

Issues in Remediating a Correctional Dental Program

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Objectives

- Describe dental needs of correctional population
- Components of an adequate dental program
- Issues related to remediating and monitoring based on experiences with *Fussell* and *Perez*
 - Settlement Agreement
 - Selection and responsibilities of monitors
 - Determining when substantial compliance is achieved

A Perfect Storm for Dental Disease

- More dental disease than free population
- Substantial pre-existing needs
 - Prisons take inmates as they are, not as they wish them to be
 - Staffing should accommodate high prevalence of dental needs
- Caries – risk factors: diet, substance abuse, polypharmacy
 - Many **drug classes** cause dry mouth which promotes decay
- Periodontal disease – risk factors **diabetes**, poor oral hyg.
- Edentulism – high prevalence of tooth loss
- Oral cancer – risk factors: race, tobacco, age

Adequate Dental Program

- “Consistent with generally accepted professional standards ... **not limited to extractions** ... timely”
- Diagnosis: caries, periodontal disease, oral cancer
- Treatment should include continuum of care:
 - Extractions, fillings, **removable dentures** and limited periodontics
 - Urgent care (toothaches) – timely pain relief
 - Routine – untimely treatment may result in tooth loss
 - Pain relief when clinic is closed (access to mid-levels)

Systemic Issues

- Care adequate in quality and quantity
 - Diagnosis consistent with **professional standards**
 - Scope of care - basic dental needs (a prison is not a health spa)
 - Institutional (public health) versus private practice model
- Timeliness (requires adequate **access**)
 - Toothaches – **pain relief** and treatment by dentist
 - Understaffed programs focus exclusively on toothaches
- Qualified providers (dentists, hygienists, assistants)
- Adequate policies and procedures

Settlement Agreement

- Process for selecting dental experts / monitors
- Process for dealing with expert disagreements
- Chief Monitor in multi-disciplinary cases?
 - Stand-alone dental, health care, or conditions of confinement
 - *Fussell* (Ohio) versus *Perez* (California) models
- Reporting requirements for experts
- Coordination with other cases (e.g., *Perez*)

Settlement Agreement (cont.)

- Specify resources, personnel and organizational structure
- Process to develop audit instrument
- Implementation timetable
 - Deviations require explanation
 - Phased implementation for large systems
- Specify 'goal posts' (or a process to develop them)
 - Operational definition of substantial compliance based on audits and other mandated changes

Audit Instrument

- Based on policies and procedures; approved by parties
 - Cast elements into binary questions
 - Several sections with different passing scores
- Agreement as to passing scores for each section
- Clear record selection rules
- Process for test audits and adjustments
 - Time consuming – may require several iterations
- Written report to parties

Experts / Monitors

- Must have confidence of parties and Court
 - An evolutionary process
- Must not lose sight of role – goal is an adequate, not a perfect system
- Be prepared to serve as consultants to program if asked
- Should have ‘reasonable’ access to:
 - Reports and facilities
 - Dental providers (including contractors)
 - Custody (to look at pass system, escort process)

Perez / Fussell Remediation Lessons

- Two experts – one nominated by each party
- Initial contentious phase (“getting to acceptance”)
- Stable, experienced program leadership **who are dentists**
- Collaborative approach among experts and parties
 - Extensive interaction between experts and program leadership
- Critical that there is no disagreement over ‘facts’
 - Program staff participate in prison visits and audits
 - Opportunity to review draft reports (to identify inaccuracies)

