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		HEALTH CARE RECORDS	

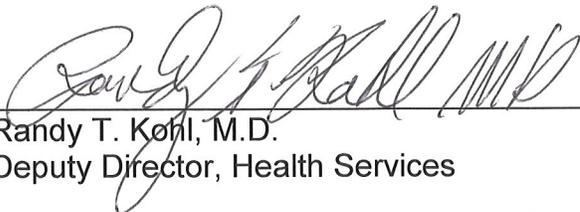
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SUMMARY of REVISION/REVIEW

Annual Review completed: Added drug testing section on attachment A and section I, 4. Record retention clarification section IV. Added information to x-ray copies section.

APPROVED:



 Randy T. Kohl, M.D.
 Deputy Director, Health Services



 Scott R. Frakes, Director
 Nebraska Department of Correctional Services

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PURPOSE

To provide a standard method for maintaining written documentation of all health care services provided to inmates. To provide access to health care records for inmates, offenders, parolees and discharged inmates.

GENERAL

It is the policy of the Nebraska Department of Correctional Services (NDCS) that a standard system shall be established and maintained for inmate health care records to ensure availability to comprehensive information and to maintain confidentiality requirements. The inmate's health care record serves as the single comprehensive source of accurate chronological documentation of all health care provided to an inmate in a NDCS facility and will be consistent with current and subsequent revisions of State and Federal requirements and NDCS policy.

This policy applies to all facilities and programs.

DEFINITIONS

Health care records – Means an inmate's medical or mental health records.

Medical records – Means a provider's record of a patient's health history and treatment rendered.

Mental health records – Means medical records or parts thereof created by or under the direction or supervision of a licensed psychiatrist, a licensed psychologist, or a mental health practitioner licensed or certified pursuant to the Mental Health Practice Act.

Inmate – Means a current or former offender, parolee, or discharged inmate.

Inmate request or request of an inmate – Includes the request of a patient's guardian or other authorized representative.

Need to Know – A condition or situation in which the sharing of an inmate's protected health information is necessary or desirable for a specified staff member to render services to on or behalf of that inmate. Such services may include, but are not limited to, provision of health care, transportation, continuity of care, and program assignment.

Provider – Means a physician, psychologist, chiropractor, dentist, infirmary, clinic, and any other licensed or certified health care practitioner or entity.

PROCEDURES

I. CONTENTS

The health care record (paper and/or electronic) is complete and contains the following items filed in a uniform manner:

- A. Patient identification on each sheet;
- B. A completed receiving screening form;
- C. Health appraisal data forms;

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- D. A problem summary list;
- E. A record of immunizations;
- F. All findings, diagnoses, treatments, and dispositions;
- G. A record of prescribed medications and their administrative records (this information will be obtained from CIPS) , if applicable;
- H. Laboratory, x-ray, and diagnostic studies;
- I. The place, date, and time of health encounters;
- J. Health service reports (for example, emergency department, dental, mental health, optometry, telemedicine, or other consultations);
- K. An individualized treatment plan, when applicable;
- L. Progress reports;
- M. A discharge summary of hospitalization and other termination summaries;
- N. A legible signature (includes electronic) and the title of the provider (may use ink, type, or stamp under their signature);
- O. Consent and refusal of treatment forms; and
- P. Release of information form or authorization for disclosure of health information.

The method of recording entries in the health care records, the form and format of the health care records, and the procedures for their maintenance and safekeeping shall be approved by the NDCS health authority (Attachments A & B). The health care record is made available to, and is used for documentation by all providers.

II. CONFIDENTIALITY

Each institution upholds the principle of confidentiality. The principle of confidentiality protects inmates from disclosure of confidences entrusted to a health care provider during the course of treatment and supports the following requirements:

- A. The active health care record shall be maintained separately from the confinement case record.
- B. The confidentiality of inmate health care records and copies of health care records will be governed by Nebraska Revised Statute §83-178 and American Correctional Association Standards for Adult Correctional Institutions 4-4396.

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- C. Access to the health care record is controlled by the institutional health care coordinator/designee.
 - 1. Access to an inmate's health records shall be limited to professional health personnel involved in delivery or continuity of health services to or for the inmate.
 - 2. Any employee who possesses confidential information in his/her office shall lock office doors and/or filing cabinets that contain protected health information. No information of this nature shall be stored in general view.
- D. The institutional health care coordinator/designee shares with the Warden/designee information regarding an inmate's medical management, security and ability to participate in programs as appropriate.
- E. The circumstances are specified when correctional staff should be advised of an Inmate's health status. Only that information necessary to preserve the health and safety of an inmate, other inmates, volunteers, visitors, or the correctional staff is provided.
- F. Policy determines how information is provided to correctional and classification staff, volunteers, and visitors to address the medical needs of the inmate as it relates to housing, program placement, security, and transport.
- G. No employee shall discuss protected health information heard, viewed, or otherwise obtained during their duties with other staff, inmates or other individuals who have no need to know.

III. TRANSFER of RECORDS

Non-emergency offender transfers require the following:

- A. Health record confidentiality is to be maintained.
- B. Summaries, originals, or copies of the health record accompany the inmate to the receiving facility. Health conditions, treatments, and allergies should be included in the record.
- C. Determination of suitability for travel based on medical evaluation is made, with particular attention given to communicable disease clearance.
- D. Written instructions regarding medication or health interventions required enroute should be provided to transporting officers separate from the medical record.
- E. Specific precautions (including standard) are to be taken by transportation officers (for example, masks or gloves).
- F. A medical summary sheet is required for all inter- and intrasystem transfers to maintain the provision of continuity of care. Information included does not require a release of information form.

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- G. Health record information is transmitted to specific and designated physicians or medical facilities in the community upon the written request or authorization of the offender.

IV. INACTIVE RECORDS

Inactive inmate health care records are retained for ten years (TSCI) and five years (all other NDCS facilities) after the date of discharge from incarceration or parole. Files may then be destroyed.

V. ACCESS TO HEALTH CARE RECORDS

This section provides guidelines by which an inmate may obtain access to or copies of his/her NDCS health care record, which will include the medical, dental, and eye clinic records.

Pursuant to Nebraska Revised Statute §83-178, an inmate or legal representative of the inmate may obtain access to the inmate's NDCS health care record. An inmate health care record may also be made available to other persons pursuant to an inmate's written authorization. Access to mental health or psychiatric records may be denied if any treating Physician, Psychologist or Mental Health Practitioner determines in his/her professional opinion that release of the records would not be in the best interest of the patient, unless the release is required by court order. This policy does not authorize one inmate to designate another inmate as a representative.

- A. An inmate may request to examine his/her personal health care record by submitting a written Interview Request form to the facility's Medical Department. A parolee or discharged inmate should submit a request in writing to the NDCS Medical Department to examine his/her personal health care record.
- B. The request and any authorization shall be in writing and shall be valid for 180 days after the date of execution by the inmate.
- C. Upon receiving a written request for a copy of the inmate's medical records, the provider shall furnish the person making the request a copy of such records not later than 30 days after the written request is received.
- D. Upon receiving a written request to examine the inmate's medical record, the provider shall, as promptly as required under the circumstances but no later than ten days after receiving the request:
1. Make the medical records available for examination during regular business hours;
 2. Inform the inmate if the records do not exist or cannot be found;
 3. If the provider does not maintain the records, inform the inmate of the name and address of the provider who maintains such records, if known; or if unusual circumstances have delayed handling the request, inform the inmate in writing of the reasons for the delay and the earliest date, not later than 21 days after receiving the request, when the records will be available for examination. If there is a delay of greater than 10 days, medical staff will

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document the circumstances for the delay in the health care record on the chronological record of the Medical Care form.

- E. Appointment times to review health care records will not exceed 30 minutes. If an inmate requires additional time, a longer appointment or additional appointments will be scheduled.
- F. Inmates will be allowed to use writing materials (pencils/paper) during the review process in accordance with established security practices.
- G. Destruction, alteration or tampering with the health care file by the inmate may result in disciplinary action.
- H. Inmates will be provided a means to identify pages to be photocopied if so desired.
- I. Medical staff will remove the following sections from the health care record prior to allowing the inmate access to it.
 - 1. History section (pertains to care received prior to incarceration).
 - 2. Psychiatric/mental health section.
 - a. The Department retains the authority to withhold mental health and psychiatric/psychological records of the inmate when appropriate.
 - b. Prior authorization from the Medical Director/designee must be obtained before allowing inmate access to this information.
 - 3. Miscellaneous Section
 - 4. Drug Testing Section
 - 5. Documents containing dates of future scheduled procedures.
- J. The inmate will review the health care record under the direct supervision of designated NDCS staff. Specific information must be reviewed in the presence of a physician, mid-level provider, licensed nurse, or medical records clerk. Confidentiality of the information within the inmate health care record will be maintained at all times.
- K. Staff monitoring the inmate will not interpret information within the health care file.
- L. Health care staff will document on the Chronological Record of Medical Care form the date and time the inmate review took place and file the form in the appropriate health care record.
- M. An inmate may give his/her authorized representative (legal guardian, attorney, power of attorney or representative of the Office of Public Counsel) permission to review and/or request copies of his/her personal NDCS health care record.

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This authorization must be submitted in writing by the inmate identifying the specific authorized representative. The authorized representative must also make a request for this information.

N. Inmates or their authorized representatives may request copies of authorized portions of their health care record. The inmate must authorize this request in writing. The inmate must specify which pages are to be photocopied and submit a NDCS Institutional Check for the cost of the copies. Photocopies of the requested portion of the health care record will be provided no later than fifteen days after receipt of the written request.

1. Pursuant to Administrative Regulation 113.02, *Inmate Accounting*, a fee of \$.10 per copy shall be charged for records except as follows:

- a. When provided to the Office of Public Counsel pursuant to statutory authority.
- b. When provided to health care providers.
- c. When the information is to be used in support of an application for disability or other benefits of assistance. This would also include information requested during the appeal process related to the denial of such benefits or assistance.

2. NDCS may also charge a reasonable fee to duplicate medical records which cannot be routinely copied or duplicated on a standard photocopy machine (x-rays, photographs, etc.). If the provider does not have the ability to reproduce x-rays or other records requested, the person making the request may arrange, at his or her expense, for the reproduction of such records. NDCS will only provide copies of x-rays which were obtained within an NDCS facility. Any x-rays obtained off-site will need to be requested through the applicable provider. NDCS will mail x-ray images to medical providers only. If an inmate requests x-ray copies to be provided to another third party, such as a family member, the third party will need to pick up the x-ray images in person. Before any x-ray images will be released, the requesting party must pay for the copies of the x-ray images at a cost \$10.00.

3. Inmates will be allowed to write non-sufficient fund checks for copies of their health care records.

VI. TAKING HEALTH CARE RECORDS OFF-SITE

- A. Health Care records should only be taken off-site with the approval of the employee's immediate Supervisor. Security of these records should be paramount, especially in the case of confidential health care records.
- B. Health care records should never be left unattended (e.g., in the car)
- C. It is essential that any such health care records are tracked out of the Department to ensure staff is aware of the location of the health care record(s).

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- D. If health care records are lost or stolen, this information must be reported on an Incident Report in accordance with NDCS policy and the employee's immediate Supervisor notified at the earliest possible opportunity.

REFERENCES

I. STATE STATUTES

Nebraska Revised Statute §83-178 and
Nebraska Revised Statutes §71-8401 THROUGH §71-8407

II. ADMINISTRATIVE REGULATION - A. R. 113.02, *Inmate Accounting*

III. ATTACHMENTS –

- A. Medical Record Directory
- B. Infirmary Chart Order
- C. Medical Records Directory – Thinning Guidelines

IV. AMERICAN CORRECTIONAL ASSOCIATION (ACA) STANDARDS

- A. Standards for Adult Correctional Institutions (ACI) (4th Edition): 4-4396, 4-4413, 4-4414, and 4-4415,
- B. Performance Based Standards for Adult Community Residential Services (ACRS) (4th edition): 4-ACRS-4C-22, 4-ACRS-4C-23, and 4-ACRS-4C-24