

LEGISLATIVE BILL 154

Approved by the Governor May 25, 2001

Introduced by Chambers, 11; Dw. Pedersen, 39; Aguilar, 35

AN ACT relating to correctional services; to adopt the Nebraska Correctional Health Care Services Act.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 13 of this act shall be known and may be cited as the Nebraska Correctional Health Care Services Act.

Sec. 2. For purposes of the Nebraska Correctional Health Care Services Act:

(1) Community standard of health care means medical care of the type, quality, and amount that any individual residing within the community in question could expect to receive in that community;

(2) Department means the Department of Correctional Services;

(3) Health care services means all medical care provided by or on behalf of the department to inmates and includes the practice of medicine and surgery, the practice of pharmacy, nursing care, dental care, optometric care, audiological care, physical therapy, mental health care, and substance abuse counseling and treatment;

(4) Inmate means an individual in the custody of the department; and

(5) Medical doctor means a person licensed to practice medicine and surgery in this state.

Sec. 3. In administering health care services, the department shall provide a community standard of health care to all inmates.

Sec. 4. The Director of Correctional Services shall appoint a medical director for the department who shall be a medical doctor. The medical director shall be a person familiar with principles of quality assurance and internal credentialing procedures and shall be under the sole immediate supervision of the Director of Correctional Services.

Sec. 5. The medical director shall:

(1) Coordinate all clinical services;

(2) Participate in the selection and supervision of all clinical staff employed by or under contract with the department, including medical doctors, physician assistants, pharmacists, pharmacy technicians, registered nurses, licensed practical nurses, advanced practice registered nurses, mental health practitioners, certified alcohol and drug abuse counselors, laboratory technicians, physical therapists, optometrists, audiologists, dentists, dental assistants, and dental hygienists;

(3) Maintain and preserve the medical records of health care services;

(4) Approve the purchasing of all necessary medical supplies and medical equipment for the department;

(5) Recommend all necessary programs for the preservice, inservice, and continuing medical training and education of the health care staff and other relevant staff of the department, including training specifically designed to promote prompt and effective responses by all staff of the department to medical emergencies;

(6) Develop and implement condition-specific medical treatment protocols that ensure compatibility with a community standard of health care, including protocols addressing the: (a) Treatment of gastrointestinal bleeds; (b) detection and treatment of all communicable diseases; (c) treatment of gender-specific problems; (d) treatment of diabetes; (e) treatment of hypertension; (f) treatment of headaches; (g) utilization of surgical procedures; (h) control of infection; (i) provision of dental care; (j) provision of age-specific and gender-specific routine health maintenance; (k) means by which inmates obtain access to health care services; (l) use of prescribed drugs, devices, or biologicals for the purpose of pain management; (m) referral of patients to medical specialists not in the employ of the department; and (n) initiation, observance, and termination of do not resuscitate orders initiated pursuant to the Rights of the Terminally Ill Act;

(7) Develop and implement a system of general discharge planning for the health care services to be received by inmates who are soon to be released from the custody of the department and who have chronic health care problems;

(8) Develop and implement a comprehensive health care services plan;

(9) Develop and implement an internal credentialing program for the employment and retention of the health care staff of the department based on a community standard of health care; and

(10) Develop and implement an internal peer review and quality assurance program based upon a community standard of health care.

Sec. 6. The internal credentialing program shall include for each health care staff member being considered for employment or retention (1) an investigation of the history of the health care staff member using (a) when possible, the national practitioner data bank under the federal Health Care Quality Improvement Act of 1986, 42 U.S.C. 11101 et seq., as such act existed on the effective date of this act, and (b) contacts with prior employers of the health care staff member and (2) confirmation of all professional permits, licenses, or other authorizations to practice of the health care staff member. The medical director shall maintain a credentialing file for all health care staff members employed by the department. The medical director shall ensure the recredentialing of each health care staff member employed by the department every two years.

Sec. 7. (1) In assigning health care staff to the correctional facilities under the control of the department, the medical director shall ensure that each facility has at least one designated medical doctor on call at all times and that each facility housing more than five hundred inmates has at least one full-time medical doctor assigned to that facility as his or her primary employment location.

(2) The medical director shall establish an acute care clinic in each of the correctional facilities and ensure that each clinic is staffed by at least one medical doctor, physician assistant, or advanced practice registered nurse.

(3) The medical director shall establish chronic care clinics to provide health care services to inmates with chronic disease conditions, including diabetes and hypertension.

(4) The medical director shall establish a human immunodeficiency virus infection and acquired immunodeficiency syndrome chronic care clinic which shall provide for the relevant treatment, counseling, and education of inmates who are known to be infected with the human immunodeficiency virus.

Sec. 8. All medical treatment protocols developed, approved, and implemented by the department shall be based upon a community standard of health care. When applicable, these medical treatment protocols shall emphasize the need to maintain the continuity of any previously prescribed drugs, devices, or biologicals and treatment regimens that inmates are subject to when they enter the custody of the department. The medical director shall establish a mechanism for the periodic systematic review of all existing medical treatment protocols. All deviations from the approved medical treatment protocols shall be thoroughly documented by the department's health care staff and shall be systematically reviewed by the department's peer review and quality assurance panel.

Sec. 9. In developing medical treatment protocols for the clinics, the medical director shall define the circumstances under which chronically ill inmates should return to the chronic care clinics for check-ups and when appointments should be made for chronically ill inmates to next be examined by health care staff. In developing and implementing medical treatment protocols for clinics for the detection and treatment of communicable diseases, the medical director shall ensure that the medical treatment protocols include:

(1) Provisions allowing for the routine immunization against communicable diseases of all inmates upon entering the custody of the department;

(2) Provisions requiring all inmates to be screened for communicable diseases, including (a) human immunodeficiency virus, (b) hepatitis A virus, (c) hepatitis B virus, (d) hepatitis C virus, (e) tuberculosis, and (f) sexually transmitted diseases, both at the time that those inmates enter into the custody of the department and at the time that those inmates leave the custody of the department;

(3) Provisions requiring any inmate found to be infected with any of the diseases referenced in subdivision (2) of this section, when medically indicated, to be immediately referred to an infectious disease specialist for appropriate treatment;

(4) Provisions describing in detail those circumstances when it is medically desirable, because of risk to other noninfected inmates, to segregate, on an individual basis, any inmate found to be infected with the human immunodeficiency virus and also describing those circumstances when there is no longer a perceived medical need to continue the segregation of such an inmate;

(5) Provisions requiring that all health care staff who provide health care services be screened for communicable diseases, including (a) human immunodeficiency virus, (b) hepatitis A virus, (c) hepatitis B virus, and (d) hepatitis C virus, upon their entry into the employment of the

department, and that all health care staff also be screened annually for tuberculosis; and

(6) Provisions allowing for employees of the department who come into immediate personal contact with the inmates to be immunized for hepatitis B virus.

Sec. 10. The medical director shall develop and implement medical treatment protocols regarding the use of drugs, devices, or biologicals for the treatment of inmates and shall ensure that those protocols are consistent with a community standard of health care. In developing these protocols, the medical director shall ensure that the medical treatment protocols include:

(1) Provisions requiring that only the relevant health care staff is involved in determining the number and dosages of the drugs, devices, or biologicals to be received by inmates under their care;

(2) Provisions establishing a system for monitoring the administration of drugs, devices, or biologicals to ensure that all prescribed drugs, devices, or biologicals are made available to the inmates; and

(3) Provisions establishing a system for monitoring and removing expired drugs, devices, or biologicals within the department's medication inventory which conforms with the requirements of section 71-2413.

Sec. 11. The medical director shall develop and implement medical treatment protocols for common surgical procedures. In developing these protocols, the medical director shall ensure that the medical treatment protocols include:

(1) Provisions defining procedures that are considered to be major surgery;

(2) Provisions requiring that all inmates needing major surgery are referred to appropriate specialists and facilities outside of the department for that surgery;

(3) Provisions requiring the implementation of pain management measures within an appropriate time after the completion of surgical procedures;

(4) Provisions requiring that all decisions by the health care staff regarding whether or not surgery should be performed are based on a community standard of health care; and

(5) Provisions requiring the health care staff to carefully document the rationale for each of their decisions to resort to surgery or to refrain from surgery as a treatment option.

Sec. 12. The peer review and quality assurance program developed and implemented by the medical director shall provide for the ongoing review of the quality of health care services. This peer review and quality assurance program shall be carried out by a peer review and quality assurance panel comprised of medical doctors providing health care services and such other health care staff as the department designates. The peer review and quality assurance program shall be conducted through regular periodic meetings of the peer review and quality assurance panel for the purpose of examining issues pertaining to the quality of health care services. The peer review and quality assurance panel shall also conduct a regular review of selected cases arising in order to identify, critique, and correct errors in the practices and procedures of the health care staff. The peer review and quality assurance panel shall also review (1) all cases in which there has been a death of an inmate and (2) all cases in which there have been deviations from the approved medical treatment protocols of the department. The medical director shall develop and implement a procedure for the direct feedback to the peer review and quality assurance panel of inmate complaints and other information from inmates pertaining to health care services. A permanent record of the meetings and deliberations of the peer review and quality assurance panel shall be maintained, but the records and all other evidence pertaining directly to the deliberations of the peer review and quality assurance panel are not subject to discovery in any civil action arising out of the health care services provided by or on behalf of the department.

Sec. 13. The department shall seek accreditation of its medical program by the American Correctional Association Commission on Accreditation for Corrections.