agreed to settle a class-action suit and institute extensive improvements in prison medical care, which is provided by Corizon. One expert witness in that case, Dr. Robert Cohen, wrote that Arizona's prison healthcare system, "[A]s it currently exists

Phil Mendelson, Chairman  
December 13, 2014  
Page 4

under Corizon's management, is disorganized, under-resourced, understaffed, and completely lacking in the capacity to monitor itself and correct the systemic dysfunction that currently exists." See: *Parsons v. Ryan*, U.S.D.C. (D. Ariz.), Case No. 2:12-cv-00601-DJH.

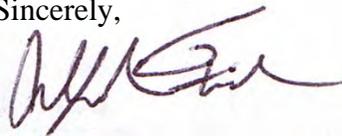
Most recently, in a lawsuit removed to federal court just last week, the family of a New Jersey prisoner who died at the Gloucester County jail alleged that Corizon staff failed to diagnose or treat his lung cancer. Charles Goodlet was sentenced to 180 days for a probation violation; the suit claims that medical staff at the jail diagnosed him with a chest cold and gave him over-the-counter medication. A judge ordered his release due to his worsening medical condition and he was immediately diagnosed with lung cancer at a hospital. He died two months later, in March 2013. The attorney who represents his family said Corizon "never sent him for any additional diagnostic testing or [did] anything to figure out what's wrong with him."

Based on the foregoing, HRDC objects to privatization of healthcare in the District's jail system, and requests that the Council not move for consideration of the Corizon contract. If the contract is moved for consideration, we ask that you do not vote for the contract. Please note we take no position with respect to the District's current provider of prisoner medical services, Unity Health Care, other than to observe that Unity does not have the profit motivation which has resulted in many of the problems associated with for-profit prison medical companies.

In conclusion and in the interest of full disclosure, in addition to my extensive research into the privatization of correctional services, which resulted in the book chapters and other reports and articles I have authored, as well as my testimony before a Congressional subcommittee and at other events, my knowledge about privatization stems from empirical experience, as I was myself incarcerated at a privately-operated facility in the 1990s prior to my release in 1999. I have therefore seen how privatization works both from an insider's perspective as well as that of an outside observer and expert. Although some might question the messenger, the message regarding the risks posed by privatizing prison and jail healthcare is clear.

A copy of PLN's comprehensive March 2014 exposé on Corizon is attached as Exhibit 4. Please feel free to contact me should you require additional information; I am also available to provide in-person testimony before the Council.

Sincerely,



Alex Friedmann  
Associate Director, HRDC

cc: D.C. Council Members  
D.C. Corrections Information Council

Exhibits Attached



AN INVESTIGATION INTO THE DEATH OF  
ASHLEY ELLIS



DISABILITY RIGHTS VERMONT  
(formerly Vermont Protection & Advocacy, Inc.)  
141 Main Street, Suite 7  
Montpelier, Vermont 05602

May 13, 2010

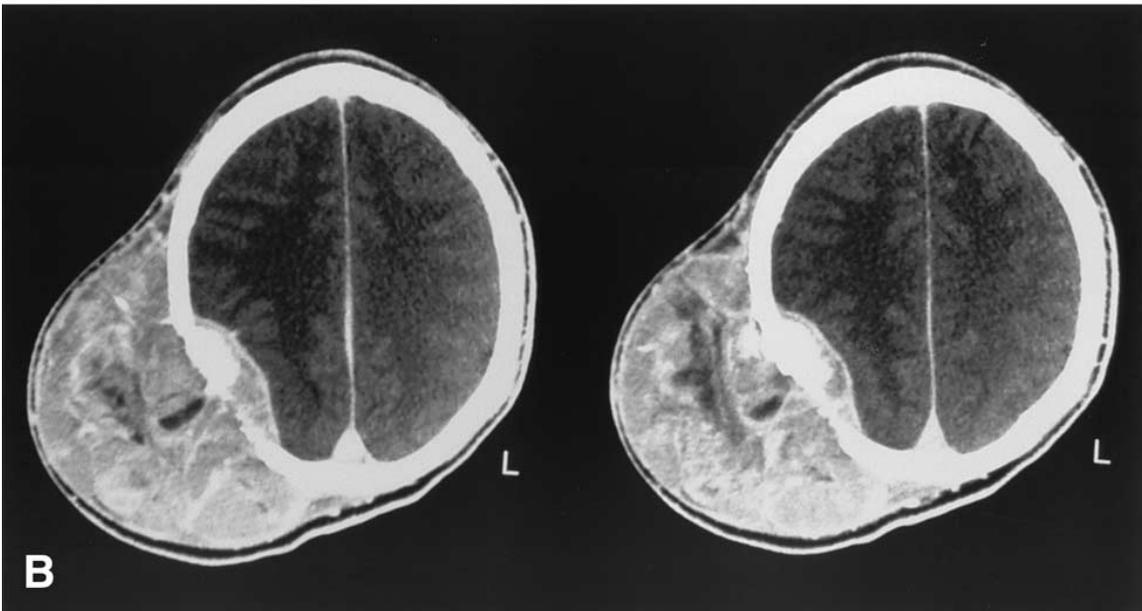
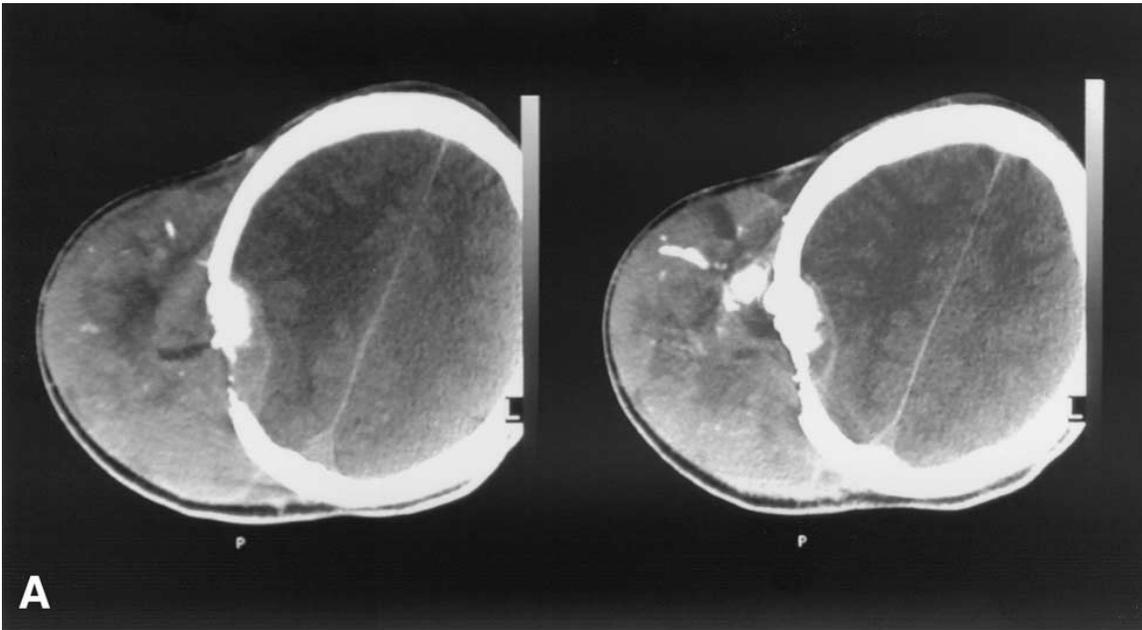
*Tina Wood*  
*Advocate/Paralegal*

*A.J. Ruben*  
*Supervising Attorney*

*DRVT is the Protection & Advocacy System for Vermont*

EXHIBIT 2

X-ray of inmate Anthony Pierce (cerebral tumor that went untreated by CMS staff).



*Prison Legal News*, December 2012, p. 16

## **PLN Settles Public Records Suit Against PHS in Vermont, Obtains Settlement Payout Information**

by Alex Friedmann

On February 21, 2012, Prison Legal News settled a public records lawsuit filed in Vermont state court against Prison Health Services (PHS, now operating as Corizon Health, Inc.). As part of the settlement PHS agreed to produce records related to its resolution of legal claims against the company in Vermont, which included a total of \$1.8 million in six cases.

PLN had filed suit against PHS on August 26, 2010 after the for-profit company, which provided medical care for Vermont state prisoners until the end of 2009, refused to produce documents pursuant to a public records request.

PLN requested copies of PHS's contracts with government agencies in Vermont, records related to settlements and judgments that PHS had paid as a result of lawsuits and civil claims, and documents concerning costs incurred by PHS to defend against claims or lawsuits.

One of those claims involved the August 16, 2009 death of Ashley Ellis, 23, a Vermont prisoner who died at the Northwest State Correctional Facility just three days into a 30-day sentence. PHS employees had failed to give her potassium despite her repeated pleas for medical care and an order from her doctor. The medical examiner cited "denial of access to medication" as a contributing cause of her death. [See: PLN, April 2010, p.32].

Although PHS is a private company, PLN argued it was the functional equivalent of a public agency because it provided health care to prisoners – a function that public employees would have to provide if the state did not contract with PHS – and thus was subject to Vermont's public records law. The "functional equivalency" test has been applied to private companies that perform public duties in at least eight states, including Florida, Tennessee, Maryland, North Carolina, Oregon, Kansas, Ohio and Connecticut.

PHS denied PLN's public records request, claiming that as "a private corporation" the company "does not qualify as a 'public agency'" within the meaning of Vermont's public records statute.

"The state can outsource public functions and services such as health care for prisoners," said PLN editor Paul Wright, "but it cannot contract out the public's fundamental right to know how their tax dollars are being spent and the quality of services the public is getting for its money." He also questioned "why PHS refuses to release records that state agencies would have to produce if the state were providing prison medical care."

PLN's public records lawsuit contended that "Prison Health Services, by virtue of its contractual relationship with the Vermont Department of Corrections, was a public agency subject to Vermont's public records statute" because it was an "instrumentality" and functional equivalent of a government agency. Further, PHS's funding for its Vermont contract came "exclusively from the Vermont DOC, and hence, the taxpayers."

In settling the case in February 2012, PHS agreed to produce unredacted copies of “the general releases it secured to settle claims or potential claims arising out of PHS’s provision of medical care to inmates in the custody of the Vermont Department of Corrections” in six cases responsive to PLN’s records request, including the Ashley Ellis case. The company further agreed to pay \$5,350 in attorney fees to the ACLU of Vermont but did not admit liability or wrongdoing.

According to the records produced by PHS, the company paid \$700,000 in February 2010 in a pre-litigation settlement to resolve claims related to the death of Ashley Ellis. Ellis’ estate, represented by Rutland attorney Shannon A. Bertrand, is also pursuing a separate lawsuit against the State of Vermont, the Vermont DOC and various state employees. See: *Gipe v. State of Vermont*, Vermont Superior Court, Rutland Unit, Case No. 515-7-11.

Additionally, in October 2010, PHS agreed to pay \$950,000 to settle a federal lawsuit filed by Christopher Barrett, a state prison guard who was attacked and injured by a prisoner in 2005 at the Northern State Correctional Facility; PHS allegedly did not give the prisoner his prescribed medication for a mental health condition, which resulted in the assault. Barrett was represented by attorney David J. Williams. See: *Barrett v. Prison Health Services*, U.S.D.C. (D. VT), Case No. 5:08-cv-00203-cr-jmc.

PHS paid \$47,500 in December 2010 to settle the negligence and medical malpractice claims of Agim and Fexhrije Sulejmani, related to Agim’s health care while he was incarcerated in 2006. Despite repeatedly seeking treatment for a preexisting throat condition, PHS staff failed to provide adequate medical care or diagnose Agim’s laryngeal cancer, which required him to have an emergency tracheotomy and surgery after he was released from prison. The Sulejmanis were represented by Hinesburg attorney Beth A. Danon. See: *Sulejmani v. Prison Health Services*, Vermont Superior Court, Chittenden Unit, Case No. S1237-09.

In October 2011, PHS paid \$45,000 to settle a lawsuit filed by Vermont prisoner Edward Truszkowski, Jr., who claimed that PHS had failed to provide prescribed medication for his Gastroesophageal Reflux Disease while he served a 30-day sentence at the Southern State Correctional Facility. Truszkowski was represented by attorney Brian R. Marsicovetere. See: *Truszkowski v. Hofman*, U.S.D.C. (D. VT), Case No. 5:11-cv-00006-cr-jmc.

PHS agreed in November 2007 to pay \$32,500 to the estate of Robert C. Nichols due to Nichol’s 2004 death at the Chittenden Regional Correctional Facility. Although he was suffering from heroin withdrawal and had ingested 80 bags of heroin soon after he was incarcerated, Nichols was “not given immediate medical attention,” according to a lawsuit filed by his estate, which led to his death. Nichols’ estate was represented by Peter F. Langrock with the law firm of Langrock Sperry & Wool, LLP. See: *Nichols v. State of Vermont*, Vermont Superior Court, Rutland Unit, Case No. 546-10-06.

Lastly, on June 1, 2007, PHS paid \$25,000 to settle a pro se federal lawsuit filed by Vermont state prisoner Peter Goodnow, who alleged inadequate medical care for a broken hand and painful tooth while he was housed at the CCA-operated Lee Adjustment Center in Kentucky. See: *Goodnow v. Hofman*, U.S.D.C. (D. VT), Case No. 1:06-cv-00124-jgm-jjn.

The settlements in the six cases totaled \$1.8 million. This was the first known time that PHS had produced records related to its resolution of legal claims against the company, which typically include confidentiality provisions. PHS's defense counsel in Vermont includes the Burlington law firm of Dinse, Knapp & McAndrew, P.C. One of the firm's attorneys, Shapleigh Smith, Jr., is the current Speaker of the state's House of Representatives.

PLN was initially represented in its public records lawsuit by attorney David C. Sleight with the law firm of Sleight & Williams, P.C., and subsequently by Dan Barrett with the ACLU of Vermont. See: Prison Legal News v. Prison Health Services, Vermont Superior Court, Washington Unit, Case No. 622-8-10.



# Prison Legal News

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March 2014

## Corizon Needs a Checkup: Problems with Privatized Correctional Healthcare

by Greg Dober

**C**ORIZON, THE NATION'S LARGEST FOR-profit medical services provider for prisons, jails and other detention facilities, was formed in June 2011 through the merger of Prison Health Services (PHS) and Correctional Medical Services (CMS).

In April 2013, the debt-rating agency Moody's downgraded Corizon's nearly \$360 million worth of debt to a rating of B2 – an indication the company's debt is highly speculative and a high credit risk. According to Moody's, the rating downgrade was due to an "expectation of earnings volatility following recent contract losses, margin declines from competitive pricing pressure on new and renewed contracts, and Moody's belief that Valitas [Corizon's

parent corporation] will be unable to restore metrics to levels commensurate with the prior B1 rating over the near to intermediate term."

Valitas Health Services is majority owned by Beecken Petty O'Keefe & Company, a Chicago-based private equity management firm. Beecken's other holdings are primarily in the healthcare industry.

On September 23, 2013, Moody's again downgraded Corizon's debt rating and changed the company's rating outlook from "stable" to "negative." The following month Corizon announced that it had replaced CEO Rich Hallworth with Woodrow A. Myers, Jr., the former chief medical officer at WellPoint Health. Hallworth, who had been appointed Corizon's CEO in 2011, previously served as the president and CEO of PHS. At the same time that Hallworth was replaced, Corizon president Stuart Campbell also stepped down.

### Prison Medical Care for Profit

ACCORDING TO CORIZON'S WEBSITE, THE company provides healthcare services at over 530 correctional facilities serving approximately 378,000 prisoners in 28 states. In addition, Corizon employs around 14,000 staff members and contractors. The company's corporate headquarters is located in Brentwood, Tennessee and its operational headquarters is in St. Louis, Missouri.

The 2011 merger that created Corizon involved Valitas Health Services, the parent company of CMS, and America Service Group, the parent company of PHS. The *Nashville Business Journal* reported the deal was valued at \$250 million.

"Corizon's vision is firmly centered around service – to our clients, our patients

and our employees," Campbell said at the time. "To that we add the insight of unparalleled experience assisting our client partners, and caring professionals serving the unique healthcare needs of [incarcerated] patients."

Corizon has around \$1.5 billion in annual revenue and contracts to provide medical services for the prison systems in 13 states. The company also contracts with numerous cities and counties to provide healthcare to prisoners held in local jails; some of Corizon's larger municipal clients include Atlanta, Philadelphia and New York City (including the Rikers Island jail). Additionally, the company has its own in-house pharmacy division, PharmaCorr, Inc.

The prison healthcare market has flourished as state Departments of Corrections and local governments seek ways to save money and reduce exposure to litigation. [See: *PLN*, May 2012, p.22]. Only a few major companies dominate the industry. Corizon's competitors include Wexford Health Sources, Armor Correctional Health Services, NaphCare, Correct Care Solutions and Centurion Managed Care – the latter being a joint venture of MHM Services and Centene Corporation. Around 20 states outsource all or some of the medical services in their prison systems.

As Corizon is privately held, there is little transparency with respect to its internal operations and financial information, including costs of litigation when prisoners (or their surviving family members) sue the company, often alleging inadequate medical care.

For example, when Corizon was questioned by the news media in Florida during

## INSIDE

From the Editor	18
Private Prison Racial Disparities	20
When Victims Speak for Criminals	24
Texas Criminal Court Fees	28
CA Female Prisoners Sterilized	32
Michigan Parole Scrutinized	42
Introduction to the FTCA	44
Execution Drugs Hard to Find	46
A Look Inside Maine's Supermax	48
Video Visitation in Jails	50
UNICOR Faces Criticism	52
Oregon Jail Death Lawsuits	54
News in Brief	56

## Prison Legal News

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Human Rights Defense Center  
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### EDITOR

Paul Wright

### MANAGING EDITOR

Alex Friedmann

### COLUMNISTS

Michael Cohen, Kent Russell,  
Mumia Abu Jamal

### CONTRIBUTING WRITERS

Matthew Clarke, John Dannenberg,  
Derek Gilna, Gary Hunter,  
David Reutter, Mark Wilson,  
Joe Watson, Christopher Zoukis

### RESEARCH ASSOCIATE

Mari Garcia

### ADVERTISING DIRECTOR

Susan Schwartzkopf

### LAYOUT

Lansing Scott

### HRDC LITIGATION PROJECT

Lance Weber—General Counsel  
Robert Jack—Staff Attorney

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Prison Legal News

PO Box 1151

Lake Worth, FL 33460

561-360-2523

info@prisonlegalnews.org

www.prisonlegalnews.org

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## Privatized Healthcare Problems (cont.)

a contract renewal, the company initially tried to prevent the release of its litigation history, claiming it was a “trade secret.”

In 2012, Corizon agreed to settle a lawsuit filed against PHS – one of its predecessor companies – by *Prison Legal News*, seeking records related to the resolution of legal claims against the firm in Vermont. Based on the records produced pursuant to that settlement, PHS paid out almost \$1.8 million in just six cases involving Vermont prisoners from 2007 to 2011. [See: *PLN*, Dec. 2012, p.16].

Companies like Corizon provide healthcare in prisons and jails under the HMO model, with an emphasis on cutting costs – except that prisoners have no other options to obtain medical treatment except through the contractor.

### Arizona DOC

A FORMER CORIZON NURSE HAD HER license suspended and is currently under investigation by the Arizona State Board of Nursing for incompetence. In January 2014, nurse Patricia Talboy was accused of contaminating vials of insulin at three units at the ASPC-Lewis prison, potentially exposing two dozen prisoners to HIV or hepatitis.

Talboy reportedly used a needle to stick prisoners’ fingers to check their blood sugar levels. She then used the same needle to draw insulin from vials of the medication utilized for multiple prisoners, possibly contaminating the insulin in the vials. After placing the vials back into inventory, other staff members may have unknowingly used them to dispense insulin.

“Every indication is that the incident is the result of the failure by one individual nurse to follow specific, standard and well-established nursing protocols when dispensing injected insulin to 24 inmates,” Arizona Department of Corrections (ADC) director Charles L. Ryan said in a January 9, 2014 statement.

Talboy’s failure to follow procedures was discovered after a prisoner told a different nurse about the issue. Corizon reportedly delayed three days before publicly reporting the incident; in a press release, the company admitted that one of its nurses had been involved in “improper procedures for injections.” Talboy received her nursing

license in August 2012 and became an RN in June 2013; as a rookie nurse, Corizon likely paid her less than more experienced nurses.

Following the insulin-related incident, the company was ordered to develop a comprehensive plan that includes “supplemental training and competency testing procedures for blood glucose testing and administration of insulin,” as well as “nurse-peer reporting education to ensure professional accountability” and “patient awareness education on injection protocols.”

Granted, Corizon isn’t alone with respect to such incidents. In August 2012, a nurse employed by the ADC’s previous medical services contractor, Wexford Health Sources, contaminated the insulin supply at ASPC-Lewis through improper injection protocols, potentially exposing 112 prisoners to hepatitis C. [See: *PLN*, July 2013, p.1].

Corizon has a three-year, approximately \$370 million contract to provide medical care in Arizona state prisons, which began in March 2013. The contract award generated controversy because former ADC director Terry Stewart was hired by Corizon as a consultant; current director Charles Ryan had previously worked under Stewart, raising a potential conflict of interest. Ryan denied any improprieties.

According to a report by the American Friends Service Committee released in October 2013, titled “Death Yards: Continuing Problems with Arizona’s Correctional Health Care,” medical services in Arizona prisons did not improve after Corizon replaced Wexford as the ADC’s healthcare contractor. “Correspondence from prisoners; analysis of medical records, autopsy reports, and investigations; and interviews with anonymous prison staff and outside experts indicate that, if anything, things have gotten worse,” the report stated.

### Florida DOC

IN 2013, THE FLORIDA DEPARTMENT OF Corrections (FDOC) awarded Corizon a five-year, \$1.2 billion contract to provide medical services to state prisoners in north and central Florida. Wexford Health Sources was contracted to provide similar services in the southern region of the state for \$240 million. [See: *PLN*, June 2013, p.24]. The wholesale privatization of healthcare in Florida’s prison system followed a 2011 legislative decision to disband the state’s

**Privatized Healthcare Problems (cont.)**

Correctional Medical Authority, which had oversight over prison medical care. [See: *PLN*, May 2012, p.30].

The contracts were part of the Republican administration's initiative to expand privatization of government services, including prison management and healthcare, in spite of previous setbacks. In 2006, PHS withdrew two months into an almost \$800 million contract to provide medical care to Florida prisoners; at that time, the company said the contract was not cost-effective and claimed it would lose money.

The 2013 contract awards to Corizon and Wexford followed a two-year legal fight. In 2011, AFSCME Florida and the Federation of Physicians and Dentists/Alliance of Healthcare and Professional Employees filed suit challenging the prison healthcare contracts, in an effort to protect the jobs of nearly 2,600 state workers.

On June 21, 2013 the First District Court of Appeals approved the privatization of medical care in FDOC facilities,

overturning a ruling by the Leon County Circuit Court. The appellate court noted in its decision that "The LBC [Legislative Budget Committee] simply moved funds from different line items within the Department's Health Services' program, providing additional funds for contracts that the Department otherwise had the authority to enter." See: *Crews v. Florida Public Employers Council 79*, 113 So.3d 1063 (Fla. Dist. Ct. App. 1st Dist. 2013).

Under the terms of the FDOC's contract with Corizon, the company must provide medical care to Florida state prisoners for 7% less than it cost the FDOC in 2010. When entering into the contract, state officials apparently had few concerns about the numerous lawsuits previously filed against Corizon, and no hard feelings toward the company's predecessor, PHS, when it terminated its 2006 contract to provide medical services to Florida prisoners because it wasn't profitable.

"Most people feel, as long as they achieve their 7 percent savings who cares how they treat inmates?" noted Michael Hallett, a professor of criminology at the University of North Florida.

**Florida Counties**

IN A SEPTEMBER 6, 2012 UNPUBLISHED ruling, the Eleventh Circuit Court of Appeals affirmed a \$1.2 million Florida jury verdict that found Corizon – when it was operating as PHS – had a policy or custom of refusing to send prisoners to hospitals. The Court of Appeals held it was reasonable for jurors to conclude that PHS had delayed medical treatment in order to save money. See: *Fields v. Corizon Health*, 490 Fed.Appx. 174 (11th Cir. 2012).

The jury verdict resulted from a suit filed against Corizon by former prisoner Brett A. Fields, Jr. In July 2007, Fields was being held in the Lee County, Florida jail on two misdemeanor convictions. After notifying PHS staff for several weeks that an infection was not improving, even with antibiotics that had been prescribed, Fields was diagnosed with MRSA. PHS did not send him to a hospital despite escalating symptoms, including uncontrolled twitching, partial paralysis and his intestines protruding from his rectum. A subsequent MRI scan revealed that Fields had a severe spinal compression; he was left partly para-

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lyzed due to inadequate medical care.

The Eleventh Circuit wrote that PHS “enforced its restrictive policy against sending prisoners to the hospital,” and noted that a PHS nurse who treated Fields at the jail “testified that, at monthly nurses’ meetings, medical supervisors ‘yelled a lot about nurses sending inmates to hospitals.’” Further, PHS “instructed nurses to be sure that the inmate had an emergency because it cost money to send inmates to the hospital.”

At trial, the jury found that PHS had a custom or policy of deliberate indifference that violated Fields’ constitutional right to be free from cruel and unusual punishment. The jurors concluded that Fields had a serious medical need, PHS was deliberately indifferent to that serious medical need, and the company’s actions proximately caused Fields’ injuries. The jury awarded him \$700,000 in compensatory damages and \$500,000 in punitive damages. [See: *PLN*, March 2013, p.54; Aug. 2011, p.24].

More recently, the estate of a 21-year-old prisoner who died at a jail in Manatee County, Florida filed a lawsuit in October 2013 against the Manatee County Sheriff’s

Office and Corizon, the jail’s healthcare provider. The complaint accuses the defendants of deliberate indifference to the serious medical needs of Jovon Frazier and violating his rights under the Eighth Amendment.

In February 2009, Frazier was incarcerated at the Manatee County Jail; at the time of his medical intake screening, staff employed by Corizon, then operating as PHS, noted that his health was unremarkable. Frazier submitted a medical request form in July 2009, complaining of severe pain in his left shoulder and arm, and a PHS nurse gave him Tylenol.

Throughout August and September 2009, Frazier submitted five more medical requests seeking treatment for his arm and shoulder. “It really hurts! HELP!” he wrote in one of the requests. PHS employees saw him and recorded his vital signs. Despite the repeated complaints, Frazier was never referred to a doctor or physician assistant; on September 9, 2009 his treatment was documented as routine but he was placed on the “MD’s list.”

An X-ray was taken on September 17, 2009 to rule out a shoulder fracture.

The X-ray was negative for a fracture, and Frazier was not referred to a doctor. He submitted two more medical requests that month and five requests in October 2009 seeking treatment for his increasingly painful condition. The complaint alleges that in total, Frazier submitted 13 medical request forms related to pain over a period of three months; he was seen by a nurse each time but not examined by a physician.

On October 29, 2009, Frazier received an X-ray to determine if he had a tendon injury. An MRI was recommended and he was transported to a hospital where an MRI scan revealed a large soft tissue mass on his shoulder. A doctor at the hospital, concerned that the mass was cancerous, recommended additional tests.

After being diagnosed with osteosarcoma, a form of bone cancer, Frazier was returned to the jail and subsequently treated at the Moffitt Cancer Center, where he received chemotherapy, medication and surgery. Despite this aggressive treatment the cancer progressed and Frazier’s left arm was amputated. The cancer continued to spread, however, and he was diagnosed with lung cancer in June 2011. He died

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## Privatized Healthcare Problems (cont.)

within three months of that diagnosis, on September 18, 2011.

In a letter to the attorney representing Frazier's estate, Florida oncologist Howard R. Abel wrote that the lack of treatment provided by Corizon at the Manatee County Jail constituted "gross negligence and a reckless disregard to Mr. Frazier's right to timely and professionally appropriate medical care."

The lawsuit filed by Frazier's estate claims that Corizon was aware of his serious medical condition but failed to provide adequate treatment. In addition, the complaint contends the company has a widespread custom, policy and practice of discouraging medical staff from referring prisoners to outside medical practitioners and from providing expensive medical tests and procedures. Finally, the lawsuit states that "Corizon implemented these widespread customs, policies and practices for financial reasons and in deliberate indifference to [the] serious medical needs of Frazier and other inmates incarcerated at Manatee County Jail."

On January 10, 2014, U.S. District Court Judge James Moody denied Corizon's motion to dismiss the case. The company had argued that the allegations in the lawsuit failed to assert sufficient facts to establish deliberate indifference, amounted only to medical negligence and were insufficient to establish gross negligence, and

failed "to adequately allege a policy or custom that violated Frazier's rights." Judge Moody disagreed, finding the claims set forth in the complaint were "sufficient to establish a constitutional violation."

The Manatee County Sheriff's Office had better luck with its motion to dismiss. The Sheriff argued the complaint did not establish facts indicating that the jail had a similar practice – like Corizon – of providing deliberately indifferent medical care to prisoners. The court agreed and dismissed the claims against the Sheriff's Office; the claims against Corizon remain pending. See: *Jenkins v. Manatee County Sheriff*, U.S.D.C. (M.D. Fla.), Case No. 8:13-cv-02796-JSM-TGW.

### Idaho DOC

IN FEBRUARY 2013, THE IDAHO DEPARTMENT of Corrections (IDOC) announced it had reached a one-year extended agreement with Corizon to provide medical care in the state's prison system. However, the *Idaho Business Review* reported that the extension also resulted in a rate increase. Then-Corizon president Stuart Campbell informed the IDOC Board of Correction that the company wouldn't sign an extension for less money, stating the current contract had become too costly. During the preceding three years of the contract the IDOC had incurred approximately 20% in cumulative rate increases.

Both sides agreed that the contract would run through December 2013 and the IDOC would pay an additional \$250,000.

It seems odd that Idaho was willing to continue contracting with the company, though, as the relationship between the IDOC and Corizon has been a rocky one.

The quality of medical care at the Idaho State Correctional Institution (ISCI) in Boise has been an ongoing issue for nearly three decades. The prison was the focus of a class-action lawsuit filed on behalf of prisoners alleging a variety of problems, including inadequate healthcare. The lawsuit was known as the *Balla* litigation after plaintiff Walter Balla.

In July 2011, after new complaints were filed regarding medical care at ISCI, U.S. District Court Judge B. Lynn Winmill appointed a special master, Dr. Marc F. Stern, to assess the situation at the facility. The court wanted Stern to confirm whether ISCI was in compliance with the temporary agreements established in the *Balla* case, and to investigate and report on "the constitutionality of healthcare" at the facility.

Dr. Stern, a former health services director for the Washington Department of Corrections who also had previously worked for CMS, one of Corizon's predecessor companies, issued a scathing report in February 2012. With the aid of psychiatrist Dr. Amanda Ruiz, Stern and his team reviewed ISCI over a six-day period and met with dozens of prisoners, administrators and Corizon employees.

Stern stated in the report's executive summary: "I found serious problems with the delivery of medical and mental health care. Many of these problems have either



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resulted or risk resulting in serious harm to prisoners at ISCI. In multiple ways, these conditions violate the rights of prisoners at ISCI to be protected from cruel and unusual punishment. Since many of these problems are frequent, pervasive, long-standing, and authorities are or should have been aware of them, it is my opinion that authorities are deliberately indifferent to the serious health care needs of their charges.”

The report found that prisoners who were terminally ill or in long-term care were sometimes left in soiled linens, given inadequate pain medication and went for long periods without food or water. The findings regarding sick call noted instances in which prisoners’ requests either resulted in no care, delayed care or treatment that was deemed dangerous. Emergency care situations had insufficient oversight, delays or no response; inadequately trained medical staff operated independently during emergencies without oversight from an RN or physician. The report also found problems with the pharmacy and medication distribution at ISCI.

In one case, a prisoner with a “history of heart disease was inexplicably dropped

from the rolls of the heart disease Chronic Care Clinic.” As a result, medical staff stopped conducting regular check-ups and assessments related to the prisoner’s heart condition. A few years later the prisoner went in for a routine visit, complaining of occasional chest pain. No evaluation or treatment was ordered and the prisoner died four days later due to a heart attack. In another case, Corizon staff failed to notify a prisoner for seven months that an X-ray indicated he might have cancer.

Dr. Stern’s report not only reviewed processes but also staff competency and adequacy. The report cited allegations that a dialysis nurse at ISCI overtly did not like prisoners, and routinely “failed to provide food and water to patients during dialysis, prematurely aborted dialysis sessions or simply did not provide them [dialysis] at all and failed to provide ordered medications resulting in patients becoming anemic.” Stern concluded that prison officials were aware of this issue and the danger it presented to prisoners, but “unduly delayed taking action.”

The mental health care provided by Corizon at ISCI was found to be deficient

by Dr. Ruiz, who conducted the psychiatric portion of the court-ordered review. The report noted that the facility had 1) inadequate “screening of and evaluating prisoners to identify those in need of mental health care,” 2) “significant deficiencies in the treatment program at ISCI” which was “violative of patients’ constitutional right to health care,” 3) an “insufficient number of psychiatric practitioners at ISCI,” 4) incomplete or inaccurate treatment records, 5) problems with psychotropic medications, which were prescribed with no face-to-face visits or follow-up visits with prisoners and 6) inadequate suicide prevention training.

The report concluded: “The state of guiding documents, the inmate grievance system, death reviews and a mental health CQI [continuous quality improvement] system at ISCI is poor. While not in and of themselves unconstitutional, it is important for the court to be aware of this and its possible contribution to other unconstitutional events.”

In March 2012, shortly after Dr. Stern’s report was released over the objection of state officials, Corizon disagreed with its findings. The company retained

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## Privatized Healthcare Problems (cont.)

the National Commission on Correctional Health Care (NCCHC) to review the report. Corizon described the review as an “independent assessment,” even though it was paying NCCHC accreditation fees.

The NCCHC review consisted of a three-person team assessing the facility over a two-day period in April 2012. Unlike Stern’s assessment of medical and mental health care, the NCCHC team did not interview prisoners or include a psychiatrist. Regardless, the agency concluded that “The basic structure of health services delivery at ISCI meets NCCHC’s standards.”

Corizon stated in a press release that Dr. Stern’s report was “incomplete, mislead-

ing and erroneous,” and then-CEO Rich Hallworth appeared in a video defending the company. The NCCHC had previously accredited Corizon’s healthcare services at ISCI, thus in essence the NCCHC’s review was self-validating the organization’s prior accreditation findings. Also, according to NCCHC’s website, two Corizon officials sit on the agency’s health professionals certification board of trustees.

Corizon’s criticism of Dr. Stern’s report is just one example where the company has objected to an independent, third-party assessment of its medical services. The *Balla* case settled in May 2012 after 30 years of litigation. [See: *PLN*, Feb. 2013, p.40].

### Indiana DOC

FOLLOWING A COMPETITIVE BIDDING process, Corizon was selected to continue providing medical care to Indiana state prisoners under a three-year contract effective January 1, 2014. The contract has a cap of \$293 million, based on a per diem fee of \$9.41 per prisoner.

Three weeks later, a lawsuit filed in federal court named Corizon and the Indiana Department of Correction as defendants in connection with the wrongful death of prisoner Rachel Wood. Wood, 26, a first-time drug offender, died in April 2012; the suit, filed on behalf of her family, claims she was transferred from prison to prison and denied care for her serious medical conditions, which included lupus and a blood clotting disorder.

“Notwithstanding the duty of the prison medical staff to provide adequate medical care to Rachel and to treat her very serious life threatening conditions, prison medical staff willfully and callously disregarded her condition, and allowed Rachel to

deteriorate and die,” the complaint stated.

“That is just the attitude of these guys, is saving money rather than providing health care,” said Michael K. Sutherland, the attorney representing Wood’s family.

Prison officials reportedly moved Wood among several different prisons and hospitals, and at one point lost track of her and claimed she had escaped even though she was still incarcerated.

“She died a horrible death and she died alone,” stated her father, Claude Wood. The lawsuit remains pending. See: *Williams v. Indiana DOC*, Marion County Superior Court (IN), Case No. 49D05-1401-CT-001478.

### Maine DOC

IN AN OCTOBER 2013 *BANGOR DAILY NEWS* article, Steve Lewicki, coordinator of the Maine Prisoner Advocacy Coalition, discussed the state of healthcare in Maine’s prison system. “Complaints by prisoners are less,” he said, noting that while medical services provided to prisoners are better than in the past, there are still concerns. This relative improvement coincided with the end of the state’s contract with Corizon. The contract, valued at approximately \$19.5 million, was awarded to another company in 2012.

A year earlier, the Maine legislature’s Office of Program Evaluation and Government Accountability (OPEGA) completed a review of medical services in state prisons. The agency contracted with an independent consultant, MGT of America, to conduct most of the fieldwork, and the review included services provided under Corizon’s predecessor company, CMS.

The OPEGA report, issued in November 2011, cited various deficiencies in medical care at Maine prisons – including medications not always being properly

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administered and recorded by CMS staff. Although the company was notified of the problem, no corrective action was taken. CMS employees did not follow policies related to medical intake and medical records; OPEGA reported that 38% of prisoners' medical files had inadequate or inaccurate documentation regarding annual physical assessments, and that files were not complete or consistently maintained. The report found 11% of sick calls reviewed were either not resolved timely or had no documented resolution. OPEGA also criticized CMS for inadequate staff training.

At a January 2012 legislative committee hearing, state Senator Roger Katz asked Corizon regional vice president Larry Amberger, "My question to you is in light of this history, why should the state seriously be considering any proposal your company might make to get this contract back again?"

In response, Amberger criticized the methodology used by MGT during the assessment and said he believed Corizon provided quality medical care. Questioning and challenging the findings of an independent reviewer is the same tactic the company used in Idaho. Regardless, Corizon's contract to provide medical care to Maine state prisoners is now a part of history.

### Louisville, Kentucky

WHILE SOME JURISDICTIONS, LIKE MAINE, have chosen not to renew their contracts with Corizon due to performance-related

problems, in 2013 the Metro Department of Corrections in Louisville, Kentucky (LMC) offered the company a chance to rebid for its \$5.5 million contract to provide medical care at the LMC jail. This time, however, it was Corizon that said "no thanks."

The rebid offer was made even though seven healthcare-related prisoner deaths occurred in a seven-month period in 2012 during Corizon's prior contract, which expired in February 2013. Nevertheless, LMC and Corizon agreed to extend the contract through July 30, 2013 on a month-to-month basis pending a formal rebid.

After the expiration of the month-to-month contract extension, Corizon notified LMC that it was no longer interested in providing services to the corrections department and would not seek to rebid the contract. LMC director Mark Bolton told the *Courier Journal* he was "surprised" by the company's decision. What seems more surprising is that LMC wanted to continue contracting with Corizon to provide medical services in spite of the number of prisoner deaths.

In April 2012, Savannah Sparks, 27, a heroin addict and mother of three, was arrested and held on shoplifting charges at the LMC jail. While withdrawing from heroin she vomited, sweat profusely, could not sit up, could not eat or drink, and defecated and urinated on herself. Six days later she was dead. According to the medical examiner, her death was due to "complications of chronic substance abuse with withdrawal."

A subsequent wrongful death suit

alleged that Corizon and LMC employees were negligent in failing to provide treatment for Sparks' opiate addiction and withdrawal. Corizon settled the suit under confidential terms. See: *May v. Corizon*, Jefferson County Circuit Court (KY), Case No. 13-CI-001848.

Four months after Sparks' death, on August 8, 2012, another LMC prisoner, Samantha George, died. A lawsuit filed in Jefferson County Circuit Court claimed that George was moved from the Bullitt County Jail to the LMC facility on a charge of buying a stolen computer. According to the complaint, she told a Corizon nurse that she was a severe diabetic, needed insulin, and was feverish and in pain from a MRSA infection.

The nurse notified an on-call Corizon physician, who was not located at the facility and thus could not examine George in person, to decide if she should be taken to an emergency room. The doctor recommended monitoring George and indicated he would see her the next day. George's condition rapidly deteriorated while she was monitored by staff at the jail; she was found unresponsive a few hours after being admitted to the facility and pronounced dead a short time later.

An autopsy concluded that George died due to complications from a severe form of diabetes compounded by heart disease. According to the lawsuit, the Corizon doctor never saw George; among other defendants, the suit named Corizon and LMC director Mark Bolton as defendants.

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**Privatized Healthcare Problems (cont.)**

The case was removed to federal court, then remanded to the county circuit court in October 2013. See: *George v. Corizon*, U.S.D.C. (W.D. Ky.), Case No. 3:13-cv-00822-JHM-JDM.

A few weeks after George's death, Kenneth Cross was booked into the LMC jail on a warrant for drug possession. According to a subsequent lawsuit, upon Cross' arrival at the jail a nurse documented that he had slurred speech and fell asleep numerous times during the medical interview. Several hours later he was found unconscious, then died shortly thereafter due to a drug overdose. The lawsuit filed by Cross' estate alleged that employees at the LMC jail were deficient in recognizing and treating prisoners' substance abuse problems and that the facility was inadequately staffed for such medical care.

After the deaths of Sparks, George, Cross and four other prisoners in 2012, LMC director Bolton said he believed Corizon took too long to evaluate and

treat prisoners at the jail. According to the *Courier-Journal*, Bolton sent an email to his staff in December 2012 regarding the prisoners' deaths, stating, "Mistakes were made by Corizon personnel and their corporation has acknowledged such missteps." He further indicated that Corizon employees – not LMC staff members – were responsible for the care of the prisoners who died. Six Corizon employees at the LMC jail resigned in December 2012 during an internal investigation; they were not identified.

Bolton's criticism was too little, too late to prevent the deaths of the seven LMC prisoners, though the jail has since made improvements to its medical services, including a full-time detox nurse and new protocols for prisoners experiencing withdrawal. One could speculate that LMC's critique of Corizon might be a litigation tactic, to deflect responsibility. The fact remains that seven deaths occurred under Corizon's watch and, notwithstanding those deaths, LMC was willing to renew its contract with the company.

In January 2014, the Louisville Metro Police's Public Integrity Unit concluded investigations into three of the deaths at the jail, and criticized both Corizon and LMC. The Commonwealth Attorney's Office found that Sparks' and George's deaths were preventable; however, no criminal charges were filed. Dr. William Smock, a forensic examiner who served as a consultant during the investigations, stated with respect to George's death: "There is compelling evidence of a significant deviation from the standard of care and medical negligence on the part of the medical providers."

"I'm glad to see that the government's investigation matches exactly what our investigation showed, which is that her death

and others like hers is easily preventable," said Chad McCoy, the attorney representing George's estate.

**Minnesota DOC**

AFTER PROVIDING MEDICAL CARE TO Minnesota state prisoners for 15 years, Corizon was not selected when the contract was rebid in 2013 – despite having submitted the lowest bid. Instead, competitor Centurion Managed Care was to begin providing healthcare services in Minnesota's prison system effective January 1, 2014 under a two-year, \$67.5 million contract.

Corrections Commissioner Tom Roy said the contract with Centurion was expected to "deliver significant savings to taxpayers while improving the quality of care for offenders."

According to the *Star-Tribune*, nine prisoners died and another 21 suffered serious or critical injuries in Minnesota correctional facilities due to delay or denial of medical care under the state's previous contract, which had been held by Corizon or its predecessor, CMS, since 1998.

That contract was for a fixed annual flat fee of \$28 million. A flat fee contract provides an incentive for the contractor to tightly control costs, as a reduction in expenses results in an increase in profit. The *Star-Tribune* found that many of the staffing arrangements negotiated in the contract played a role in the deaths and injuries. For example, the contract allowed Corizon physicians to leave at 4:00pm daily and did not require them to work weekends. During off-hours there was only one doctor on call to serve the state's entire prison system, and many of the off-hour consultations were done telephonically without the benefit of the prisoner's medical chart. Under the

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contract, Corizon was not required to staff most facilities overnight.

The Minnesota Department of Corrections was held liable for nearly \$1.8 million in wrongful death and medical negligence cases during the period when the state contracted with Corizon or CMS.

In October 2012, a jury in Washington County awarded Minnesota prisoner Stanley Riley more than \$1 million after finding a Corizon contract physician, Stephen J. Craane, was negligent in providing medical treatment. The *Star-Tribune* reported that Riley suffered from what turned out to be cancer and had written a series of pleading notes to prison officials. One read, "I assure you that I am not a malingeringer. I only want to be healthy again."

In May 2013, the state paid \$400,000 to settle a lawsuit over the death of a 27-year-old prisoner at MCF-Rush City. Xavius Scullark-Johnson, a schizophrenic, suffered at least seven seizures in his cell on June 28, 2010. Nurses and guards didn't provide him with medical care for nearly eight hours. According to documents obtained by the *Star-Tribune*, Scullark-Johnson was found "soaked in urine on the floor of his cell"

and was "coiled in a fetal position and in an altered state of consciousness that suggested he had suffered a seizure." An ambulance was called several hours later but a nurse at the prison turned it away, apparently due to protocols to cut costs. Corizon settled the lawsuit for an undisclosed sum in June 2013. See: *Scullark v. Garin*, U.S.D.C. (D. Minn.), Case No. 0:12-cv-01505-RHK-FLN.

### Philadelphia, Pennsylvania

IN PHILADELPHIA, MAYOR MICHAEL A. Nutter has been accused of being too loyal to his campaign contributors, including Corizon. The company donated \$1,000 to Nutter's 2012 campaign committee several months before the city renewed Corizon's contract to provide medical care to 9,000 prisoners in Philadelphia's prison system. Further, PHS donated \$5,000 to Nutter's mayoral campaign in 2008.

The contract renewal would have

been routine except for the fact that Corizon's performance in Philadelphia has been far from stellar. In July 2012 the company agreed to pay the city \$1.85 million following an investigation that found Corizon was using a minority-owned subcontractor that did no work, which was a sham to meet the city's requirements for contracting with minority-owned businesses.

The renewed year-to-year Corizon contract, worth \$42 million, began in March 2013. Nutter's administration was accused of using the year-to-year arrangement to avoid having the contract scrutinized by the city council; the city's Home Rule Charter requires all contracts of more than one year to be reviewed by

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## Privatized Healthcare Problems (cont.)

the council. Further infuriating opponents of the contract, Corizon was not the lowest bidder. Correctional Medical Care (CMC), a competitor, submitted a bid that would have cost the city \$3.5 million less per year than Corizon. Philadelphia Prison Commissioner Louis Giorla defended the city's decision to award the contract to Corizon at a council hearing; however, he declined to answer questions as to why the administration considered Corizon's level of care to be superior to that provided by CMC.

Three union contracts with Corizon covering 270 of the company's workers in Philadelphia's prison system expired on November 26, 2013. Corizon demanded benefit cuts, including changes in employee healthcare programs, to offset wage increases promised under the company's contract with the city. A strike was averted in December 2013 when the mayor's office intervened and both sides reached a settlement. The *Philadelphia Daily News* reported that the new union contracts provide wage increases but also include a less-generous health insurance plan for Corizon employees.

Since 1995, Corizon and its predecessor, PHS, have received \$196 million in city contracts. The company's contract was terminated for several months in 2002 as a result of complaints that a diabetic prisoner had died after failing to receive insulin. The city renewed the contract anyway, cit-

ing affordability and pledging increased oversight. The city's law department estimates that Philadelphia has paid over \$1 million to settle lawsuits involving claims of deficient prison healthcare; the largest settlement to date is \$300,000, paid to a prisoner who did not receive eye surgery and is now partially blind.

Based upon the number of lawsuits filed against Corizon alleging inadequate medical care, its use of a sham subcontractor and the company's treatment of its own employees, it appears that maintaining the status quo – not best practices – may be the controlling factor in Philadelphia's continued relationship with Corizon.

### Allegheny County, Pennsylvania

ON SEPTEMBER 30, 2013, A PRISONER jumped from the top tier of a pod at the Allegheny County Jail. Following an investigation, authorities refused to make public their findings and declined to disclose the prisoner's injuries, citing medical privacy laws. The prisoner, Milan Karan, 38, was not transported to the hospital until the following day.

A spokesperson for Corizon, which provides medical care at the 2,500-bed jail, defended the nearly 24-hour delay by noting the prisoner "was under observation" before being sent to a hospital.

In December 2013, the *Pittsburgh Post-Gazette* reported that Corizon was having difficulty staffing the Allegheny County Jail. When the newspaper requested a comment from Corizon vice president

Lee Harrington, Harrington claimed he had no knowledge of staffing problems – despite having previously received emails from the facility's warden about that exact issue.

The staffing problems resulted in prisoners not receiving their medication in a timely manner. In emails obtained by the *Post-Gazette*, Warden Orlando Harper wrote to Harrington in October 2013, noting, "We are continuing to experience issues pertaining to the following: 1. Staffing, 2. Medication distribution." Also, on November 17, 2013, Deputy Warden Monica Long sent an email to Corizon and jail staff. "I was just informed by the Captain on shift, the majority of the jail has not received medication AT ALL," she stated, adding, "Staffing is at a crisis."

That crisis had been ongoing since Corizon assumed the medical services contract at the facility on September 1, 2013. Before the \$62.55 million, five-year contract was awarded, Corizon vice president Mary Silva wrote in an email that it was imperative the jail have "adequate staffing on ALL shifts." That promise was made despite Corizon laying off many of the former employees of Allegheny Correctional Health Services, the jail's previous healthcare provider.

Allegheny Correctional had provided four full-time and one part-time physician during its contract tenure. Corizon reduced the number of doctors to one full-time and one part-time physician. Allegheny Correctional also employed three psychiatrists and one psychologist. Corizon's contract

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requires that it provide one full-time psychiatrist and a part-time psychologist.

In January 2014, the United Steelworkers union (USW) filed a petition with the National Labor Relations Board to unionize Corizon employees at the Allegheny County Jail, including nurse practitioners, RNs, physician assistants and psychiatric nurses. USW representative Randa Ruge indicated that the Corizon workers had approached the union for representation due to intolerable working conditions.

“Our folks [Corizon employees] are in danger of losing their licenses to practice by some of the things that the company has them doing,” she said. Ruge told the *Post-Gazette* that the jail had run out of insulin for more than a week and Corizon supervisors had “countermanded doctors’ orders.”

Several weeks after the USW filed the labor petition, a Catholic nun who worked as an RN at the jail was fired by Corizon, allegedly for union organizing activities. Sister Barbara Finch was dismissed after she openly expressed concerns about staffing, patient care and safety at the facility. The USW filed an unfair labor complaint against Corizon regarding Finch’s dismissal, claiming she was terminated in retaliation for her union activities.

“This is a clear case of intimidation and union-busting at its worst,” said USW President Leo W. Gerard. “Sister Barbara has been an outspoken advocate of change for these courageous workers and their patients, and this kind of illegal and unjust

action, unfortunately, is par for the course with Corizon.”

On February 14, 2014, Corizon employees at the Allegheny County Jail voted overwhelmingly to unionize. “The next step is getting to the bargaining table and getting Corizon to bargain in good faith and get some changes made in the health system at the jail,” said Ruge.

The previous week, Allegheny County Controller Chelsa Wagner stated she had “grave and serious concerns” about medical care at the facility, including issues related to staffing and treatment for prisoners with certain mental health conditions. “I regard the current situation as intolerable and outrageous, and I fully expect necessary changes to be urgently implemented,” she wrote in a letter to Corizon.

### Polk County, Iowa

ON AUGUST 29, 2013, IEASHA LENISE Meyers, incarcerated at the jail in Polk County, Iowa on a probation violation, gave birth on a mattress on the floor of her cell. Her cellmates assisted with the delivery. Earlier, when Meyers, 25, had complained of contractions, a Corizon nurse called an offsite medical supervisor and was told to monitor the contractions and check for water breaking.

Despite Meyers having been twice sent to a hospital earlier the same day, and pleading that she was about to give birth, the nurse did rounds in other parts of the jail. Guards reportedly did not check on Meyers as required, even though the birth could

be seen on a nearby security monitor. Only after the baby was born was medical care provided. Sheriff Bill McCarthy defended the actions of jail staff.

### Corizon Employee Misconduct

LIKE MOST PRIVATE CONTRACTORS THAT provide prison-related services, Corizon tends to cut costs in terms of staffing and operational expenses. As noted above, this includes paying lower wages, providing fewer or inferior benefits and hiring less qualified workers who can be paid less. Sometimes, however, these practices result in employees more like to engage in misconduct.

At the Pendleton Correctional Facility in Indiana, a Corizon nurse was arrested and charged with sexual misconduct, a Class C felony. The *Herald Bulletin* reported that in April 2013, when Colette Ficklin was working as a contract nurse for Corizon, she convinced a prisoner to fake chest pains so they could be alone in an exam room. A guard told internal affairs officers that she witnessed Ficklin and the prisoner engaging in sex acts in the prison’s infirmary. [See: *PLN*, Sept. 2013, p.17].

In March 2013 at the Indiana State Prison in Michigan City, a Corizon practical nurse was charged with drug trafficking and possession with intent to distribute. Phyllis Ungerank, 41, was arrested and booked into the LaPort County Jail after attempting to smuggle marijuana into the facility. [See: *PLN*, July 2012, p.50].

A Corizon nurse at the Volusia County Branch Jail in Daytona Beach, Florida



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## Privatized Healthcare Problems (cont.)

was fired after officials learned she was having sex with and giving money to a prisoner. Valerie Konieczny was terminated on December 18, 2012 when the jail was contacted by the brother of prisoner Randy Joe Schimp, who had written in a letter that a nurse was having sex with him and depositing money into his jail account. Investigators determined that Konieczny was the nurse who had sex with Schimp at both the Volusia County facility and another branch jail in 2011.

In New Mexico, Corizon physician Mark Walden was accused of fondling prisoners' genitals and performing prostrate exams that were "excessive and inappropriate in terms of length and method." At times, Walden reportedly did not wear gloves during the prostate exams. He was accused of sexually abusing 25 or more male prisoners while employed as a doctor at two privately-operated facilities, the Guadalupe County Correctional Facility in Santa Rosa and Northeast New Mexico Detention Facility in Clayton.

Lawsuits were filed against Walden, Corizon and private prison operator GEO Group, and Walden's medical license was suspended in December 2013. The suits claim that Corizon allowed Dr. Walden to work at the Clayton prison "despite knowing of the risk of sexual abuse and having the ability to know that [he] was repeatedly sexually abusing patients" at the Santa Rosa facility. [See: *PLN*, Sept. 2013, p.47].

### The Privatization Model

ECONOMICS PROFESSORS KELLY BEDARD and H.E. Frech III at the University of California at Santa Barbara examined the privatization of correctional medical services in their research study, "Prison Health Care: Is Contracting Out Healthy?," published in *Health Economics* in November 2009.

They concluded: "We find no evidence to support the positive rhetoric regarding the impact of prison health care contracting out on inmate health, at least as measured by mortality. Our findings of higher inmate mortality rates under contracting out are more consistent with recent editorials raising concerns about this method of delivering health care to inmates."

Today, five years after the Bedard-Frech report was published, it has the benefit of hindsight. Since the report was written, its findings and conclusions have been reaffirmed in prisons and jails across the nation that have contracted with private companies to provide medical care to prisoners. Cost reductions in the provision of correctional healthcare tend to result in greater inefficiencies that lead to poorer outcomes. Consequently, for-profit medical contractors may actually be increasing morbidity and mortality in prison and jail populations.

Many governmental entities are willing to outsource correctional healthcare to private companies; reasons for doing so include cutting costs, risk management and removing healthcare duties from corrections departments. If Corizon's record with respect to providing medical care to prisoners seems dismal, the company can always defend its actions by stating it does what it has been hired to do: Cut costs for its customers. And those costs have been rising due to an increasingly aging, and thus medically-needy, prison population. [See: *PLN*, Nov. 2012, p.22; Dec. 2010, p.1].

With respect to risk management, litigation is not a compelling issue within the prison healthcare industry and Corizon views lawsuits as simply a cost of doing business. "We get sued a lot, but 95% or 97% of cases were self-represented cases," ex-CEO Rich Hallworth was quoted in an August 2013 article. He added that most lawsuits settle for an average of less than \$50. Of course it is difficult for prisoners to obtain representation to pursue litigation – unless it's a wrongful death case, and then usually their family or estate is doing the suing.

Nor are the public agencies that contract with private medical providers greatly concerned about their litigation records. In fact, when Florida contracted with Corizon and Wexford Health Sources to provide medical care for the state's entire prison system, the Florida Department of Corrections didn't ask the companies about their litigation histories – such as lawsuits raising claims of deliberate indifference, negligence and medical malpractice.

"What really troubles me about this is the fact that the department didn't ask these very basic, elemental questions any system would ask," observed ACLU National Prison Project staff attorney Eric Balaban. "These two vendors were taking

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## Privatized Healthcare Problems (cont.)

cost control, which is the driving force behind privatization of prison and jail medical services.

### Conclusion

THE INTENT OF THIS ARTICLE WAS TO REVIEW Corizon's performance and practices based on publicly-available information, including news reports and court records. Although the company was formed in June 2011, its two predecessor firms, PHS and CMS, littered the news and judicial dockets over the years with lawsuits and articles involving cases of inadequate healthcare. Thus, the sins of Corizon's parents, CMS and PHS, are forever linked with the progeny of their merger.

Such past misdeeds could be explained away had Corizon adopted a new, post-merger culture that was removed from prior practices under PHS and CMS. However, many of Corizon's mid-level and top executives – including ex-CEO Rich Hallworth, former president Stuart Campbell, chairman Richard H. Miles and a number of vice presidents – were previously executives with PHS or CMS. It was during their tenure at those companies that numerous cases involving deficient medical care occurred.

The corporate culture of Corizon, as well as its business model, appears to be largely the same as those of its predecessors. Therefore, the only thing that may have changed as a result of the merger that created Corizon is the company's name. ■

*Gregory Dober is a freelance writer in health-care and ethics. He has been a contributing writer for PLN since 2007 and co-authored*

*Against Their Will: The Secret History of Medical Experimentation on Children in Cold War America, published by Palgrave in 2013. [See: PLN, Nov. 2013, p.36].*

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*Tennessean, Courier-Journal, Idaho Business Review, Associated Press, The Arizona Republic, Maine Public Broadcasting Network, Bangor Daily News, WANE-TV, Raton Range, Des Moines Register, Star-Tribune, The Nation, The Florida Current, www.usw.org, KPHO-TV, WANE-TV, Tucson Citizen, WCAV-TV, www.wdrb.com, www.modern-healthcare.com, www.cochs.org, www.wndu.com, www.afsc.org, www.americanownews.com*

## Florida County Agrees to Pay \$4 Million to Deceased Prisoner's Estate

by Derek Gilna

NICHOLAS T. CHRISTIE, INCARCERATED at the Lee County jail in Ft. Myers, Florida, died on March 31, 2009 after being repeatedly pepper sprayed by deputies while strapped to a restraint chair. Following three years of litigation, Lee County officials agreed in May 2013 to pay a record settlement of \$4 million to Christie's estate.

The jail's for-profit medical contractor, Prison Health Services (PHS), now known as Corizon, was named as a defendant in the federal lawsuit and included in the settlement agreement.

The § 1983 suit raised claims related to Christie's death under the "Fourth, Eighth and/or Fourteenth Amendments to the United States Constitution, the laws of the United States, and the laws of the State of Florida."

The complaint alleged that Christie was "restrained to a chair with a hood over his head and face for several hours in the custody of the Lee County Sheriff, while being detained on a misdemeanor trespass

charge," and that medical staff at the jail failed to provide him with adequate care after he showed signs of respiratory distress during and after that incident. Medical personnel, the lawsuit stated, "acted willfully, wantonly, maliciously, and with reckless and callous disregard for and deliberate indifference to the serious medical and mental health needs of Nick Christie, and in a manner that shocks the conscience and offends traditional notions of decency, all of which led to his wrongful and untimely death."

According to the complaint, prior to and during his placement in the restraint chair, Christie disclosed to jail staff that he had "certain serious medical conditions..., including, but not limited to, Chronic Obstructive Pulmonary Disease (COPD), a heart condition, cardiovascular disease, atrial fibrillation, obesity, gout, back pain, constipation, and umbilical hernia, all of which was recorded and documented in Mr. Christie's PHS medical chart/record."

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