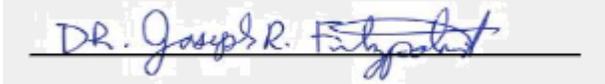


<b>POLICY TITLE: ACCESS TO HEALTH CARE SERVICES</b>		<b>PAGE <u>1</u> OF <u>10</u></b>
<b>POLICY NUMBER: 18.3</b>		
<b>CHAPTER 18: HEALTH CARE SERVICES</b>		
	<b>STATE of MAINE</b> <b>DEPARTMENT OF CORRECTIONS</b>  <b>Approved by Commissioner:</b> 	<b>PROFESSIONAL STANDARDS:</b>  <b>See Section VII</b>
	<b>EFFECTIVE DATE:</b> <b>August 4, 2003</b>	<b>LATEST REVISION:</b> <b>July 3, 2018</b>

**I. AUTHORITY**

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

**II. APPLICABILITY**

All Departmental Adult Facilities

**III. POLICY**

Access to necessary health care services is a right, rather than a privilege. Each prisoner shall have unimpeded access to necessary health care services provided by qualified health care professionals licensed by the State of Maine.

The Department also recognizes the rights of a prisoner to choose not to accept the care and treatment recommended by qualified health care professionals after the prisoner has been provided factual information regarding their choices and provided the prisoner is competent to make that choice.

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**V. ATTACHMENTS**

- Attachment A: Advance Directive Information and Form
- Attachment B: Consent to Medical, Dental and Mental Health Treatment Form

- Attachment C: Sick Call Slip
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- Attachment E: Refusal of Treatment Form

**VI. PROCEDURES**

**Procedure A: Advance Directive**

1. During the facility orientation process, the prisoner shall be provided information by the prisoner’s case manager, or other designated staff, about the availability of an Advance Directive (Attachment A, Advance Directive Information and Form).
2. Upon request made to the prisoner’s case manager at any time, information regarding an Advance Directive and a copy of the form shall be made available to a prisoner.
3. Only a competent prisoner may complete an Advance Directive. In addition, it must be the opinion of the facility physician that the prisoner meets one of the following criteria:
  - a. is terminally ill;
  - b. has advanced cardiac, respiratory, or vascular disease; or
  - c. has suffered a vital organ failure.
4. If a prisoner has a question related to an Advance Directive, the case manager shall direct the prisoner to medical staff.
5. If a prisoner wishes to complete an Advance Directive, the prisoner shall make a request to meet with the facility physician, physician’s assistant, or nurse practitioner.
6. The facility physician, physician’s assistant, or nurse practitioner shall review the prisoner’s record to determine whether there is a question about the prisoner’s competency and to determine whether the prisoner meets at least one of the eligibility criteria for completing an Advance Directive.
7. If the physician, physician’s assistant, or nurse practitioner has a concern about the prisoner’s competency, the prisoner shall be referred to appropriate mental health care staff for a determination of competency.
8. The facility physician, physician’s assistant or nurse practitioner shall meet with the prisoner to either ensure the Advance Directive form is completed properly or to explain to the prisoner why the prisoner is not competent or does not meet the eligibility criteria to complete an Advance Directive.

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9. In addition, after determining the prisoner's competency and eligibility, the facility physician, physician's assistant, or nurse practitioner may initiate a discussion with a prisoner about the availability of an Advance Directive.
10. The facility physician, physician's assistant, or nurse practitioner shall meet on annual basis with any prisoner who has an Advance Directive to review whether the prisoner wishes to continue with the directive or to revoke it.
11. A completed Advance Directive form shall be included in the legal section of the prisoner's electronic health care record and an entry shall be made under special needs indicating the existence of the directive.
12. Only the Department of Corrections' Advance Directive form shall be accepted and placed into the prisoner's electronic health care record.
13. The prisoner's electronic health record shall reflect all meetings related to the completion of the Advance Directive, the date and time the Advance Directive went into effect, and which of the eligibility criteria was met.
14. An Advance Directive shall be complied with by medical staff except in the case of a life-threatening condition brought about by a suicide attempt or other self-injurious behavior.
15. Non-health care staff shall take all measures to provide resuscitative care to a prisoner with an Advance Directive, unless directed otherwise by medical staff.
16. If the medical care of a prisoner who has an Advance Directive is turned over to an emergency medical service provider or a hospital, medical staff shall inform the provider or hospital of the existence of the Advance Directive, and a copy of the Advance Directive shall be given to the provider or the hospital as soon as practical except in the case of a life-threatening condition brought about by a suicide attempt or other self-injurious behavior.
17. An Advance Directive may be revoked at any time by a prisoner, in writing or orally. An oral revocation made to non-medical staff shall be communicated to facility medical staff, who shall meet with the prisoner to confirm the revocation.
18. A revocation shall be noted as REVOKED on the Advance Directive form. The REVOKED Advance Directive form shall be placed in the legal section of the prisoner's electronic health care record and an entry shall be made under special needs indicating the ending of the directive.
19. The prisoner's electronic health record shall reflect all meetings related to the revocation of the Advance Directive and the date and time the Advance Directive was revoked.

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20. The Health Services Administrator (HSA), or designee, shall take steps to inform all medical staff as to which prisoners have a current Advance Directive, including, but not limited to, by posting a list in an area of the medical department not accessible to prisoners and by periodically briefing the medical staff.

**Procedure B: Informed Consent**

1. A prisoner shall be provided general information regarding access to medical, dental and mental health care as part of the admission health screening process. The prisoner shall be provided the Consent to Medical, Dental and Mental Health Treatment form (Attachment B) for completion after being provided the information. If a prisoner has a court appointed legal guardian for health care decisions, the health care staff shall contact the prisoner’s legal guardian to obtain consent.
2. If a prisoner refuses to sign the general Consent to Medical, Dental and Mental Health Treatment form, a prisoner may still consent to specific health care by submitting a prisoner Sick Call Slip (Attachment C).
3. For invasive medical or dental diagnostic or treatment procedures, the prisoner, or guardian, shall be provided information about the condition, the nature and duration, benefits, consequences, and risks of the proposed procedure, any alternatives or options to the proposed procedure, and the consequences of refusing the proposed procedure. After the prisoner, or guardian, has had the opportunity to consider this information, and if the prisoner, or guardian, consents by signing the Consent to Invasive Medical or Dental Procedures form (Attachment D), the procedure shall be provided.
4. Neither restraints, nor other form of physical force, nor the prisoner disciplinary process may be used to force unwanted treatment on a mentally competent prisoner.
5. In the event that a prisoner requires assistance to communicate effectively or understand health care treatments or instructions, the facility shall provide an interpreter, assistive device, or other necessary assistance.
6. Any time that there is a concern about the mental competency of a prisoner to make health care decisions, that prisoner shall be referred to appropriate mental health care staff for a determination of competency.
7. If appropriate mental health care staff determines that a prisoner is incompetent to make a health care decision and the prisoner has no legal guardian, the Chief Administrative Officer, or designee, shall contact Department of Health and Human Services, Adult Protective Services to request that agency initiate court proceedings for the appointment of a guardian.

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8. In an emergency in which a prisoner is unable to consent to or refuse treatment (is unconscious, unable to communicate, or disoriented) and where it is necessary to provide treatment before consent can be obtained, necessary treatment shall be provided, using only the degree of physical force necessary, unless the treatment is governed by an Advance Directive.

**Procedure C: Right to Refuse Medical Treatment**

1. In a situation where the prisoner refuses health care, health care staff shall provide the prisoner a Refusal of Treatment form (Attachment E) to sign. If the prisoner refuses to sign the form, the health care staff and a witness shall document the refusal on the form. It shall also be noted in the progress notes that the prisoner refuses care and refuses to sign the Refusal of Treatment form.
2. When a prisoner refuses to go to the medical department or other treatment area for a scheduled appointment or procedure, the prisoner shall be required to go to the medical department for health care staff to verify the refusal.
3. A situation in which a prisoner refuses to take medications that have been ordered shall be handled in accordance with Departmental Policy (AF) 18.7, Pharmaceuticals, Procedure M.
4. By refusing treatment at a particular time, the prisoner does not necessarily waive the prisoner's right to subsequent health care.

**Procedure D: Non-Emergency Medical and Dental Services**

1. The availability of sick call is determined by the ADP (Average Daily Population) of prisoners at the facility. Sick call shall be conducted a minimum of five (5) days per week for facilities with an ADP of more than 200 prisoners. In facilities with an ADP between 101 and 200 prisoners, sick call shall be conducted no less than three (3) days per week. In facilities with an ADP of less than 100 prisoners, sick call shall be conducted a minimum of two (2) days per week.
2. Non-emergency medical and dental services for prisoners shall consist of the following:
  - a. Prisoners shall have access to all non-emergency medical and dental services through the use of sick call slips. These forms shall be readily available to all prisoners and shall be collected by health care staff. Arrangements shall be made to assure that the information contained on the sick call slip is kept confidential.
  - b. The Medical Department at each facility shall establish a system to process sick call slips based on the principles of triage, scheduling, assessment, treatment and referral. In order to facilitate this, a prisoner submitting a sick call slip shall list on the slip all of the problems that he or she wishes to discuss with the health care staff and should not expect to discuss a

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problem not listed. The delivery of health care services shall be coordinated only by health care staff.

3. All non-emergency sick call slips shall be triaged by nursing staff within twenty-four (24) hours of receipt.
  - a. The prisoner shall be responded to by qualified health care staff within the next twenty-four (24) hours and, if medically necessary, evaluated by qualified health care staff within that time period.
  - b. If a problem listed on the sick call slip is indicative of a medical emergency, the triage nursing staff shall ensure that the prisoner is evaluated by qualified health care staff immediately.
  - c. When medically indicated, a referral shall be made by the evaluating nursing staff for the prisoner to be evaluated by a physician, physician's assistant or nurse practitioner within one (1) week of the referral.
  - d. If a prisoner submits a sick call slip more than two (2) times with the same problem and has not yet been evaluated by a physician, physician's assistant or nurse practitioner, the nursing staff shall refer the prisoner for evaluation by the physician, physician's assistant or nurse practitioner within one (1) week of the receipt of the last sick call slip.
4. The amount and frequency of physician, physician's assistant's or nurse practitioner's sick call is determined by the population of the facility using a minimum ratio of 3.5 hours per week per 100 prisoners.
5. Staff may initiate a non-emergency medical or mental health referral for a prisoner whom they believe is in need of medical or mental health treatment.
6. A prisoner whose custody prevents attendance at sick call shall be provided access to health care in the place where the prisoner is detained.
7. Non-emergency services for staff may include the following:
  - a. administration of Hepatitis B vaccine;
  - b. yearly Tuberculin testing;
  - c. fit testing for HEPA filter masks; and
  - d. basic first aid.
8. Non-emergency services for visitors and volunteers:
  - a. the Department provides no non-emergency treatment for visitors or volunteers.

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## **Procedure E: Emergency Medical and Dental Services**

1. Emergency health care services shall be available on a 24-hour, 365 days per year basis. The facility's health care department shall develop and maintain a written plan for obtaining and providing emergency medical, dental and mental health care. The plan shall include the following:
  - a. on-site emergency first aid and crisis intervention, including immediate medical examination and treatment of all persons injured in an incident;
  - b. emergency evacuation of the prisoner from the facility;
  - c. use of an emergency medical vehicle;
  - d. use of one or more designated hospital emergency rooms or other appropriate health facilities;
  - e. emergency on-call or available 24 hours per day, physician, dentist and mental health professional services when the emergency health facility is not located in a nearby community; and
  - f. security procedures providing for the immediate transfer of prisoners, when appropriate.
2. Health care, security, and other staff determined appropriate by the Chief Administrative Officer, shall be trained to respond within four (4) minutes as first responders to emergency health care situations. Annual training for first responders shall include recognition of signs and symptoms and knowledge of required actions in emergencies, administration of basic first aid, CPR, and methods of obtaining assistance, including assistance from poison control and transporting by Emergency Medical Services (EMS). The training shall also include signs and symptoms of mental illness, violent behavior, and acute chemical intoxication and withdrawal, developmental disability, suicide risk and suicidal behavior, and appropriate responses.
3. The Department's contractual health care provider shall make arrangements with a local EMS and hospital or health care facility to provide emergency transportation and emergency treatment and care.
4. At each facility the HSA, or designee, and mental health staff shall provide a list of on-call staff to be notified of medical and mental health emergencies.
5. The HSA, or designee, and mental health staff shall determine what equipment and supplies are needed for medical and mental health emergencies. The Chief Administrative Officer, or designee, shall determine the best means to secure the equipment and supplies.
6. The HSA, or designee, and mental health staff shall be responsible for the inspection, maintenance and replenishing of all emergency medical and mental health equipment and supplies.

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### **Procedure F: Grievance Mechanism**

1. Prisoners may file grievances relating to medical or mental health care using the health care grievance process set out in Department Policy (AF) 29.2, Prisoner Grievance Process, Medical and Mental Health Care.

### **Procedure G: Reimbursement for Health Care Services**

1. The Department's Director of Classification, or designee, shall notify the HSA of all prisoners transferred from other jurisdictions residing in the facility (prisoners transferred from other states, federal authorities, or county jails).
2. For off-site non-emergency health care services for a transferred prisoner residing in a Maine Department of Corrections facility, the HSA, or designee, shall obtain prior authorization for payment from the other jurisdiction.
3. For off-site emergency health care services for a transferred prisoner residing in a Maine Department of Corrections facility, the HSA, or designee, shall notify the other jurisdiction of the services provided as soon as possible.

### **Procedure H: Telemedicine Services**

1. The Health Services Administrator, or designee, shall incorporate real time telemedicine services as a modality to provide primary and specialty care to prisoners. A telemedicine appointment shall consist of a primary care provider, mental health professional or medical specialist providing services over a live, real time video connection to prisoners.
2. A prisoner shall be provided general information regarding telemedicine services which may be incorporated as a modality of access to care. In the event telemedicine services are utilized, a prisoner shall be provided a Consent to Treatment form for the prisoner's signature. Confidentiality of the prisoner's health care information shall be maintained at all times. Telemedicine services shall be documented and a copy of the report integrated into the prisoner's primary health care record.
3. Primary care providers, mental health providers and medical specialists shall determine if a prisoner's clinical presentation is appropriate for care provided over telemedicine. If deemed inappropriate, care shall be delivered as directed by the health care provider.

## **VII. PROFESSIONAL STANDARDS**

ACA:

**ACI - 4-4203 (MANDATORY)** Written policy, procedure, and practice provide that all persons injured in an incident receive immediate medical examination and treatment.

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**ACI - 4-4346** There is a process for all offenders to initiate requests for health services on a daily basis. These requests are triaged daily by qualified health care professionals or health trained personnel. A priority system is used to schedule clinical services. Clinical services are available to offenders in a clinical setting at least five days a week and are performed by a health care practitioner or other qualified health care professional.

**ACI - 4-4351** (MANDATORY) There is a written plan for access to 24-hour emergency medical, dental, and mental health services availability. The plan includes:

- on-site emergency first aid and crisis intervention
- emergency evacuation of the offender from the facility
- use of an emergency medical vehicle
- use of one or more designated hospital emergency rooms or other appropriate health facilities
- emergency on-call or available 24-hours per day, physician, dentist, and mental health professional services when the emergency health facility is not located in a nearby community
- security procedures providing for the immediate transfer of offenders, when appropriate

**ACI - 4-4389** (MANDATORY) Designated correctional and all health care staff are trained to respond to health-related situations within a four-minute response time. The training program is conducted on an annual basis and is established by the responsible health authority in cooperation with the facility or program administrator and includes instruction on the following:

- recognition of signs and symptoms, and knowledge of action required in potential emergency situations
- administration of basic first aid
- certification in cardiopulmonary resuscitation (CPR) in accordance with the recommendations of the certifying health organization
- methods of obtaining assistance
- signs and symptoms of mental illness, violent behavior, and acute chemical intoxication and withdrawal
- procedures for patient transfers to appropriate medical facilities or health care providers
- suicide intervention

**ACI - 4-4397** (MANDATORY) Informed consent standards in the jurisdiction are observed and documented for offender care in a language understood by the offender. In the case of minors, the informed consent of a parent, guardian, or a legal custodian applies when required by law. When health care is rendered against the patient's will, it is in accordance with state and federal laws and regulations. Otherwise, any offender may refuse (in writing) medical, dental, and mental health care.

**ACI – 4-4403-1** If Telehealth is used for patient encounters, the plan includes policies for:

- patient consent
- confidentiality/protected health information
- documentation
- integration of the report of the consultation into the primary health care record

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- 4-ACRS-2B-02** Persons injured in an incident immediately receive a medical examination and treatment.
- 4-ACRS-4C-01** (MANDATORY) Offenders have unimpeded access to health care and to a system for processing complaints regarding health care.
- 4-ACRS-4C-03** (MANDATORY) Twenty-four hour emergency medical, dental, and mental health care is provided for offenders, which includes arrangements for the following:
- a. On site emergency first aid and crisis intervention
  - b. Emergency evacuation of the offender from the facility
  - c. Use of an emergency medical vehicle
  - d. Use of one or more designated hospital emergency rooms or other appropriate health facilities
  - e. Emergency on-call physician, dentist, and mental health professional services when the emergency health facility is not located in a nearby community
  - f. Security procedures providing for the immediate transfer of offenders, when appropriate
- 4-ACRS-4C-19** If the facility provides medical treatment, offenders make medical decisions with informed consent. All informed consent standards in the jurisdiction are observed and documented for offender care.

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