

*The Outlook for Mental Health Services***Looking Ahead with President Trump**

By Steven Rosenberg

Steven Rosenberg founded Community Oriented Correctional Healthcare Services (COCHS) some eleven years ago. He will retire in 2017 and leave a legacy of substantial influence and compassionate concern for the health care provided persons caught in the criminal justice system.

Steve has a broad knowledge of the federal law on point and expertise on the delivery of health care. With his permission, we reprint his post-Trump-election observations on what may be coming in this area.

Dan Mistak, COCHS general counsel, will succeed Steve as Director, and we wish him well.

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Dear Colleague:

Whether you are a Republican or a Democrat, a public safety professional or a health care worker, we all woke up this morning to a new chapter of the American journey. While it is too soon to definitively prognosticate what President-elect Trump's policies may be at the intersections of health care and criminal justice, we at COCHS have spent the morning peering into our crystal ball concerning community and correctional connectivity, just as we did once when the Affordable Care Act became law.

While it is unlikely that the ACA will be fully repealed, it will most certainly not remain the same. What comes in its place is likely to address some of the political and marketplace weaknesses of the ACA (e.g., the individual mandate, federally defined benefits, inability of capital to effectively cross state lines).

Most justice-involved individuals are eligible for Medicaid in expansion states. As leaders in conceptualizing the future of health care for the most disadvantaged, our inboxes have been bombarded with questions about how last night's vote is likely to affect the health care needs of justice-involved individuals. We have several thoughts:

- **Medicaid is unlikely to remain the same.** States are likely to be given far more freedom to design and fund programs that meet their local health and behavioral needs, including those of justice-involved individuals. Medicaid in the future could turn into state-directed block grants or 1115 waivers could give states more leeway in designing a local product.
- **Essential Health Benefits may be a thing of the past.** Much like in designing state plans, states are also likely to be given a great deal of freedom in

defining the benefit structures that best meet the needs of the state.

- **Investment in data interconnectivity across the health and justice sectors is likely to increase.** Many of the laws that incentivized data connectivity were created under a Republican administration. We are becoming increasingly aware of the importance of secure data systems for improving the health and safety of the public.
- **Policies that stand in the way of assessing criminal risk, and thus limiting the ability to divert those who can be safely diverted, are unlikely to survive in the new administration.** As our tools for connecting data across health and justice sectors grow, the likelihood of identifying threats to public safety will increase. To the extent that states become free to design their own benefit structures and programs that respond to the health and behavioral health needs of diverted individuals, it is possible to expect lower recidivism. For this to occur, risk-and-needs-based tools would have to be tied to flexibility in health benefits and programs.

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