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		HUNGER STRIKES, SERIOUS ILLNESS or INJURY, ADVANCE DIRECTIVES and DEATH	

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SUMMARY of REVISION/REVIEW

Title changed. Incorporated policy relative to inmate hunger strikes.

APPROVED:



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PURPOSE

To provide information and outline health procedures regarding serious illness or injury, advance directives and death of an inmate under the jurisdiction of the Nebraska Department of Correctional Services (NDCS).

GENERAL

This Administrative Regulation (AR) provides policy and procedure for the proper notification of designated individuals in the event of serious illness or injury of an inmate, the use of "Advance Directives" in the withholding or withdrawal of medical treatment under certain conditions and the death of an inmate.

PROCEDURE

I. HUNGER STRIKES

- A. When any inmate announces that he/she is on a hunger strike staff will meet with the inmate to verify that a hunger strike is in progress and if possible, determine the inmate's reason(s) for the strike.
- B. Staff will notify the Warden/designee and Institutional Officer of the Day (OD). The Institutional Officer of the day (OD) will notify the Central Office OD/designee only after it has been determined that the inmate has missed and/or refused nine consecutive meals/three days.
- C. The Warden/designee will contact the Health Services staff and Mental Health staff to decide if the involved inmate has a medical, physical and/or mental health condition that a hunger strike could aggravate (diabetes, kidney failure, heart condition, on medications that must be taken with meals, etc.). An inmate with a pre-existing medical condition or demonstrating mental instability may be transferred to a skilled nursing facility (SNF) within NDCS or a local community hospital to receive treatment appropriate to medical and hospital protocol.
- D. The Warden/designee, Health Services staff, Mental Health staff member and Unit Management staff member will determine the appropriate housing or classification assignment for the hunger-striking inmate. The inmate may be retained in general population, a restrictive housing unit or a SNF setting depending on the situation, circumstances and level of supervision required to adequately care for the inmate. An inmate assigned to community custody that declares a hunger strike may be classified to a custody level that offers closer supervision and care.
- E. If the inmate has already been assigned to, or is in restrictive housing, any meals, food items and/or fluids consumed by the inmate during the duration of the hunger strike shall be documented.
- F. If the inmate is in General Population, staff will:
 1. Monitor any meals, food items, and/or fluids consumed by the inmate, when possible, during the duration of the hunger strike and document such consumption.

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2. Monitor any food items given to the inmate by other inmates or purchased from the canteen, when possible, and document such transactions.
3. Observe the inmate on a routine basis (once per shift at a minimum) and note behavioral changes and/or evidence of physical/mental deterioration. Any observations of behavioral changes and/or evidence of physical/mental deterioration will be documented by Incident Report.
4. Advise the Warden/designee, Health Services staff and Institutional OD daily of the status of the inmate by Incident Report. Urgent notifications will be made by telephone.

G. Health Services staff will review the status of the inmate on a hunger strike after 48 hours to determine if hospitalization or other medical intervention is necessary, and follow daily, thereafter. If transfer is deemed necessary due to compelling reason(s), the Warden/designee/OD will be notified by the Health Services Authority and arrangements will be made to have the inmate moved. The Central Office OD will be notified through the office of the Warden/designee/OD.

H. The Health Services staff, Mental Health staff and Unit Management staff will evaluate the inmate's status once the inmate resumes eating regular meals (not merely drinking liquids). The Warden/designee and Institutional OD will be notified when the hunger strike ends and will determine when the inmate will be returned to his/her pre-hunger strike status. The Warden/designee will notify the Central Office OD that the hunger strike has ended.

I. If the inmate was hospitalized, applicable Unit Management staff and Health Services staff will prepare a summary of the incident that will be placed in the inmate's institutional file.

J. Following resumption of pre-hunger strike status, staff will continue to monitor if the inmate is eating routine meals in the dining hall/restrictive housing unit or obtaining food from the Canteen/other inmates. (Duration of monitoring will be at the discretion of the applicable Unit Management staff following consultation with Mental Health staff.)

II. SERIOUS ILLNESS or INJURY

Each Institution and program shall adopt procedures to ensure that those individuals designated by the inmate are notified in the event of serious illness, injury or major surgery. Permission for notification shall be obtained in advance from the inmate when possible.

III. ADVANCE DIRECTIVES

As provided in Nebraska Statute 20-401 et. seq. adult inmates have a right to direct their medical treatment. One method of such direction is by use of an advance directive, which may direct that certain medical treatment be withheld or withdrawn in the event the inmate develops an incurable and irreversible condition that will cause death within a relatively short time or lapse into a persistent vegetative state.

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An advance directive shall become a part of the inmate's medical file and shall be called to the attention of staff providing medical treatment. In the event an inmate is transferred from a NDCS facility to a community health care facility, a copy of the inmate's advance directive shall be transferred to the community facility.

If an inmate suffers a life-threatening event while incarcerated, staff shall render first aid, when appropriate, including CPR, etc., pending the transfer of the inmate to an area where he/she will be under the direct supervision of medical personnel.

Forms to be utilized for advance directives will be available in the designated location in each facility. Any such documents must be notarized by NDCS staff. (Attachment A)

An advance directive becomes effective 1) when it is communicated to the attending physician; 2) when the attending physician determines the declarant is in a terminal condition or persistent vegetative state; 3) when the declarant is unable to make decisions regarding administration of life-sustaining treatment; and 4) when the attending physician had notified any reasonable, available member of the declarant's family of his or her diagnosis and of the intent to invoke the declaration.

An advance directive may be revoked by the maker at any time. Any such revocation shall be noted in the inmate's medical file.

IV. DURABLE POWER OF ATTORNEY FOR HEALTH CARE (Attachment B)

Nebraska Statute in section 30-3401 et. seq. allows a competent adult to designate another person to make healthcare and medical treatment decisions if the adult becomes incapable of making such decisions. Inmates who meet the definition of competent adult shall be allowed to name another competent adult as attorney in fact for health care decisions in accordance with Nebraska law. A successor attorney in fact for health care decisions may also be named. Because of safety and security concerns of NDCS, an inmate may not name another person incarcerated within NDCS as attorney in fact or successor for health care decisions.

V. DO NOT RESUSCITATE ORDER

A physician may enter a Do Not Resuscitate order in the medical record after consultation with the patient, family, and/or the Designated Power of Attorney for Health Care. Such order may be rescinded at any time at the request of the patient, family, and/or the Designated Power of Attorney for Health Care.

VI. INMATE DEATH

After the death of an inmate, the institution having custody of the inmate shall do the following:

- A. Immediately notify the Director of NDCS by following the appropriate chain of command. Also notify Deputy Director Health Services, the State Patrol, the County Sheriff and the County Attorney/Coroner. The initial notification should include information regarding the apparent cause of death.
- B. Inmate remains should not be removed until the County Coroner approves. Upon approval, the inmate's remains will be transferred to the facility designated by the

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Warden/Program Administrator. The county attorney will authorize the performance of an autopsy.

- C. Contact the inmate's immediate family or designated person(s) to give notice of the death and to receive instruction regarding the disposition of the remains. The following options are available for burial/cremation arrangements:
1. If an effort has been made to locate the immediate family or designated person(s) at the time of serious illness or surgery, and the effort has not been successful, and the institution is of the opinion that further searches would not be successful, the institution may make arrangements for burial or cremation without waiting for the immediate family designated person(s) to claim the body. No actual service will be held. All cremation arrangements and expenses will be handled by NDCS with the mortuary of our choice. The burial will be at Wyuka Cemetery in Lincoln. The facility will need to submit a Material Request for Purchase for the entire cost of the arrangements for the burial costs. The invoice should be submitted to NDCS Accounts Payable.
 2. If an inmate has immediate family or designated person(s) who are located they should be presented with the following options:
 - a. Claim the body and be responsible for all burial and funeral related expenses minus a payment made to the mortuary by NDCS at a predetermined rate. The predetermined rate will be set annually by the Director on July 1 of each fiscal year. NDCS will only make payment directly to the funeral home, no exceptions. The family is responsible for advising NDCS of the mortuary that will be handling the arrangements. The facility will need to submit a Material Request for Purchase and send a letter to the mortuary advising the amount that NDCS will pay; any expenses above that amount is the responsibility of the family or designated person(s) and an invoice for amount specified in the letter should be sent to NDCS Accounts Payable.
 - b. The family or designated person(s) would like to receive the ashes but does not want to handle any of the arrangements. No actual service will be held and all decisions rest with NDCS. All cremation arrangements and expenses will be handled by NDCS with the mortuary of our choice. The facility will need to submit a Material Request for Purchase for the entire cost of the arrangements and advise the mortuary to send the invoice to NDCS Accounts Payable. The family or designated person(s) will be responsible for the transportation or other expenses to receive the ashes.
 - c. The family or designated person(s) does not want any involvement with the arrangements or the ashes. No actual service will be held and all decisions rest with NDCS. All cremation arrangements and expenses will be handled by NDCS with the mortuary of our choice. The burial will be at Wyuka Cemetery in Lincoln. The facility will need to submit a Material Request for Purchase for the entire cost of

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the arrangements for the burial costs. The invoice should be submitted to NDCS Accounts Payable.

- d. Claim the body and be responsible for all burial and funeral related expenses and refuse any funds from NDCS.
3. Money on the inmate's account will be handled as follows:
 - a. NDCS will retain funds up to the total expenses incurred by the department in the options 2. a. b. or c. listed above. Any remaining funds will be in the form of a check made payable to the estate of the inmate and sent to the immediate family or designated person(s) claiming the remains.
 - b. Under option d. above NDCS will send all funds to the immediate family or designated person(s) claiming the remains. The check will be made payable to the estate of the inmate.
 - c. Should no family be located funds will be disposed of pursuant to Nebraska Statutes Section 83-153 et. seq.
 4. Any personal property belonging to the inmate should be delivered to the immediate family or designated person(s).
 5. If possible a written statement refusing the remains shall be taken from a family member/designated person stating that the family/designated person refuses the remains and desires the State to assume the responsibility for burial or cremation.
- D. Determine whether or not the inmate was an honorably discharged veteran of the United States Armed Forces. If the inmate was a veteran, and the remains are not claimed by the immediate family or designated person(s), NDCS must arrange for the burial/cremation of the inmate and may apply to the County Veteran's Affairs Officer to partially defray the cost of such. The County Veteran's Affairs Officer should be notified to send the payment directly to NDCS Accounting. A copy of the application should be sent to NDCS Accounting.

REFERENCE

- I. ATTACHMENTS
 - A. Nebraska Declaration
 - B. Durable Power of Attorney for Health Care
- II. AMERICAN CORRECTIONAL ASSOCIATION (ACA) STANDARDS
 - A. Standards for Adult Correctional Institutions (ACA) (4th edition): 4-4395, 4-4425.

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- B. Performance Based Standards for Adult Community Residential Services (ACRS) (4th edition) 4-ACRS-4C-21, 4-ACRS-7D-15