

Legal Overview of Prison Healthcare

In June of 2011, James Verone attempted a bank robbery in order to obtain access to prison healthcare. He handed over a note to the teller declaring that this was a bank robbery for \$1. He then sat down at a couch to wait for the police. Verone had found a growth on his chest and decided that the best course of action for himself, an unemployed and uninsured man, was to rob a bank to get free prison healthcare. Unlike law-abiding citizens, inmates are guaranteed healthcare while they are incarcerated, courtesy of taxpayers, thanks to several landmark Supreme Court cases.

Supreme Court

According to the most recent Census of State and Federal Correctional Facilities, the number of prisoners held in state and federal correctional facilities increased by 10%, from 1.3 million to 1.4 million during 2000 to 2005. Each of those 1.4 million people, typically from the lower rungs of the socioeconomic ladder, are guaranteed to have their medical needs met, because anything other than complete and thorough medical care would violate the Eighth Amendment that protects prisoners from cruel and unusual punishment. In 1976, the Supreme Court decided in the *Estelle v. Gamble* case that "deliberate indifference to serious medical needs" constituted a cruel and unusual punishment. "Serious" medical needs are defined as "conditions that cause pain, discomfort, or threat to good health," which covers all medical needs *de facto*.

The *Estelle v. Gamble* case further established three basic rights of the prisoner to access care, to care that is ordered, and to a professional medical judgment. According to William J. Rold, the author of "30 Years After *Estelle v. Gamble*: A Legal Retrospective," institutions lose lawsuits most easily by failing to provide inmates with the care that its own staff ordered.

However, questions about a medical provider's quality of care often fall under malpractice and must be differentiated from the liability of "deliberate indifference" that the Eighth Amendment established.

Current Practices

Prison and jail policies vary state by state, facility by facility, but the National Commission on Correctional Health Care (NCCHC) and the American Correctional Association offer accreditation for correctional facilities that meet their established guidelines. The government does not endorse these guidelines, and accreditation is fully voluntary.

The NCCHC requires inmates to receive seven routine screenings, including breast, rectal and testicular exams as indicated, and pelvic and PAP for women. Inmates receive immunizations as well as all therapies, physical and mental, deemed beneficial by medical professionals.

However, these organizations do not set clinical performance standards because they assume that health care providers practice according to the standards applied to any other clinical setting. A physician's standards of care remain the same whether he is in a hospital or a prison.

Conclusion

Although the majority of lawsuits involving prison healthcare are issues of malpractice and not of deliberate indifference to a prisoner's health concerns, malpractice was made possible by the landmark *Estelle v. Gamble* case that gave prisoners the right to unlimited medical care. Even though convicts cannot vote and are considered removed from society, all of their health (including mental) needs are provided in full as long as they are under the government's care.