

Stavn, Stephanie

From: Kiefer, Timothy
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Cc: Stavn, Stephanie; Barrett, Calvin
Subject: Wellpath jail health care contract -- company founder and CEO convicted on federal bribery charges
Attachments: Wellpath Founder and CEO Pleads Guilty to Federal Bribery Charges Prison Legal News.pdf
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Dear members of the Public Protection and Judiciary Committee members (by bcc)

On your committee meeting agenda for tonight is a \$38 million contract with Wellpath LLC for health and mental health services at the jail.

Wellpath LLC, which was formerly known as Correct Care Services or CCS, is a for-profit multinational corporation owned by a private equity group called H.I.G. Capital.

The founder and former CEO of Wellpath, Jerry Boyle, pled guilty in 2021 to federal bribery charges relating to bribes that he paid to get contracts for his company. In 2022, Boyle was sentenced to three years in federal prison.

I am attaching to this email an article about the federal bribery case and for-profit health care in jails and prisons. I note especially the following quote from the article:

“It does create this perverse incentive to scrimp on care because for every lab test not run or a specialist visit not done, that’s just additional profit that the company can pocket,” said Corene Kendrick, a staff attorney with the Prison Law Office in California.

I urge the members of the PP&J committee to fully research this proposed \$38M contract, and to carefully consider if contracting with Wellpath is in the best interests of the residents of the Dane County Jail.

Very respectfully

Tim Kiefer
Dane County Board, District 25
608 358-7213

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🌟 (</subscribe/digital/>) Wellpath Founder and CEO Pleads Guilty to Federal Bribery Charges

Loaded on MARCH 1, 2022 by David Reutter (</news/author/david-reutter/>) published in Prison Legal News March, 2022 (</news/issue/33/3/>), page 1

Filed under: Correct Care Solutions (/search/?selected_facets=tags:Correct%20Care%20Solutions), Private Contractors (/search/?selected_facets=tags:Private%20Contractors), Federal Funds (/search/?selected_facets=tags:Federal%20Funds). Location: Virginia (/search/?selected_facets=locations:1522).

A lesson in why privatized prison health care is the wrong answer

by David M. Reutter

On Friday, January 18, 2022, three days before sentencing in a pay-to-play bribery and corruption scandal involving health care at the city jail in Norfolk, Virginia, attorneys for disgraced former sheriff Bob McCabe filed a motion for a competency hearing, claiming his mental health has declined drastically since his conviction the previous August.

The legal maneuver means the 63-year-old will likely not face sentencing—at which he could get up to 20 years—before his partner in the 13-year-long scheme, Gerard Francis “Jerry” Boyle. The former CEO of the jail’s longtime health care contractor, Correct Care Solutions (CCS), Boyle, 66, is set to be sentenced in late February 2022 to up to five years in prison after pleading guilty in October 2021 to conspiracy to commit honest services mail fraud by paying bribes for the jail’s \$3.2 million annual health care contract.

The case underscores the potential for corruption in the provision of medical care at jails and prisons, one their largest budget items. According to the Urban Institute in 2013, about nine to 30 percent of “corrections costs” can go toward prisoner health care.

To reduce those costs, government officials have increasingly turned to private vendors. But the trail of corruption, death and suffering left behind demonstrates that contracting prisoners’ medical services to for-profit companies is not the answer to the problem.

Jerry Boyle ran one of those companies. He began his career in corrections as a guard at Massachusetts’ Bridgewater State Hospital and rose to become its superintendent over a 15-year tenure that spanned the late 1980s and 1990s. There he glimpsed a vision of the future, in which privatization would be his golden ticket. He then began Prison Health Services, which later became Corizon Health.

In 2003, Boyle moved on to start his next company, CCS. Clients followed, and his success drew the attention of private equity firms looking for companies to squeeze savings from in order to turn a quick profit. Boyle enticed two firms, Audax Group and GTCR, to purchase CCS, putting himself at the helm. Then in October 2018, when Miami-based H.I.G. Capital bought CCS, it merged the firm with Correctional Medical Group (formerly known as Correctional Physicians Medical Group), which H.I.G. had bought in 2012, creating a new company, Wellpath Holdings, LLC.

With nearly \$1.6 billion in annual revenue, Wellpath is now the largest provider of medical services to those who find themselves in the unfortunate position of being confined in America's modern-day gulags. Headquartered in Nashville, Tennessee, the company is responsible for the care of nearly 300,000 prisoners in almost 40 states and Australia. It boasts of "over 35 years of experience providing high-quality medical and behavioral care to often overlooked populations in challenging clinical environments." But it was born from the merger of two companies with a history of maximizing profits while providing substandard or inadequate care. [See: *PLN*, Oct. 2019, p.32; and Dec. 2019, p.50.]

On its website, Wellpath called Boyle a "visionary" founder as recently as May 2019, noting that the firm had "adopted his management philosophy as our company's values." That statement is important to remember as we look at the fruit born of that philosophy while providing healthcare in jails and prisons.

Pay for Play

Most government contracts are issued through a bidding process, which starts with a Request for Proposals (RFP). The process is supposed to be secretive to assure no vendor has an advantage over another when submitting sealed bids to provide the services outlined in the RFP. But as is often said, it's not so important what you know as *who* you know.

According to the October 2019 federal indictment that outlined the charges to which Boyle later pleaded guilty, he provided Sheriff McCabe with cash, travel, a loan, entertainment, gift cards, personal gifts, sports tickets, and campaign contributions over a period from 2004 through 2016. In return, McCabe provided CCS/Wellpath help with contract extensions and renewals, including inside bidding information, for the provision of health care at the Norfolk City Jail.

McCabe also acted as a reference for Boyle when he was vying for contracts in Massachusetts, even providing a testimonial quote for one bid that said, "As a client, I feel valued, and this sets CCS apart from [its] competitors."

Following Boyle's indictment, Wellpath quickly distanced itself from him, saying he had no day-to-day role in the company, though he was Chairman of its Board of Directors. Yet his contacts helped the company obtain those Massachusetts contracts, in Worcester County and Essex County, as well as one with his former employer, Bridgewater State Hospital.

"The charges against Mr. Boyle are serious, and we have accepted his resignation from all positions with our company," a Wellpath spokeswoman said in October 2019.

His guilty plea came just six weeks after a jury convicted McCabe on 11 counts of fraud, conspiracy and money laundering. Amended information in Boyle's case painted a picture of his real values and business philosophy:

“Throughout the conspiracy, Boyle was aware that he had to provide things of value—including campaign contributions and in-kind political donations—to keep McCabe satisfied and ensure favorable treatment of CCS's medical contract.”

Since 2008, CCS/Wellpath has contributed around \$41,000 to at least six candidates for sheriff in Virginia, according to the Virginia Public Access Project (VPAP). Loudoun County Sheriff Mike Chapman accepted \$13,370 in contributions from the firm since he began his second term in 2016, over 8.5% of the total his campaign collected on his way to winning a third term, which began in January 2020.

In the middle of his second term, the county's Board of Supervisors approved a \$4.7 million two-year contract renewal with CCS/Wellpath on June 26, 2017. County officials say the process was clean and that Chapman was not involved in it.

“I am confident that the contract with [CCS] was the result of a fully fair and impartial process as required by the Virginia Public Procurement Act and not a ‘pay for play’ arrangement as suggested,” insisted Cheryl Middleton, a purchasing agent for the county's Division of Procurement.

But Chapman's opponent in the 2019 election, Justin Hannah, said it was “ethically questionable” for the sheriff to accept donations from CCS/Wellpath.

“When the sheriff is accepting political donations in the thousands of dollars from the company that provides medical services to the jail, it raises questions as to whether he is putting his candidacy before the safety of the community and the welfare of those in the jail,” Hannah maintained.

“This is so widespread and so common [that] it's the status quo,” lamented Max Rose, the executive director for Sheriffs for Trusting Communities. “It shouldn't be, but it is. Until the sheriffs' campaigns are run free of that money, you have no reason to believe that the sheriffs are doing anything but bowing to the wishes of the donors.”

Pure Profit Motive

As everyone knows, healthcare expenses can be burdensome. About 18% of all Americans have unpaid medical debt, the largest share of debt that is in collections. Local, state, and federal governmental entities operate off a set budget each year, so they seek to lock in prices to provide healthcare to detainees and prisoners. Private companies allow them to do that through contracts that pay a per diem rate for basic healthcare and specialty care, such as surgeries performed outside the facility. The per diem structure creates a huge profit incentive.

“If they provide NO services, they get to keep all that money,” noted Yolanda Huang, a civil rights attorney who is also a member of the National Lawyers Guild. “[S]o they have every incentive not

to provide anything over and above, or extra.”

She said some prisoners reported that CCS/Wellpath employees even asked them when they were being released because “[i]f they have a medical problem, and they’re released, then it’s someone else’s financial responsibility.”

Crystal Tucker, who was hired in 2013 as an assistant director of nursing for CCS and who was let go less than a year later, saw first-hand that the firm’s business philosophy included delaying treatment until transfer to another prison or release from prison.

“So [that] inmate and [his] problems would then be their problem, or they would have it delayed until the inmate was about to get out so that he would be released and have to deal with it on his own,” she explained. “In that manner, they kept the cost below what was allotted in the budget and all the bigwigs and fat cats involved with that contract got a bonus.”

When Collin County, Texas, was looking to spend less money on health care at its jail in 2015, it was clear in its objectives, responding to a CCS questionnaire that officials wanted “good options to keep the inmates on site rather than going to the hospital.” The county even reiterated that it “would like to minimize transport off site.” CCS presented a comprehensive plan to meet that desire: Its “Cost Containment Program” included a promise to reduce prisoner transfers by 27%, saving the county \$140,000 annually.

Those savings would be realized by “optimizing the delivery of medical care onsite,” CCS said, adding that its policy would be to take imprisoned people to a hospital only in cases of a medical emergency, which it defined as an incident that is a “life or limb threatening illness or injury.”

In Massachusetts, Worcester County officials were also enticed by CCS’s incentives and agreed to contracts with the company. In 2015, the county received a vow that off-site medical spending would be no more than \$500,000 per year at its jail. If expenses were less than that, the company would split the savings with the sheriff’s office.

“We sincerely believe that as your partner, we should have ‘skin in the game,’” the proposal declared.

In 2016 and 2017, expenses ran so close to the ceiling that savings for the Worcester County jail totaled just \$51,000, said Superintendent David Tuttle. The county then scrapped the deal to share cost-savings in its latest contract for fear it would give a bad impression.

Privatization of medical care for the imprisoned makes it difficult for the public to trust that administrators and bureaucrats are being held accountable for the well-being and safety of detainees, prisoners, and staff.

“It does create this perverse incentive to scrimp on care because for every lab test not run or a specialist visit not done, that’s just additional profit that the company can pocket,” said Corene Kendrick, a staff attorney with the Prison Law Office in California. “I don’t mean to say that government-run or self-operated prison healthcare is wonderful, but at least when the government agencies are providing the service, you don’t have the profit motive to cut corners,

and there's more oversight.”

That confluence of profit and prison health care was the subject of a June 2019 investigation by *CNN*, which examined complaints at nearly 120 locations in 32 states and found that CCS/Wellpath “provided substandard care due to its focus on containing costs, leading to numerous deaths and other serious outcomes that could have been avoided with more staffing, better training, and more experienced employees.”

“[CCS/Wellpath] employees have denied urgent emergency room transfers,” *CNN* found. “They have failed to spot or treat serious psychiatric disorders and have allowed common infections and conditions to become fatal.”

Accusing the Sick of Crying Wolf

“We always put our patients first and focus on high-quality care to an often-overlooked population,” insists the Wellpath website. “We believe in transforming public health by delivering hope and healing to those who need it most.”

But Lauren Kent disagrees. The Texas woman was arrested on a credit card abuse charge and booked into the Collin County Jail on May 29, 2019. At the time, she was four months pregnant. She figured she would spend a few weeks in jail and accept the consequences of the justice system. Kent had no idea that one of the consequences would be the death of her baby.

On June 27, 2019, she pleaded with Wellpath nurses to provide care for her cramping and vaginal bleeding. She made requests for care through a computer kiosk. Her symptoms are typically a warning that the expecting mother is experiencing complications and the child's life is threatened. The nurses, however, followed Wellpath's Cost Containment Program, which has no compassion for a patient who does not meet its threshold for what constitutes a threat to life or limb.

Instead, they noted that Wellpath required Kent to saturate two menstrual pads with blood within 24 hours in order to receive off-site medical care. In a July 1, 2019, request for medical care, Kent said she had not felt her baby move for 24 hours and that she passed a blood clot when she used the bathroom. A response said she could pay \$10 and access sick call.

Kent saw nurse Jelil Atiba on July 3, 2019. Atiba said Kent was still not bleeding enough to be sent to a hospital. A message from nurse Julia McBride said that Kent needed to saturate two more pads “within the next 30 minutes” to receive that care. She also noted that she could hear Kent yelling and crying in her cell.

“Per assessment, your issue is more behavioral than medical,” McBride wrote in her message to Kent. “Thanks and God bless, we are here to serve you.”

“Nurse Jelil cut Kent's explanation off with a raised voice,” a staff member wrote in a report that noted Kent said she had not felt her baby move in 24 to 36 hours. “Nurse Jelil told Kent that if this behavior continued, she would be moved to the main jail and could not ever again return to minimum security. Nurse Jelil also told her that [only] medical staff would determine if Kent went to the hospital.”

After her interaction with Atiba, Kent sent a desperate message that said, “PLEASE IM BEGGING YOU. I NEED A DOCTOR.” She then called the woman who was helping with her baby’s adoption, and that woman called the jail. A lieutenant told her, “You can’t believe everything that [inmates] tell you.” But as a result of the call, Kent was given an assessment and placed in a medical cell, with instructions to keep count of the menstrual pads she bled through.

Another nurse saw Kent on July 4, 2019, when she took a urine sample. She then diagnosed Kent with a urinary tract infection and told her that if “she was miscarrying, there was no magic pill she could give her to stop the process or reverse it,” according to a lawsuit she later filed.

Kent went into labor the next day, still pleading for help. The nurses did not believe her. After crying for six to eight hours, Kent spoke by telephone with the on-duty nurse, Michelle Pounders. She responded punitively, instructing that Kent not be sent back to minimum security. As Kent collected her things to move to another cell in maximum security, she suddenly rushed back to her cell, where she delivered her stillborn baby over the toilet seat.

“It happened very quickly, in that last moment it came out. It was very bloody,” Kent recalled. “And the nurse that had been saying, ‘you’re crying wolf,’ when she came in and saw it, she dropped to her knees and said, ‘I’m so sorry.’”

Finally, Kent had received some compassion, but it was brief. When she asked to hold her dead baby, she was denied, and the boy she named Dakota was placed in a red plastic biohazard bag.

“The fact that this is happening in America, where counties are pinching pennies and being more cost conscious than care conscious is really disturbing,” said attorney Scott Palmer, who cited in the lawsuit he filed for Kent six other cases involving women being forced to give birth in their cells at jails under contract with CCS/Wellpath. See: *Kent v. Collin County*, USDC (E.D.Tex.), Case No. 4:21-cv-00412-SDJ.

Baked-in Cynicism

The attitude the guard lieutenant showed in Kent’s case is typical of correctional staff.

“There is a baked-in cynicism about what inmates say and what they complain about,” said Andrew Harris, a professor of criminology and justice studies at the University of Massachusetts, Lowell. “It’s just part of the correctional culture. The risk is that you assume that everybody is lying to you.”

Nurse Claire Teske admits it is easy for nurses who work in jail and prison conditions to get cynical. She warned that nurses need to look for a “differential diagnosis” to avoid mistakes.

“You’ve got to figure out what’s not wrong [to] narrow down what is wrong,” she said.

It is customary in jails and prisons for a sick call slip to be sent by the imprisoned person to seek medical care. The slips are typically required to be reviewed within 24 hours. At the Worcester County jail in Massachusetts, Ziggy Lemanski filed several slips in February 2008 to seek care for his flu-like symptoms. Lemanski, who had a weakened immune system due to HIV and hepatitis C, wrote that he struggled to get out of bed and was coughing up blood.

“I’ve been in bed since Saturday,” he noted on one sick call slip. “I’ve been coughing up dark phlegm and [having diarrhea] and feel weak and the chills.”

When Lemanski was finally taken to the jail’s infirmary on February 29, 2008, he was dehydrated, his heart was beating rapidly, and his oxygen level was dangerously low. That finally convinced CCS employees that Lemanski’s life was threatened, and he was sent to the hospital. That same night, a nurse recorded that she gave Lemanski his HIV medication in his cell. But that was impossible, of course, because he was dying in the hospital at the time

Later, Mario Lemanski said doctors apologized to him because by the time his brother arrived at the hospital, “his lungs were so congested they wouldn’t even show up on an x-ray.”

Within days, Ziggy Lemanski, 44, died of pneumonia. A lawsuit filed by his brother was reportedly settled by the county in 2014 for \$62,500. See: *Lemanski v. Commonwealth*, Mass. Super. (Worcester Co.), Case No. 11-0342.

The official cause of death for another Worcester County detainee, Michael Ramey, is listed as natural causes by the jail. That would be accurate if meningitis were a natural malady that is untreatable. The fact is that it’s a treatable condition.

Ramey, 36, was booked into the jail in July 2016 on a robbery charge. Within days he began to complain of headaches. His speech became slurred, and he experienced paralysis on his left side over the next month. He fruitlessly pleaded for help from CCS employees at the jail as the infection raged in his head. Finally, he was sent to a hospital on August 13, 2016.

A doctor diagnosed him with atypical migraines and said he needed to see a neurologist within a week. Ramey was returned to his cell, and the neurologist appointment was never set. He fell for the first of many times ten days after seeing the doctor. A nurse wrote that Ramey was showing “apparent medication-seeking behavior.” After conducting a body-strength test, the nurse wrote that Ramey “does not appear to be using full effort.” He fell again the next day, and a CCS doctor also wrote that Ramey was showing “med-seeking behavior.”

Medical records from August 30, 2016, show that Ramey complained of headaches, left-side pain, and dizziness. A nurse visited his cell on September 7, 2016, when she found him on the floor and unable to walk to the door. She wrote in his medical file that, “He was repeatedly shouting, ‘What[?] I can’t hear you. I can’t hear or see anything . . . I need help, something is wrong.’”

Ramey was sent back to the hospital and a standard test showed he had cryptococcal meningitis. He died on September 16, 2016.

“Even though this kid is screaming that he had a neurological condition that’s raging, everybody writes it off,” said Hector Pineiro, the attorney for Ramey’s estate.

No settlement has yet been reported in the suit he filed for his clients. See: *Arria v. Correct Care Solutions*, Mass. Super. (Suffolk Co.), Case No. 1984-cv-02843.

Still More Wrongful
Death Suits Filed

But even as people like Ramey needlessly suffer and die, Wellpath continues to maintain it is working to improve public health.

“A pillar of Wellpath’s mission is to provide quality care to every patient with compassion, and we maintain a culture to always do the right thing for our patients, our people, and our partners,” Wellpath President Kip Hallman said.

In another case filed for the family of a dead prisoner on February 3, 2022, Maine attorney Susan Faunce charged CCS/Wellpath with negligence in failing to treat an infection, causing a tragic death that should never have happened.

“Andrew Leighton received a death sentence,” she said. “Through this lawsuit Andrew’s family hopes to highlight the dangers of the prison health care system and as such, keep other inmates safe from harm.”

Leighton, 51, was serving a 27-year sentence when he saw a CCS/Wellpath dentist at the Maine State Prison on July 28, 2018. He was experiencing pain in his lower left molars. Leighton saw the dentist again on August 22, 2018, for “excruciating pain in his teeth, nose, and neck.” He was prescribed penicillin. Five days later, he told the dentist the pain had abated but he now had sinus congestion and an earache. The dentist referred him to Wellpath’s medical team.

A nurse practitioner prescribed a different antibiotic and ibuprofen on September 4, 2018, without examining Leighton. Two weeks later, after he complained of trouble swallowing, a nurse examined Leighton and allegedly found a golf-ball-size mass in his throat. He asked to be placed in the infirmary because he could not lie down to sleep due to an obstructed airway. The nurse refused the request and did not refer his complaints to a doctor. Instead, she told him to apply ice to his neck and to sleep in a slightly elevated position.

The next day, a medical assistant noted Leighton was struggling to breathe and sounded “like a pig.” She requested he be seen at the clinic. About an hour later, Leighton was found unresponsive in his cell. He was declared dead after efforts to revive him failed. An autopsy listed the cause of death as acute inflammation at the base of the tongue and complications from asthma and sepsis. His father’s suit against Wellpath is reportedly pending in Cumberland County Superior Court.

With the prescription drug epidemic have come arrested persons who suffer withdrawal effects once in jail. According to a lawsuit, Paul Bulthouse, 39, was suffering seizures due to withdrawal from prescription drugs that caused “severe and fatal withdrawal symptoms” which were ignored before he died on April 4, 2019, at the Muskegon County Jail in Michigan.

On the day he died, Bulthouse suffered at least 15 seizures between 2:00 a.m. and his death at 5:30 a.m. The seizures were recorded on video, but those videos also show guards failed to make regular welfare checks. Four guards—Sgt. David Vanderlaan, as well as Deps. Jeffrey Patterson, Crystal Greve and Jamal Lane—were ordered by a state judge on October 15, 2021, to stand trial on a charge of involuntary manslaughter.

In the days before his death, Bulthouse suffered “hallucinations and vocal outbursts [that] were

becoming more frequent and disturbing other inmates,” according to a lawsuit filed on behalf of his estate. It further alleged that a Wellpath doctor made a note in Bulthouse’s medical file that accused him of faking symptoms. The Bulthouse family reached a settlement with Muskegon County on October 22, 2021, for \$2.4 million. Their attorney, Marcel Benavides, will receive \$791,000 in legal fees, and three family members will divide the rest. See: *Bulthouse v. County of Muskegon*, USDC (W.D. Mich.), Case No. 1:21-cv-00281-PLM-SJB.

Richard Willingham’s family claim he was another victim of Wellpath’s Cost Containment Program after he entered the Shelby County Jail in Tennessee in July 2020 with a preexisting history of pulmonary embolisms. While held in a COVID-19 quarantine cell for 21 days, Willingham began complaining of chest pains and difficulty breathing.

“Mr. Willingham presented with many, if not all, the major symptoms of a pulmonary embolism at the nurses’ station, and they just gave him a shot of blood thinners and sent him back to his cell,” said Brice Timmons, an attorney who represents Willingham’s estate.

According to a lawsuit Timmons filed, Willingham submitted a sick call request that said he had blood clots and mentioned a blood clot procedure done two months earlier. In it he wrote, “PLEASE HELP ME.” He was rushed to a hospital 25 hours after reporting to the nurses’ station. He died at the hospital on July 14, 2020.

“We really want a West Tennessee jury to send a message to all the defendants in this case and other jail medical contractors and law enforcement officials that it is unacceptable to let people die of treatable and preventive illnesses while they’re in your custody and under your care,” Timmons said. See *Willingham v. Shelby County*, USDC (W.D.Tenn.), Case No. 2:21-cv-02035-SHL-atc.

‘Number of Lawsuits ...
Not Indicative of the Quality
of Health Care’

Prison health care is a litigious proposition, with lots of lawsuits filed. But huge obstacles exist to prevail on such a claim. First there is the issue of finding out what happened. *PLN* has reported numerous cases in which documents were falsified to protect the guilty. There are also times when a jail or prison listed the cause of death as natural when it was actually the result of gross negligence. A huge hurdle that many *pro se* prisoners cannot overcome is paying for expert testimony to prove that they were subject to deliberate indifference to a serious medical need.

Companies like Wellpath know about these obstacles, and they count on them. *The Atlantic* reported that over the last decade Wellpath was sued at least 1,395 times in federal court. That does not include the number of times the company has been sued in state court. Wellpath does not publicly disclose the lawsuits against it, and it vigorously fights to prevent disclosure of litigation against it and the settlements it enters into. The company recently lost a court case filed by the Human Rights Defense Center, which publishes *PLN*, after Wellpath stonewalled requests for public records related to lawsuits from jails its contracts to serve in Vermont. [See: *PLN*, Nov.

2021, p.42.]

“The number of lawsuits that are filed against Wellpath or any other for-profit or not-for-profit health care provider is not indicative of the quality of health care delivered, as any person may file a lawsuit regardless of merit,” said Judy Lilley, Wellpath’s Vice-President of Corporate Communications and Public Relations.

“[A]ccording to a study of closed malpractice claims against traditional Emergency Departments, nearly a third (32%) resulted in payment,” Lilley said. “That is more than triple the percentage of Wellpath’s historical claims payment rate. The last time we looked into this data, we found that only 7% of our lawsuits have resulted in settlements of any kind. The fact is, our dedicated health care providers, day in and day out, are focused on quickly assessing and treating patients under incredibly difficult circumstances.”

As *PLN* has reported, settlements are part of the business model of CCS/Wellpath. The firm scrimps on care by minimizing specialist appointments, delaying medication, and operating with skeleton crews. This model of public health prevents the administration of compassionate and adequate medical care that results in situations like those detailed in this article. The few cases that do result in a settlement are just a drop in the bucket for a company that brings in \$1.6 billion annually.

‘Stunning’ Misconduct

The case involving the death of Marc A. Moreno, 18, exhibits the difficulty in obtaining justice in the face of gross misconduct. Moreno was arrested in March 2016 on misdemeanor warrants while in the throes of a mental health crisis. Rather than being taken to a hospital, he was booked into the Benton County Jail in Washington.

Once there, Moreno, who was bi-polar and schizophrenic, was placed in a padded “safety cell” after making suicidal statements. The cell had no bed, toilet, or sink. A CCS/Wellpath mental health worker unsuccessfully tried to interview Moreno through his cell door, but he “demonstrated ‘bizarre and illogical behaviors’ and evidence of mania and psychosis.” No treatment was provided and a referral to a psychiatrist was not made.

Instead, Moreno languished in his psychosis while naked in his cell. He was observed playing with his food and rolling around in feces. Guards reported that Moreno was not eating or drinking, but Wellpath staff took no action. Moreno lost 38 pounds in the eight days before he was found dead in his cell on March 11, 2016, the result, according to an autopsy report, of an irregular heartbeat and dehydration.

Moreno’s family sued. The lawsuit went into the discovery process, and attorneys for Moreno’s estate obtained a court order to preserve all paper and electronic records related to Moreno’s care. As the lawsuit was pending, CCS merged with Wellpath. For 22 months, Wellpath promised that the discovery was forthcoming. Finally, it had to admit that it had destroyed that evidence as part of its new, sweeping document retention policy.

“This is not a case where defendants negligently forgot to stop an automatic document

destruction system already in place,” a federal judge said in an order granting a default judgment to Moreno’s estate in June 2020. “Rather, this is a case in which defendants decided to begin a document destruction policy in the middle of litigation over the teenager’s death.”

“While nobody can know the information contained in the destroyed emails, the breadth of the destruction is stunning,” added Judge Rosanna Malouf Peterson.

The documents included emails of CCS/Wellpath nurses and managers at the jail, those of company employees, and those who conducted the mortality review. What is known is that one nurse was fired for failing to follow procedure, but neither her emails nor those of her manager were preserved.

Moreno’s estate had earlier received a \$1.2 million settlement from Benton County in May 2018. The company then paid \$4.5 million to settle the family’s suit against the firm in September 2020. [See: *PLN*, Mar. 2021, p.40.]

In 2018, Wellpath paid \$525,000 to the family of a man who died from a bleeding stomach ulcer at Virginia’s Hampton Roads Regional Jail. [See: *PLN*, May 2019, p.44.]

“I’ve seen situations where the level of care improved by contracting with a target group, and they should bring more to the table, some of these larger ones with national expertise,” said Margo Frasier, the former sheriff of Travis County, Texas, who now works as a criminal justice consultant. “But the downside of it is they are profit oriented, so they have an incentive to do whatever it takes to keep the contract and keep themselves from being sued, but not much more. They are in it to make money.”

And therein lies the reason that privatization of jail and prison healthcare is the wrong answer.

Additional Sources: 13 News Now, The Appeal, The Atlantic, Bangor Daily News, Daily Memphian, Davis Vanguard, Fort Worth Star-Telegram, InsiderNJ, Journal News, Kearney Hub, Mirius Capital Advisors, mLive.com, New York Times, Norfolk Virginian-Pilot, Private Equity Stakeholder Project, San Diego Union Tribune, Telegram & Gazette, Tri-city Herald, WBUR, Virginia Public Accountability Project, Winston-Salem Journal

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Kent v. Collin County

Year	2021
Cite	USDC (E.D.Tex.), Case No. 4:21-cv-00412-SDJ
Level	District Court
Conclusion	Bench Verdict

Bulthouse v. County of Muskegon

Year	2021
Cite	USDC (W.D. Mich.), Case No. 1:21-cv-00281-PLM-SJB
Level	District Court
Conclusion	Settlement
Attorney Fees	791000
Damages	1609000

Willingham v. Shelby County

Year	2020
Cite	USDC (W.D.Tenn.), Case No. 2:21-cv-02035-SHL-atc
Level	District Court
Conclusion	Bench Verdict

Lemanski v. Commonwealth

Year 2014

Cite Mass. Super. (Worcester Co.), Case No. 11-0342

Level State Supreme Court

Conclusion Settlement

Damages 62500
