## SUMMARY of REVISION/REVIEW

Title changed. Hunger Strikes moved to AR 115.06.

### APPROVED:

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PURPOSE

To provide information and outline health procedures regarding serious illness or injury, advance directives and death of a patient 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 a patient, the use of “Advance Directives” in the withholding or withdrawal of medical treatment under certain conditions and the death of a patient.

PROCEDURE

I. SERIOUS ILLNESS or INJURY

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

II. ADVANCE DIRECTIVES

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of such direction is by use of an advance directive, which may direct that certain medical treatment be withheld or withdrawn in the event the patient develops an incurable and irreversible condition that will cause death within a relatively short time or lapse into a persistent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

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

If a patient suffers a life-threatening event while incarcerated, staff shall render first aid, when appropriate, including CPR, etc., pending the transfer of the patient 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 patient’s medical file.
III. 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. Patients 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, a patient may not name another person incarcerated within NDCS as attorney in fact or successor for health care decisions.

IV. 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.

V. PATIENT DEATH

After the death of a patient, the institution having custody of the patient shall do the following:

A. Immediately notify the Director of NDCS by following the appropriate chain of command. Also notify the Medical Director, the State Patrol, the County Sheriff and the County Attorney/Coroner. The initial notification should include information regarding the apparent cause of death.

B. Patient remains should not be removed until the County Coroner approves. Upon approval, the patient’s remains will be transferred to the facility designated by the Warden/Program Administrator. The county attorney will authorize the performance of an autopsy.

C. Contact the patient’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 a patient has immediate family or designated person(s) who are located they should be presented with the following options:

   a. 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.

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

c. Claim the body and be responsible for all burial and funeral related expenses and refuse any funds from NDCS.

3. Money on the patient’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. or b. listed above. Any remaining funds will be in the form of a check made payable to the estate of the patient and sent to the immediate family or designated person(s) claiming the remains.

b. Under option c. 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 patient.

c. Should no family be located funds will be disposed of pursuant to Nebraska Statues Section 83-153 et. seq.

4. Any personal property belonging to the inmate shall be held pending the outcome of the required grand jury investigation. As soon as possible after the completion of the grand jury investigation, all 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 patient was an honorably discharged veteran of the United States Armed Forces. If the patient 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 patient 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


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