

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 154
FINAL READING

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

Read first time January 4, 2001

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to correctional services; to adopt the Nebraska
- 2 Correctional Health Care Services Act.
- 3 Be it enacted by the people of the State of Nebraska,

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

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

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

10 (2) Department means the Department of Correctional
11 Services;

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

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

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

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

25 Sec. 4. The Director of Correctional Services shall
26 appoint a medical director for the department who shall be a
27 medical doctor. The medical director shall be a person familiar
28 with principles of quality assurance and internal credentialing

1 procedures and shall be under the sole immediate supervision of the
2 Director of Correctional Services.

3 Sec. 5. The medical director shall:

4 (1) Coordinate all clinical services;

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

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

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

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

23 (6) Develop and implement condition-specific medical
24 treatment protocols that ensure compatibility with a community
25 standard of health care, including protocols addressing the: (a)
26 Treatment of gastrointestinal bleeds; (b) detection and treatment
27 of all communicable diseases; (c) treatment of gender-specific
28 problems; (d) treatment of diabetes; (e) treatment of hypertension;

1 (f) treatment of headaches; (g) utilization of surgical procedures;
2 (h) control of infection; (i) provision of dental care; (j)
3 provision of age-specific and gender-specific routine health
4 maintenance; (k) means by which inmates obtain access to health
5 care services; (l) use of prescribed drugs, devices, or biologicals
6 for the purpose of pain management; (m) referral of patients to
7 medical specialists not in the employ of the department; and (n)
8 initiation, observance, and termination of do not resuscitate
9 orders initiated pursuant to the Rights of the Terminally Ill Act;

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

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

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

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

22 Sec. 6. The internal credentialing program shall include
23 for each health care staff member being considered for employment
24 or retention (1) an investigation of the history of the health care
25 staff member using (a) when possible, the national practitioner
26 data bank under the federal Health Care Quality Improvement Act of
27 1986, 42 U.S.C. 11101 et seq., as such act existed on the effective
28 date of this act, and (b) contacts with prior employers of the

1 health care staff member and (2) confirmation of all professional
2 permits, licenses, or other authorizations to practice of the
3 health care staff member. The medical director shall maintain a
4 credentialing file for all health care staff members employed by
5 the department. The medical director shall ensure the
6 recredentialing of each health care staff member employed by the
7 department every two years.

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

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

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

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

27 Sec. 8. All medical treatment protocols developed,
28 approved, and implemented by the department shall be based upon a

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

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

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

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

1 department and at the time that those inmates leave the custody of
2 the department;

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

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

14 (5) Provisions requiring that all health care staff who
15 provide health care services be screened for communicable diseases,
16 including (a) human immunodeficiency virus, (b) hepatitis A virus,
17 (c) hepatitis B virus, and (d) hepatitis C virus, upon their entry
18 into the employment of the department, and that all health care
19 staff also be screened annually for tuberculosis; and

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

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

1 include:

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

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

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

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

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

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

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

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

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

4 Sec. 12. The peer review and quality assurance program
5 developed and implemented by the medical director shall provide for
6 the ongoing review of the quality of health care services. This
7 peer review and quality assurance program shall be carried out by a
8 peer review and quality assurance panel comprised of medical
9 doctors providing health care services and such other health care
10 staff as the department designates. The peer review and quality
11 assurance program shall be conducted through regular periodic
12 meetings of the peer review and quality assurance panel for the
13 purpose of examining issues pertaining to the quality of health
14 care services. The peer review and quality assurance panel shall
15 also conduct a regular review of selected cases arising in order to
16 identify, critique, and correct errors in the practices and
17 procedures of the health care staff. The peer review and quality
18 assurance panel shall also review (1) all cases in which there has
19 been a death of an inmate and (2) all cases in which there have
20 been deviations from the approved medical treatment protocols of
21 the department. The medical director shall develop and implement a
22 procedure for the direct feedback to the peer review and quality
23 assurance panel of inmate complaints and other information from
24 inmates pertaining to health care services. A permanent record of
25 the meetings and deliberations of the peer review and quality
26 assurance panel shall be maintained, but the records and all other
27 evidence pertaining directly to the deliberations of the peer
28 review and quality assurance panel are not subject to discovery in

1 any civil action arising out of the health care services provided
2 by or on behalf of the department.

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