

MEMBERS PRESENT: Chairman Bennett Mrs. Cavnar
Mr. Chaney Mr. Getto
Mr. Craddock

MEMBERS ABSENT: Mr. Glover
Mr. Brady

GUESTS PRESENT: Robert A. Lippold, Department of Prisons
John Slanski, Department of Prisons
George Miller, Welfare Department
Keith J. Henrikson, Hearing Aid Dealers
Ted Oleson, American Civil Liberties Union
Don Rhoads, Legislative Counsel Bureau

Chairman Bennett convened the meeting at 5:00 P.M.

SB 170

Mr. Keith Henrikson, representing Hearing Aid Dealers Association, and the State Board of Hearing Aid Specialists, stated the State Board passed a resolution, approved by all members, for continuing education requirements under the law. All the members are in favor of SB 170.

Chairman Bennett asked why the hearing aid specialists felt they needed this bill, what was the purpose.

Mr. Henrikson replied the updating of the physical skills and requirements were vital, the same as for other boards and specialists in the State.

Mrs. Cavnar asked if the hearing aid specialists had been polled and if so, what was their reaction.

Mr. Henrikson replied they had been polled and passed a resolution in favor of mandatory continuing education. Everyone had been notified of this hearing and no one chose to appear in opposition.

Mr. Getto asked if the Board developed the requirements for continuing education requirements and was informed the Board did, the language was just "reasonable requirements".

Mr. Craddock questioned lines 1 through 4 of page 2, questioning the word "may" in the first line, commenting this appeared to be an enabling legislation whereas the language should be mandatory. He was informed this was covered elsewhere and licenses could not be refused at the "whim" of the Board.

AB 431

Mr. Craddock stated he was concerned about this legislation because he had been working on related problems for sometime. Several Bills recommended in the Report of an interim committee that investigated prison conditions have not been introduced. The Resolution says "The Legislative Commission make a contents of study of the conditions of the State prison and report their findings with recommendations for any appropriate legislation, to the 60th Session." Several things recommended have not been reported out; some of the members obligated to carry information forward are no longer members of the Legislature; a report on exactly what is taking place should be made. Mr. Rhoads has made a report, at Mr. Craddock's request, of exactly what the intent of AB 431 was in the beginning.

Don Rhoads, Chief Research Director of the Legislative Counsel Bureau, stated there were 35 recommendations contained in the interim report; 31 require changes in the law; approximately 20 have been introduced and are preceding through Legislature; some of more controversial have not been introduced - those dealing with the new prison board, ombudsman and others. AB 431 deals with three different areas. Mr. Rhoads read a prepared paper detailing the intent of the recommendations of the subcommittee dealing with medical and dental care, sanitation and nutrition. (EXHIBIT # 1)

Mrs. Cavnar, commenting on recommendation contained in the Manual Number 4259, page 50, - at the time of admission to a facility these people would be examined for communicable diseases - in Mr. Rhoads presentation is a reference to the inmate's handling of food - Mrs. Cavnar suggests that, for this particular bill, state health officer have responsibility for specified periodical examinations for communicable diseases. Mr. Rhoads said perhaps the people representing the prison could respond to this concern; perhaps something was already being done in this area. (EXHIBIT # 2)

Mr. Rhoads concluded the report commenting on the use of nutritionalist of the State Health Department helping with the diets of inmates, particularly those who are older and those who have special medical problems.

Mr. Craddock asked if medical examinations were being provided by prison personnel or a licensed health care service. Mr. Rhoads said there was a medical staff at the prison and report contained in the Manual covered that. Each member of the Legislature had been furnished with a copy previously.

Mr. Robert Lippold, Superintendent of Maximum Prison Facility, stated every inmate that came into the institution underwent a medical and other evaluations. At that time it was determined whether or not they had any communicable diseases. Those with communicable diseases are excluded from working with food services. He was not aware of regular testing program; partially because not many of the people remain with food services for an extended period of time. If a communicable disease were contacted the person would be immediately

AB 431 - continued

removed from the job.

Mrs. Cavnar reiterated that her concern was the contact of a communicable disease subsequent to assignment to the food service area.

Mr. Lippold stated this bill, AB 431 addressed the concern of Mrs. Cavnar and the Department of Prisons supported the measure.

Mr. Craddock, referring again to Bulletin No. 79-20, asked if there were a particular problem with recommendation no. 24, page 16, dealing with the appointment of an ombudsman. (EXHIBIT # 3)

Mr. Lippold responded that he could not answer for the Department of Prisons on that, but could obtain an answer in writing by noon of the next day. Mr. Craddock said that would be acceptable.

Mr. Craddock continued, said his problem was "if they are going to send the Health Department down there to make an inspection of any kind, I would like the result of the inspection to be meaningful and have a meaningful effect on what was happening within the institution itself. I know several of the inmates within the institution, several who have served their time and subsequently is out in the community at large. What they tell me about what they think of me and of the state government doesn't sit very well."
. . . "I was thinking in terms of getting an ombudsman type, someone who had been in or currently in the institution to see if they can bring some credibility to the political arena such as I have to serve in as well as the bureaucracies that other people have to be confronted with. . . to the prison system, to the legislature and to the health department. Whom would you suggest I go to to get this kind of person."

Mr. Lippold again declined to answer and suggested conferring with Director Wolfe.

Mr. Chaney asked Mr. Rhoads if it had been decided for whom the ombudsman would work.

Mr. Rhoads replied the recommendation had been the position be appointed by and accountable to the State board of prison trustees. When the report was drafted there was a recommendation for a new prison board, made up of lay citizens and others appointed by the Governor. It was felt the existing board of prison commissioners were on too many other boards, the primary responsibility for operation the prison was too great a load. The recommendations for the kind of things this ombudsman would do would address the concerns of Assemblyman Craddock. There would be someone outside system the prisoners could appeal to when they were grieved. Another recourse other than the normal chain.

Mr. Chaney commented if this board were appointed by the Governor or administrator there would be difficulty directing the person chosen as ombudsman.

Mr. Rhoads said if the person chosen were an ex-offender, he would have to be well schooled in law and certain aspects of the state operation. It was noted there were many very able people who were ex-offenders. If this person were required to report to the warden, the intent of the recommendation would be lost.

Mr. Craddock said if an ombudsman were appointed by the director of the institution, it would be self serving and would not bring about the credibility sought.

Mr. Rhoads pointed out no one had introduced the the bill for the ombudsman although it was recommended by the subcommittee. He again references Bulletin no. 79-20, page 16, No. 24 (exhibit 3)

Mr. George Miller, Welfare Department stated there were two issues, the warehousing of people and caring for them while they were in the warehousing process. He doubted the effectiveness of rehabilitation. The problem is dealing with the situation while it exists.

Mr. Craddock stated that his was the humane concern during the internment process.

Mr. Miller continued, the ombudsman, in his opinion would have to be someone who had credibility with the inmates as well as others. Someone who is straight forward and also honest but not a politician. It is not necessary they be inmates or former inmates.

Commenting on nutritionists, Mr. Miller said their recommendations were often too expensive for the budget and were not necessarily the foods that were eaten, resulting a great deal of waste. He agreed the ombudsman should not be appointed by the director of the prison, or make his reports to the director. He would have to be able to communicate with the inmates and impartially judge their grievances.

Mr. Craddock stated he wished to air this phase of the situation because the inmate population did not trust the health department any more than they did other facets of the establishment. AB 431 deals with the health department and cannot be effective unless credibility is established.

Mr. Craddock suggested requesting introduction of the bill providing for an ombudsman as a committee introduction. The bill is already drafted and has only to be introduced. It is BDR 1673.

Mrs. Cavnar said she felt very strongly being able to utilize the State Board of Health facility is very helpful from the standpoint of cost. An ombudsmen bill will have to be an agreeable approach to the prison board or commissioners, and to the prisoners.

Mr. Rhoads said the concern had been the Executive Branch did not like this bill. They felt they could handle the prison agreements through the existing prison mediator, who does report to the Director and also there is a grievance system set up. The subcommittee felt one step further was needed, that was the inclusion of the ombudsman.

Mr. Craddock suggested possibility of having a number of people involved with the inspections - perhaps and inmate, a former inmate, someone with expertise - along with the health department.

Mr. Miller stated for credibility, the inspection would have to be set up on a basis that created a job. Frequency of inspection should be specified.

Mr. Rhoads said he liked to use the word "monitor", which he interpreted as continuous checking. The "six month reporting" was negotiated with the Board. The health officer is required to look into all aspects and is required to report to the Prison Board, who in turn is required to take steps to remedy situation. The subcommittee did not want to lock standards into the law because standards change.

Mr. Craddock suggested that at this point the Committee get a review of the bills that had not been introduced and to bring them forward.

Mr. Rhoads spoke briefly on the bills that had been drafted as a result of the study made by the subcommittee on the prison operation but had not been introduced. (EXHIBIT # 4)

Ted Oleson, Executive Director of Americans Civil Liberty Union in Nevada, stated they supported AB 431. They thought it was very necessary because if the State did not police itself, then the courts will come in and accomplish the task. Mr. Oleson quoted instances to support his statement. As to the accountability factor, he suggested amending present bill to provide for inclusion of the Attorney General in decisions. He was informed by Mr. Rhoads that the Attorney General was on the prison board and this would be redundant.

Mr. Craddock asked Mr. Oleson to confirm his understanding that ACLU opposed additional prisons. Such was the case and Mr. Craddock asked if the additional prisons could be avoided by furnishing vocational and other meaningful educational experiences. Mr. Oleson confirmed this was an alternative program.

Mr. Craddock reiterated the suggestion to consider the total package of recommendations of the interim subcommittee.

Chairman Bennett adjourned the meeting at 6:10 P.M.

Respectfully submitted

M. Robertson
MARJORIE D. ROBERTSON, Secretary
(Committee Minutes)

A.B. 431

(BDR 16-71)

DISCUSSION OF THE RECOMMENDATIONS WHICH LED TO THIS BILL BEGINS ON PAGE 28 OF THE SUBCOMMITTEE REPORT ENTITLED THE CONDITION OF THE STATE PRISON.

AS YOU KNOW, THE INTERIM STUDY OF THE PRISON SYSTEM WAS MANDATED BY A.C.R. 1 OF THE 1977 LEGISLATIVE SESSION. THE RESOLUTION EXPRESSED MANY CONCERNS ABOUT THE PRISON INCLUDING THE WELL-BEING OF THE DEPARTMENT'S INMATES. IN RESPONSE TO THIS CONCERN, THE SUBCOMMITTEE REVIEWED SEVERAL MATTERS RELATING TO INMATE WELL-BEING INCLUDING MEDICAL AND DENTAL CARE, SANITATION AND HYGIENE AND FOOD SERVICES.

Exhibit # 1

A.B. 431 EMANATES FROM THE SUBCOMMITTEE'S RECOMMENDATIONS. THE BILL REQUIRES THE STATE HEALTH OFFICER TO PERIODICALLY EXAMINE, AND REPORT TO THE BOARD OF PRISON COMMISSIONERS SEMIANNUALLY, ON THE PRISON'S MEDICAL AND DENTAL SERVICES, INMATES' DIETS, AND THE SANITATION, HEALTHFULNESS AND CLEANLINESS AND SAFETY OF THE PRISON SYSTEM'S FACILITIES. THE PRISON BOARD IS REQUIRED TO TAKE APPROPRIATE ACTION TO REMEDY ANY DEFICIENCIES REPORTED BY THE HEALTH OFFICER.

MEDICAL AND DENTAL CARE

CERTAIN OF THE MOST FREQUENTLY MENTIONED COMPLAINTS DURING THE PRESENTATIONS TO THE INTERIM SUBCOMMITTEE RELATED TO DEFICIENCIES IN MEDICAL AND DENTAL CARE PROVIDED BY THE DEPARTMENT OF PRISONS. THE COMPLAINTS RELATED TO SEVERAL PROBLEMS INCLUDING LONG DELAYS IN OBTAINING TREATMENT.

A MEDICAL REVIEW PEER COMMITTEE, CHAIRED BY DR. RICHARD D. GRUNDY, ALSO IDENTIFIED MEDICAL DEFICIENCIES AT THE PRISON AND MADE SUGGESTIONS FOR IMPROVEMENTS IN INMATE MEDICAL CARE. THE REVIEW COMMITTEE SAID THAT, "THE MEDICAL DEPARTMENT AT THE PRISON MUST BE FURNISHED WITH SOME SPECIFIC GUIDELINES CONCERNING THE EXTENT THAT MEDICAL CARE SHOULD BE GIVEN TO INMATES," AND NOTED THAT, "THESE GUIDELINES SHOULD COME FROM THE PEOPLE OF THE STATE OF NEVADA THROUGH THEIR ELECTED REPRESENTATIVES."

SEVERAL NATIONAL ORGANIZATIONS INCLUDING THE AMERICAN CORRECTIONAL ASSOCIATION, THE AMERICAN BAR ASSOCIATION AND THE COMMISSIONERS ON UNIFORM STATE LAWS HAVE ADDRESSED WHAT THEY BELIEVE TO BE MINIMUM STANDARDS FOR PROPER MEDICAL CARE FOR PRISONERS. I HAVE PROVIDED YOU WITH COPIES OF CERTAIN OF THESE STANDARDS.

NEVADA STATUTES ALSO ADDRESS THE HEALTH, MEDICAL CARE AND TREATMENT OF INMATES. SUBSECTION 2 OF NRS 209.381 STATES, "THE DIRECTOR WITH THE APPROVAL OF THE BOARD SHALL ESTABLISH STANDARDS FOR PERSONAL HYGIENE OF OFFENDERS AND FOR THE MEDICAL AND DENTAL SERVICES OF EACH INSTITUTION." ALSO, SUBSECTION 6 OF NRS 209.131 REQUIRES THE DIRECTOR OF THE DEPARTMENT OF PRISONS

TO, "TAKE PROPER MEASURES TO PROTECT THE HEALTH AND SAFETY OF THE STAFF AND INMATES OF THE INSTITUTIONS OF THE DEPARTMENT."

FINALLY, NRS 449.030 PROVIDES THAT, "NO PERSON, STATE OR LOCAL GOVERNMENT UNIT OR AGENCY THEREOF SHALL OPERATE OR MAINTAIN IN THE STATE ANY HEALTH AND CARE FACILITY WITHOUT FIRST OBTAINING A LICENSE AS PROVIDED IN NRS 449.001 TO 449.240, INCLUSIVE." ACCORDING TO THE HEALTH DIVISION, HOWEVER, NONE OF THE PRISONS' HEALTH CARE FACILITIES ARE LICENSED NOR HAS SUCH LICENSING BEEN REQUESTED.

THE INTERIM SUBCOMMITTEE BELIEVED THAT, BESIDES BEING A MORAL AND LEGAL OBLIGATION, PROPER AND ADEQUATE MEDICAL CARE FOR INMATES CONTRIBUTES TO THE SUCCESS OF ANY CORRECTIONAL PROGRAM. PHYSICAL DISABILITIES OR ABNORMALITIES MAY CONTRIBUTE TO A PERSON'S SOCIALLY DEVIANT BEHAVIOR OR RESTRICT HIS EMPLOYMENT. IN THESE CASES, MEDICAL OR DENTAL TREATMENT IS AN INTRICATE PART OF THE OVERALL REHABILITATION PROGRAM.

THE SUBCOMMITTEE DID NOT HAVE THE EXPERTISE TO DETERMINE THE QUALITY OR ADEQUACY OF HEALTH CARE PROVIDED BY THE DEPARTMENT OF PRISONS FOR ITS INMATES. IT WAS, HOWEVER, CONCERNED THAT MEDICAL AND DENTAL CARE AND FACILITIES BE PROVIDED AND OPERATED ON AN ADEQUATE BASIS. AS MENTIONED, HEALTH CARE FACILITIES OPERATED BY STATE GOVERNMENT UNITS ARE REQUIRED, BY NRS 449.030, TO BE LICENSED BY THE HEALTH DIVISION. LICENSING OF THE DEPARTMENT'S HEALTH CARE FACILITIES APPEARS TO BE AN

UNWORKABLE SOLUTION FOR ENSURING ADEQUATE AND CONSISTENT HEALTH CARE. THE SUBCOMMITTEE THOUGHT THAT SOME OTHER MECHANISM IS NECESSARY TO ENSURE THAT THE MEDICAL AND DENTAL TREATMENT OF PRISONERS IS MAINTAINED AT A PROPER LEVEL. IT THEREFORE RECOMMENDED THE PERIODIC MONITORING AND REPORTING APPROACH SUGGESTED IN A.B. 431.

SANITATION AND HYGIENE

OF SPECIAL CONCERN TO THE INTERIM SUBCOMMITTEE WAS THAT THE DEPARTMENT OF PRISONS' INSTITUTIONS BE KEPT IN A CLEAN AND SANITARY CONDITION AND THAT PROPER HYGIENIC CONDITIONS BE MAINTAINED BY THE INMATES. BASED ON ITS OWN OBSERVATIONS AND PRESENTATIONS BY WITNESSES APPEARING BEFORE IT, THE SUBCOMMITTEE FELT THERE MAY BE PROBLEMS WITH THE SANITATION AND HYGIENE AT THE PRISON IN SUCH AREAS AS (1) HOUSEKEEPING FOR THE PHYSICAL PLANT, (2) WASTE DISPOSAL, (3) THE EXCHANGE OF CLEAN CLOTHING FOR INMATES, AND (5) THE FREQUENCY INMATES ARE PERMITTED TO BATHE. MANY OF THESE PROBLEMS RELATE TO THE AGE OF THE MAXIMUM SECURITY PRISON AND TO SECURITY MEASURES IN OPERATION DURING A LOCKDOWN WHICH WAS IN EFFECT DURING A PORTION OF THE SUBCOMMITTEE'S MEETING SCHEDULE.

I SHOULD NOTE THAT IMPROVEMENTS HAVE BEEN MADE SINCE THE SUBCOMMITTEE'S STUDY.

EXISTING LAW, NRS 444.330, GIVES THE HEALTH DIVISION SUPERVISION OF THE SANITATION AT THE PRISON. IT ALSO PERMITS THE STATE BOARD OF HEALTH TO PROMULGATE RULES AND REGULATIONS PERTAINING TO SUCH SANITATION AND (1) REQUIRES THE STATE HEALTH OFFICER, OR HIS AUTHORIZED AGENT, TO INSPECT THE INSTITUTIONS, (2) PERMITS THE STATE HEALTH OFFICER TO PUBLISH REPORTS OF SUCH INSPECTIONS, AND (3) REQUIRES ALL PERSONS CHARGED WITH THE DUTY OF MAINTENANCE AND OPERATION OF THE INSTITUTIONS TO OPERATE THEM IN CONFORMANCE WITH THE STATE BOARD OF HEALTH'S REGULATIONS RELATING TO SANITATION, HEALTHFULNESS AND CLEANLINESS.

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FOOD SERVICES

DURING ITS MEETINGS, THE SUBCOMMITTEE HEARD MANY COMPLAINTS ABOUT INMATE FOOD SERVICES. MOST OF THESE COMPLAINTS CENTERED AROUND THE FOOD AT THE MAXIMUM SECURITY PRISON AND DEALT, IN PARTICULAR, WITH THE MEALS SERVED DURING THE LOCKDOWN.

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By *[Handwritten Signature]* # 1

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Manual of STANDARDS for Adult Correctional Institutions

Exhibit # 2



COMMISSION ON ACCREDITATION
FOR CORRECTIONS

Sponsored by the
AMERICAN CORRECTIONAL ASSOCIATION



Funded by the Rehabilitation Division, Office of Regional Operations, Law
Enforcement Assistance Administration, United States Department of Justice

Medical and Health Care Services

4253 The institution provides inmates the medical and dental services needed to maintain basic health. (Essential)

DISCUSSION: Adequate medical and dental care is essential. Health care services within the institution should be comparable to those available to the general public. Chronic and convalescent cases should receive continuous care.

4254 Written policy specifies that physicians and dentists providing medical and dental care to inmates be licensed. (Essential)

DISCUSSION: Medical and dental care should be provided only by those meeting appropriate educational and licensing requirements. Also, standards for specialists should be established on the basis of speciality board certification, evaluation of previous performance, and standing in the medical community.

4255 State licensure and certification requirements apply to health care personnel working in the institution the same as to those working in the community. (Essential)

DISCUSSION: In order to ensure that the qualifications of health care providers in the institution are similar to the qualifications of health care providers in the community, licensure and certification requirements for institution health care providers should not be waived. Likewise, nonphysician institution health care providers should be subject to professional supervision as they are in the community.

4256 An adequately equipped medical facility, which meets the standards for a licensed general hospital with respect to the services it offers, is available to all inmates. (Essential)

DISCUSSION: If an institution does not have the resources to meet these standards in-house, it should provide infirmary care inside the institution and hospital care through contractual arrangements outside the institution.

4257 The institution has an arrangement with an outside licensed medical facility to provide emergency services and major surgical services on a 24-hour-a-day basis. (Essential)

DISCUSSION: Even where a state correctional system maintains a hospital for inmates, occasions will arise when an inmate must be taken to a nearby community hospital for emergency care, or to a major medical center for care not available in the institution hospital. Standard orders should govern such cases, and immediate access to an outside hospital should be available.

4258 Arrangements are made with medical specialists in advance of need. (Essential)

DISCUSSION: An inmate's illness may require the services of a specialist at any time. Therefore, arrangements with consultants in the major medical specialties should be made in advance of need, either by an informal understanding or by a written contract.

4259 Written policy and procedure provide for a preliminary health evaluation of each new inmate immediately upon arrival and before the inmate enters the institution's general population. (Essential)

DISCUSSION: For the protection of the arriving inmate and other persons in the institution, a preliminary health evaluation should be made of all new admissions, excluding inmates who are transferred from other institutions within the same correctional system. The purposes of the health evaluation are to identify very ill persons and persons with communicable diseases and to determine those new inmates who should be referred to the institution infirmary for immediate medical examination and treatment.

4260 The preliminary health evaluation is performed by a member of the health care staff. (Essential)

DISCUSSION: The preliminary health evaluation helps assure inmates that health care is an important function of the institution. Although the preliminary screening may be performed by medical assistants, it should be supervised by a licensed physician.

4261 A comprehensive health evaluation, including, but not limited to, a medical history, physical examination and prediagnostic tests, is made of each inmate within ten days of admission, excluding weekends and holidays. (Essential)

DISCUSSION: The medical history provides data to which a physician may refer during subsequent medical examinations throughout the inmate's confinement. The physical examination allows the physician to determine if additional prediagnostic tests are needed to evaluate the inmate's health and needs. A full range of prediagnostic services should be available either within or outside the institution. A comprehensive health evaluation is useful in determining if any limitations are necessary on an inmate's work, recreation activities, diet or housing, and in making appropriate arrangements for parole or discharge.

4262 Written policy and procedure specify that appearance at daily sick call is an inmate right and not a privilege. (Essential)

DISCUSSION: No member of the correctional staff should approve or disapprove requests for attendance at sick call.

4263 Written policy and procedure specify the conditions for periodic health examinations for inmates. (Essential)

DISCUSSION: Persons 50 years of age and over should be given annual physical examinations. All other inmates should receive thorough physical examinations at least biennially. All inmates should be examined prior to release to protect both the inmate and society.

4264 There is a system for maintaining complete medical and dental records. (Essential)

DISCUSSION: Medical and dental personnel should maintain complete records of treatment given inmates to ensure continuity in care. The medical record should

list all medical visits, diagnoses made and treatments prescribed. The system should ensure that inmates do not have access to their medical records and that the confidentiality of the records is maintained. Medical and dental records should be made available to outside persons only on written authorization by the inmate.

4265 The medical record is not part of the confinement record; medical personnel share with other staff members only information that has potential impact on safety and security and that affects the inmate's ability to participate in programs. (Essential)

DISCUSSION: Because of their confidentiality, medical records should be maintained separately from confinement records. Access to the records should be controlled by the responsible physician. All information that affects the safety and security of the institution or inmate should be communicated to appropriate staff members and made part of the confinement record.

4266 A registered pharmacist, qualified under state requirements, has overall responsibility for the pharmacy. (Essential)

DISCUSSION: Pharmacies must operate, by law, under the continuing supervision of a registered pharmacist, either on a full-time, part-time or contractual basis. The institution's pharmaceutical program should maintain the security of prescription drugs and resist pressures toward overprescription.

4267 Drugs are dispensed under a formulary system. (Important)

DISCUSSION: To maintain better control over the supply of drugs in an institution, a pharmacy and therapeutic committee should be established to select a limited but sufficient number of prescription drugs for each purpose. Although physicians may not prescribe a drug by brand name, availability of the drug in its generic form is ensured.

4268 Written policy and procedure ensure that inmates receive all medication prescribed by a physician when they are temporarily off the prison grounds or in administrative segregation or disciplinary detention. (Essential)

DISCUSSION: Provisions should be made to ensure that all inmates who require medication receive it.

4269 Written policy and procedure provide for the prompt notification of an inmate's next of kin in case of serious illness or major surgery. (Essential)

DISCUSSION: Whenever an inmate becomes seriously ill or requires major surgery, the next of kin should be notified by telegram, telephone call or other rapid means of communication.

4270 Written policy and procedure specify that, in the event of an inmate death, the chief executive officer and the inmate's next of kin are notified immediately. (Essential)

DISCUSSION: In the event of an inmate death, the chief executive officer is responsible for notifying the appropriate persons within the correctional system.

In the event of suicide, homicide, accidental death or death under suspicious circumstances, the chief executive officer also should notify the coroner and appropriate law enforcement officials.

4271 Personnel who have received training in emergency first-aid procedures are available on each shift. (Essential)

DISCUSSION: Emergency first-aid may be required at any time by an inmate or an employee. Personnel who have received training in emergency first-aid should therefore be available on each shift. Also, first-aid supplies should be available at key points in the facility.

4272 There are written plans for providing emergency medical care at any location of the institution; these plans also specify the method and route of transporting patients to the hospital. (Essential)

DISCUSSION: Along with the various emergency plans the institution maintains, e.g., for fire, riots, etc., emergency plans should be developed to provide inmates and personnel prompt medical care and transportation to the hospital from any location in the institution.

4273 In institutions for women, there are medical services to meet the special health care needs of women. (Essential)

DISCUSSION: Obstetrical, gynecological, abortion, family planning, health education and child placement services should be available as needed.

4274 Administrative policy provides for housing and programs for disabled and infirm inmates in facilities appropriate to their needs. (Essential)

DISCUSSION: Disabled and infirm inmates require separate housing in facilities that are conducive to their program needs.

4275 Written policy and procedure govern the treatment of inmates with severe emotional disturbances. (Essential)

DISCUSSION: Many emotionally disturbed inmates are prone to violent and destructive behavior and are oriented toward escape. While severely psychotic inmates should be transferred to state hospitals, less disturbed inmates should be retained in the general inmate population, where possible, and provided treatment programs that are supervised by competent mental health professionals and that utilize the least coercion necessary.

4276 Where there are separate living units for inmates with severe emotional disturbances, an interdisciplinary team is assigned to these living units. (Essential)

DISCUSSION: All staff members responsible for providing services in a living unit for emotionally disturbed inmates should be integrated into a multidisciplinary team and should be under the direction and supervision of a professionally trained staff member. Consistency in approach and treatment is essential for the

emotionally disturbed inmate, and a team approach that includes regular meetings ensures that the treatment given these inmates is intensive, coordinated and direct.

4277 Written policy specifies that appropriate facilities are available for inmates who are diagnosed by qualified psychiatrists or psychologists as severely psychotic. (Essential)

DISCUSSION: Psychotic inmates should be transferred to mental health institutions. However, many state mental hospitals are becoming more open and are resisting the admission of disturbed inmates for whom secure housing is required. Partly in response to this, state correctional systems have begun to develop their own psychiatric facilities. Whatever system prevails, psychotic inmates should be transferred to a facility that can treat them effectively and assure public safety. These facilities must be under the supervision of mental health personnel and operated according to the standards and procedures of the psychiatric field.

4278 Written policy and procedure specify that qualified psychological and psychiatric personnel provide services for inmates diagnosed as severely mentally retarded. (Essential)

DISCUSSION: Severely mentally retarded inmates should be placed in facilities specially designed for their treatment. If they cannot be placed in such facilities outside the correctional institution, the institution should provide adequate services for their health, development and protection of their dignity. Where possible, programs should provide for their continued physical, intellectual, social and emotional growth and should encourage the development of skills, habits, and attitudes that are essential to adaptation to society.

4279 Psychiatric consultation is available for the management and treatment of inmates with special needs. (Essential)

DISCUSSION: A qualified psychiatrist should always be available to assist the trained mental health personnel who are responsible for the day-to-day management of inmates with special needs. Depending upon the size of the institution and the number and type of inmates classified as special needs inmates, the psychiatric services may range from one or more full-time staff psychiatrists to one part-time consulting psychiatrist. Whatever the arrangement, this service should be available 24 hours a day.

Inmate Rights

4280 Written policy and procedure ensure the right of inmates to have access to courts. (Essential)

DISCUSSION: Inmates should have the right to present any issue, including challenging the legality of their conviction or confinement; seeking redress for illegal conditions or treatment while under correctional control; pursuing remedies in connection with civil legal problems; and, asserting against correctional or other government authority any other rights protected by constitutional or statutory provision or common law.

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1977

EXHIBIT 2

THE
AMERICAN
CRIMINAL
LAW REVIEW

Special Issue

*Tentative Draft
of
Standards Relating to
the Legal Status
of
Prisoners*

Joint Committee on The legal Status

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SECTION OF
CRIMINAL JUSTICE

EXHIBIT B 99

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(iv) The National Labor Relations Act and other legal provisions regulating labor-management relations in private employment, unless employed by a state agency in an occupation that provides essential services to the prison community.

(v) Any legislation authorizing, prohibiting or regulating the unionization or collective bargaining of public employees if engaged in employment excluded in paragraph (iv).

(vi) Any other law or program relating to the wages, hours and conditions of employment of persons in similar occupations in free society.

**4.4 Prisoner Payments

* (a) Prisoners receiving comparable or prevailing wages should be required to pay the following:

(i) The costs of their room and board. Correctional authorities with the assistance of the jurisdiction's public auditing agency or a private accounting firm should determine periodically the charge to be made for housing which may include an allocation for depreciation of personal living quarters, utilities, and other services provided primarily for personal comfort and benefit. Costs related primarily to custody and rehabilitation should not be included.

(ii) Any contributions or withholding required by law or normally paid by workers in private industry working at comparable employment at comparable wages.

(iii) Any costs associated with their employment such as transportation, tools, and uniforms that would normally be borne by workers in private industry working at comparable employment at comparable wages.

* (b) As required by law prisoners should pay the following:

(i) Taxes.

(ii) Any other legal obligation including family support and court ordered restitution.

PART V. MEDICAL TREATMENT

5.1 Right to Medical Services

Prisoners should receive proper medical services, including, but not limited to, dental, physical, psychological, psychiatric, physical therapy, and other accepted medical care.

**5.2 Prompt Medical Treatment

All correctional institutions should have basic first aid and emergency equipment. Correctional authorities should implement a written plan for each institution to assure:

(i) Immediate emergency treatment by a medically trained correctional officer. Within [30] minutes of the discovery of the emergency the prisoner should be seen by a licensed health care provider either at the institution or a nearby medical facility;

(ii) That prisoners who cannot be adequately treated at the correctional institution shall be transferred to an appropriate facility;

(iii) That no correctional official shall inhibit or delay a prisoner's access to medical personnel or interfere with medical treatment;

(iv) That upon request a prisoner will be seen by a licensed health care provider within [24] hours. All medical complaints should be communicated to the physician in charge, or his medically trained delegate, as soon as possible.

A detailed written record should be kept of each complaint and its disposition.

If, after examination of a prisoner a health care provider believes that a prisoner is requesting medical attention solely for the purpose of malingering, the provider should report this to the physician in charge, who may in writing instruct the provider not to forward the same complaint for a specified period;

(v) That prisoners will not be required to waive any right or privilege as a prerequisite to seeking or receiving medical attention;

(vi) That accommodations for all necessary pre-natal and post-natal care and treatment are available. Arrangements should be made whenever practicable for children to be born in a hospital outside the institution. That a child was born in an institution should not be mentioned in the birth certificate.

* (vii) That it is possible for women prisoners to keep their young children with them for a reasonable time, preferably on extended furlough or in an appropriate community facility. Where the young children remain with the mother in an institution, a nursery staffed by qualified persons should be provided.

5.3 Emergency Medical Treatment

Whenever arrangements for prompt medical treatment cannot be made within a non-prison medical facility, or whenever correctional authorities determine to provide more than emergency and first aid care, the correctional institution should be subject to all requirements applicable to comparable facilities in the free society.

5.4 Periodic Medical Examinations

(a) Immediately upon entrance to any correctional institution, prisoners should be examined for communicable diseases and to determine the need for first aid or emergency medical care or for continuation or renewal of medication or treatment.

(b) Sentenced prisoners should, within [48] hours of admission to the correctional institution, be required to undergo a thorough medical examination, unless, within the past [12] months, they have had such an examination, the relevant medical records are readily available to the institution and are reviewed promptly. Non-sentenced persons detained in a correctional institution should be afforded such an examination upon request.

(c) Sentenced prisoners should have access to a thorough medical examination periodically and within a reasonable time prior to release.

5.5 Confidentiality of Medical Records

The physician in charge should assure that complete, accurate and confidential records of all medical examinations, findings, and treatment are made and maintained in conformity with normal medical practice, but in any case at least [3] years after the prisoner's release. Methods for confidentially transferring these records each time a prisoner is transferred should be established.

**5.6 Control of Medication

(a) All drugs should be under the control and supervision of the physician in charge. Normally only a licensed health care provider should distribute or dispense prescription drugs. In no instance should prisoners dispense or distribute drugs. Correctional officials may distribute drugs in emergencies only after specific instruction by a medically trained person.

* (b) A prisoner should be entitled to refuse medication, even if prescribed in accordance with accepted medical practice, unless the prescribing physician certifies the medication is necessary to provide reasonable protection for the rights and physical safety of all members of the prison community.

5.7 Availability of Rehabilitative Programs

Correctional authorities should consult prisoners and prisoner representatives to determine the types of self-improvement and educational programs desired by the prisoners, and should thereafter seek to provide access to as many such programs as possible, either by establishing such programs or by contracting with outside agencies or individuals for such services.

5.8 Experimental Programs

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- (a) Non-therapeutic experimentation, including, but not limited to, behavior modification, psychopharmacology, should not be allowed under any circumstances.
- (b) Once an institution has substantially met all the standards enunciated in this volume, prisoners should be allowed to participate in therapeutic experim^{er} research programs, provided that (1) the program has been approved as medically sound and in conformance with medically accepted standards; (2) in the case of psychosurgery, full voluntary and informed written consent; (3) in the case of psychosurgery, electrical stimulation of the brain, and aversive conditioning, approval has been given by an appropriate court after an adversary hearing to determine that the program is sound and that the prisoner has given informed consent.
- (c) A program should be considered medically sound and in conformance with medically accepted standards only after it has been reviewed by a committee established by law to evaluate its medical validity.
- (d) A prisoner should be considered to have given informed consent only after that consent has been reviewed by an independent committee, including prisoners and ex-offenders, and the committee has personally interviewed the prisoner.
- (e) As used in this standard, "informed consent" means that the prisoner is informed of (1) the likely effects, including possible side effects, of the procedure; (2) the likelihood and degree of improvement, remission, control or cure resulting from the procedure; (3) the uncertainty of the benefits and hazards of the procedure; (3) the uncertainty of the benefits and hazards of the procedure; (4) the reasonable alternatives to the procedure; and (5) the ability to withdraw at any time. Informed consent does not exist if the prisoner is offered undue inducement.

PART VI. PERSONAL INTEGRITY AND SECURITY

**6.1 Communication Rights

- (a) Restrictions on communications should be the least restrictive necessary to serve the legitimate interests of institutional order and security. There should be no restrictions on length, language or content of letters, or on persons to whom a prisoner may write, except as provided in laws applicable to free society.
- (b) A prisoner's letter or package may be opened for inspection only in the presence of the prisoner to determine if it contains contraband. Letters opened for this purpose may not be read by any individual without the prisoner's consent.
- (c) Prisoners' letters may be read only pursuant to a search warrant issued on probable cause. Correctional authorities may hold for [24] hours a letter which they suspect contains evidence of a crime, pending resolution of the search warrant application.
- (d) Indigent prisoners should be afforded sufficient stationery and free mailing privileges for all letters to attorneys, courts, public officials, and members of their immediate family, as well as sufficient stationery and postage for at least three other letters per week.
- (e) Indigent prisoners should be allowed a reasonable number of free telephone calls to their attorneys-of-record and courts in which their current litigation is pending. Pay telephones should be available for other communications.
- (f) Prisoners should be entitled to receive magazines, books, newspapers and other written materials which can be lawfully mailed.

**6.2 Visitation

- (a) Correctional authorities should accommodate and encourage visiting, including conjugal visits, by establishing reasonable visiting hours, including time on weekends, holidays and evenings suited to the convenience of visitors.
- (b) All prisoners, including those undergoing punishment for disciplinary infractions, should be entitled to weekly visitation periods. Visits should be in private visitation rooms, unless the prison classification committee has precluded

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the prisoner from private visits on the grounds that the prisoner (1) presents a high security risk; or (2) is receiving home furloughs at reasonable intervals. Visitors may be subjected to non-intrusive forms of personal search.

(c) Prisoners should be able to receive any visitor not previously excluded for good cause shown by the grievance committee.

(d) Visitation periods should be at least [1 hour] long, and prisoners should be able to cumulate visitation periods to permit extended visits. Visits with attorneys, clergy, and public officials should not be counted against visiting periods, and should be unlimited except as to time and duration.

(e) Correctional authorities should facilitate and promote visitation by providing transportation for visitors at least from terminal points of public transportation. Where the prisoner and the family are indigent, authorities should pay transportation costs for periodic visits by up to three members of the prisoner's immediate family.

(f) Consistent with security and time considerations, any individual or group should be able to visit the prison and tour any and all parts of the facility. The privacy and dignity of prisoners should be scrupulously protected. Conversations between prisoners and visitors should be unmonitored.

6.3 Religious Freedom

(a) Prisoners' religious beliefs should not be restricted or inhibited by correctional authorities in any way.

(b) Prisoners should be entitled to pursue any lawful religious practice consistent with their orderly confinement and the security interests of the institution.

(c) Correctional authorities should provide prisoners with religious diets or nutritious food consistent with their religious beliefs. Prisoners should be entitled to observe special religious rites, including fasting and special dining hours, on holidays generally observed by their religion.

(d) Prisoners should not be required to engage in religious activities.

(e) Correctional authorities should not maintain any information (other than directory information) concerning a prisoner's religious activities.

(f) Modes of dress or appearance, including religious medals and other symbols, should be permitted to the extent they do not interfere with identification and security of prisoners.

(g) Even while being punished prisoners should be allowed religious counselling. The priest-penitent privilege provided by state law should protect the communications of a prisoner with his religious adviser.

(h) Funds available for religious purposes should be equitably allocated according to the proportions of prisoners adhering to each faith.

(i) Whether an organization seeking religious status is a religion should be determined not by correctional authorities, but by a court of proper jurisdiction.

**6.4 Freedom of Association

(a) Prisoners should be entitled to peacefully assemble to discuss any lawful subject, or to seek redress of grievances. Correctional authorities may disperse such assemblies to conform with reasonable time, place and manner regulations previously set, or to prevent a substantial danger to institutional security. Prisoners not working in activities essential to the operation and maintenance of the institution may protest by peacefully remaining in their cells and refusing to work or otherwise engage in prison activities.

(b) The chief executive officer may assign staff employees to observe group meetings but should seek to accommodate the group's requests for the assignment of specific employees.

103 B (c) Individual prisoners, or prisoner organizations, should be permitted to circulate petitions for signature, or to peacefully distribute lawful materials, subject to reasonable time and place limitations, so long as no intimidation is practiced.

****6.5 Prisoner-Managed Media**

X (a) Prisoners' media and internal communications mechanisms should be managed exclusively by prisoners. Correctional authorities may assign an advisor to such media to assist prisoners in avoiding dissemination of material which is libelous or which would create a substantial danger of violence or disruption, but should seek to accommodate a request of the editorial staff for assignment of a specific advisor. Correctional authorities should not censor material unless it is libelous or creates a substantial danger of violence or disruption. The editorial staff may reject material because it does not meet quality standards or for economic reasons.

(b) Persons or groups attacked in prisoners' media should be afforded equal opportunities to respond. In newspapers, the response should be in the same issue, and in an equally prominent place. Prisoners not connected with the medium should have access to the medium to express their views.

(c) Any person or group aggrieved by a decision refusing access, or denying an opportunity to respond to an attack, may use applicable grievance procedures.

6.6 Rights of Privacy

(a) Any area of the institution, except prisoners' living quarters, may be searched by any correctional employee without specific information or cause at any time.

(b) Routine visual inspections of personal living quarters to determine whether they are being maintained in accord with health, safety and security regulations may be conducted periodically by any correctional employee without prior authorization.

(c) The chief executive officer may, without specific cause, authorize an intrusive search of any area, including prisoners' living quarters or belongings. The search should be so conducted as to minimize harm to the prisoner's property and to minimize invasion of his privacy. After any such search, a full report of the scope of the search, any item damaged or seized, and the names of witnesses, should be made to him. A copy should be given to a prisoner whose property was seized or damaged.

(d) Intrusions into the personal living quarters of a prisoner, other than authorized by Subsection (c), should be based upon a reasonable belief that contraband is located there. Except where the correctional officer having such a belief reasonably fears that the prisoner will dispose of the contraband in the interval, written permission from a supervisor should be obtained. The authorization should also contain the reason for the search, including the name of the person, if any, upon whose information the correctional officer is relying. A copy of this report should be given to the prisoner during, or immediately after, the search. The name of the informant may, in the discretion of the officer, be deleted from the copy given the prisoner, but should be present in the official copy on file with the chief executive officer. Except in an emergency, the prisoner whose quarters are being searched should be present when the search is made.

(e) Without specific cause correctional authorities may employ non-touching methods such as metal detectors to detect contraband.

(f) In conducting searches of the person, correctional authorities should strive to preserve the dignity and integrity of the prisoner. The following rules should be followed:

UNIFORM LAW COMMISSIONERS'
MODEL SENTENCING AND CORRECTIONS ACT

Drafted by the
NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS
and by it
Approved at its
ANNUAL CONFERENCE
MEETING IN ITS EIGHTY-SEVENTH YEAR
in New York, New York
JULY 28 - AUGUST 4, 1978

Uniform Law Commissioners'
MODEL SENTENCING AND CORRECTIONS ACT
With Prefatory Notes and Comments

Prepared under Grant Number 76NI-99-0022 from the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U. S. Department of Justice.

Points of view or opinions stated in this document are those of the author and do not necessarily represent the official position or policies of the U. S. Department of Justice.

SECTION 2-501

PART 5
CORRECTIONAL MEDICAL SERVICES

1 SECTION 2-501. [Division of Correctional Medical
2 Services; Creation.]

3 (a) A division of correctional medical services
4 is created within the department. It shall provide medi-
5 cal care to confined persons.

6 (b) As used in this Part, "medical care" includes
7 the diagnosis or treatment of physical, dental, or mental
8 health problems.

COMMENT

The common law long recognized, because a prisoner cannot provide or obtain his own medical treatment, that there is an obligation upon the state to provide it for him. See e.g., Spicer v. Williamson, 191 N.C. 487, 132 S.E. 291 (1926); See generally Alexander, The Captive Patient: The Treatment of Health Problems in American Prisons, 6 Clearinghouse Rev. 16 (1972), Neisser, Is There a Doctor in the Joint? The Search for Constitutional Standards for Prison Health Care, 63 Va. L. Rev. 921 (1977); See also Brabson v. Wilkins, 45 Misc. 2d 286, 256 N.Y.S. 2d 693 (Sup. Ct. 1965). Virtually every state provides specific legislation protecting the rights of prisoners to reasonable medical treatment. See e.g., Alaska Stat. § 33.30.050 (1975); Kan. Stat. § 75-5249 (Supp. 1976); Neb. Rev. Stat. § 83-181 (Reissue 1976). The principle has been recognized by every recent analysis of corrections. See e.g., ACA Manual at 436; Nat'l Advisory Comm'n Correc. Std. 2.6 (1973); Isele, Constitutional Issues of the Prisoner's Right to Health Care (1977); ABA Joint Committee § 5.1. The Supreme Court has held that the obligation is recognized so universally that the infliction of "such unnecessary suffering" as would occur if there were no such care would violate the Eighth Amendment to the Constitution.

SECTION 2-501

Estelle v. Gamble, 429 U.S. 97, 103 (1976). As Mr. Justice Marshall, writing for the majority in that opinion, stated, "An inmate must rely on prison authorities to treat his medical needs; if the authorities fail to do so, those needs will not be met.... The infliction of such unnecessary suffering is inconsistent with contemporary standards of decency" *Id.* The Court proceeded to hold that "deliberate indifference" to the medical needs of a prisoner would result in personal liability on the part of those who ignore the need. *Id.* at 104. Cf. Annot. 28 A.L.R. Fed. 279 (1976). Although Justice Marshall interestingly rested the rationale of *Estelle* upon the eighth amendment, which applies only to convicted persons, there is no doubt that similar reasoning applies to pretrial detainees under the fifth amendment. See, e.g., *Anderson v. Nosser*, 456 F. 2d 835 (5th Cir. 1972) cert. denied 409 U.S. 848 (1972). Cf. *Johnson v. Glick*, 481 F.2d 1028 (2d Cir. 1973) cert. denied 414 U.S. 1033 (1973).

This provision places the responsibility for providing the services, or access to the services, upon the department of corrections, but the director of that department, or of the division of medical services, may fulfill the duty imposed by this section by contracting out for services. Whether medical care should be provided by a non-correctional agency has provoked much recent controversy. See, e.g., *Community Service Soc'y of N.Y., Prison Health Care in New York City* (1976), concluding that better service is obtained if health care providers are totally independent of the department. Some systems have recently attempted to do that, including New York and San Francisco. See *Health Policy Advisory Center Bulletin* (Sept. 1973). See also *ABA Comm'n on Correctional Facilities & Services & Resource Center on Correctional Law and Legal Services*, & the *American Medical Ass'n, Div. of Medical Practice, Medical & Health Care in Jails, Prisons, & Other Correctional Facilities* (3rd ed. 1974) [hereinafter cited as *ABA & AMA Compilation*]. The provision leaves this possibility open to the department, but opts to leave final control--and responsibility--in its hands.

Although the provision does not so specify, the scope of medical care should include special medical services, including prosthetic devices, physical therapy, cosmetic and corrective surgery, medical counseling, etc., if the administrative head, in consultation with the medical staff, believes it helpful to the prisoner and not an unfair expenditure of medical resources. It is often suggested, for example, that persons sensitive about their appearance, whether from loss of limb or physical disfigurement, react more aggressively and violently than they would were the defect corrected. See *ACA Manual* at 441; *Kurtzberg, Plastic Surgery in Corrections*, *Fed. Prob.*, Sept. 1969, at 44.

SECTION 2-501
SECTION 2-502

In this sense, such treatment may be not only humane, but productive in reducing recidism. Since these judgments are both medical and correctional, they are best left to the discretion of the involved expert parties.

At this point, the law is unclear whether the right to medical treatment includes cosmetic or elective surgery. Compare Edwards v. Duncan, 355 F.2d 993 (4th Cir. 1966) and Ricketts v. Ciccone, 371 F. Supp. 1249 (W.D. Mo. 1974) with Mills v. Oliver, 367 F. Supp. 77 (E.D. Va. 1973). Except for exorbitant requests, however, such service should come within the division's regulations.

The section also allows the department to provide services for the mentally ill, although there are specific provisions, section 2-912, to allow transfer of a mentally ill prisoner to the mental health department in the state. It is, of course, clear that treatment for mental illness is also required under the Estelle rationale. See, e.g., Bowring v. Godwin, 551 F.2d 44 (4th Cir. 1977). See also Schuster, The Recognition of Jail Inmates with Mental Illness, Their Special Problems and Needs for Care (1977).

1 SECTION 2-502. [Associate Director for Correctional
2 Medical Services.] The director shall appoint, and he may
3 remove in accordance with law, an associate director for
4 medical services who has appropriate experience in the
5 delivery of medical care.

COMMENT

Because the function of the associate director is to administer the program, it is not necessary that he be a licensed physician; indeed an experienced administrator may be preferable.

1 SECTION 2-503. [Powers of Associate Director.]

2 Subject to the approval of the director, the asso-
3 ciate director shall:

- 4 (1) administer the division;
- 5 (2) assure that each confined person has
6 access to needed routine and emergency medical care;
- 7 (3) in cooperation with the division of com-
8 munity-based services, seek to assist persons supervised
9 in the community to obtain medical care;
- 10 (4) appoint, and he may remove in accordance
11 with law, the chief medical officer of each facility and
12 other employees of the division and may delegate to them
13 appropriate powers and duties;
- 14 (5) purchase, or authorize the purchase of,
15 all medical equipment used in facilities;
- 16 (6) in cooperation with other divisions of
17 the department, establish medical training programs for
18 both correctional employees and confined persons;
- 19 (7) adopt rules, consistent with standards
20 established by the department of health, governing,
- 21 (i) the provision of medical treatment
22 to confined persons;
- 23 (ii) the administration of hospitals and
24 other medical quarters within facilities;

- 25 (iii) the maintenance and use of medical
26 equipment;
27 (iv) the storage and dispensing of medi-
28 cation;
29 (v) nutritional standards; and
30 (vi) sanitation within facilities;
31 (8) evaluate all medical personnel, programs,
32 equipment, or services within facilities; and
33 (9) exercise all powers and perform all duties
34 necessary and proper in discharging his responsibilities.

COMMENT

This section requires the associate director to adopt rules to assure access to medical care. These rules should speak in quantitative terms, including the number of medical personnel who should be available, and the hours during which they should serve, commensurate with the population of the institution. Most preferred model rules and many recent state correctional standards provide for specific numbers of personnel. Thus, a decade ago, the American Correctional Association provided the following standards for medical personnel:

The basic medical staff for a penal institution of approximately 500 inmates should include the following: one full-time chief medical officer, one full-time psychiatrist, serving as assistant medical officer, one full-time dental officer, one full-time psychologist, five full-time medical technicians representative of the technical specialities described above and a suitable complement of consultants in the various medical and surgical specialties.

For every additional 500 to 1,000 inmates at least one additional medical officer and medical technician should be added. An additional dental officer is required for each 1,000 additional inmates. In large

institutions of over 1,500 inmates, with hospitals having 40 or more beds, consideration should be given to the inclusion of trained registered nurses to insure that the highest nursing standards are maintained with adequate supervision of the operating room as well as the intensive treatment areas. Experience has shown that female nurses can function effectively in the performance of these duties. In smaller institutions, adequate nursing services can be provided by suitably trained medical technicians. However, hospitals depending upon this type of nursing service should have continuous training programs including suitable refresher courses to insure that the nursing skills of the technicians are maintained at an acceptable level.

ACA Manual at 439-40.

Similarly, the National Sheriffs' Association Manual recommends, for an institution of 500 prisoners, a minimum of (a) a chief medical doctor, (b) a technician, (c) a psychiatrist, (d) a psychologist, (e) a dentist; for institutions of 300, a minimum of at least one full-time physician; for institutions of at least 50 prisoners, one full-time nurse. National Sheriffs' Manual On Jail Administration, § 4.

Court decisions finding medical services in prisons and jails inadequate have similarly required relief in quantitative terms. Thus, in *Gates v. Collier*, 349 F. Supp. 881 (N.D. Miss. 1972), *aff'd*, 501 F.2d 1291 (1974), the court ordered the hiring of the following personnel: "3 full-time physicians, 2 full-time dentists, 2 full-time trained physician assistants, 6 full-time nurses certified as RN or LPN, 1 medical records librarian, and 2 medical clerical personnel." *Id.* at 901.

No inmate was to fill the positions listed above, although "competent" inmates might supplement the civilian medical staff. In addition, the court ordered that the prison's medical facility have available on a regular basis the consultant services of a radiologist and pharmacist.

The court in *Battle v. Anderson*, 376 F. Supp. 402 (E.D. Okla. 1974) required the following steps in personnel hiring:

The staffing provisions of the plan shall provide as a minimum:

- a. nursing care 24 hours a day, seven days a week;

- b. a full-time chief medical officer;
- c. the equivalent of one additional full-time doctor;
- d. an adequate support staff of qualified generalist or specialist medical professionals;
- e. such additional dental and dental support staff as will bring dental care in the penitentiary system to an acceptable level; and
- f. a designated staff member to be responsible for insuring that adequate in-patient psychiatric care and treatment are provided.

Id. at 434.

Other cases ordering the hiring of specific numbers of medical personnel include Newman v. Alabama, 349 F. Supp. 278 (M.D. Ala. 1972), aff'd and remanded, 503 F2d 565 (5th Cir. 1974); Wayne County Jail Inmates v. Wayne County Bd. of Comm'rs 1 Pris. L. Rptr. 186 (Wayne Co. Cir. Ct. Mich. 1972); and Jackson v. Hendricks (Phila., Pa., C.P. 1972, cert. denied, 421 U.S. 948 (1975)). See generally Plotkin, Enforcing Prisoners' Rights to Medical Treatment, 9 Crim. L. Bull. 159 (1973); Zalman, Prisoners' Rights to Medical Care, 63 J. Crim. L.C. & P.S. 185 (1972).

In addition, the regulations are to cover a broad range of topics all too frequently overlooked in today's prison medical care. Surveys and in-depth studies of medical services in prisons throughout the nation, from Florida to Pennsylvania, Massachusetts, and many other states, have concluded that, everywhere, care is "tawdry" at best. See, for excerpts from several state reports, ABA & AMA Compilation. See also, K. Babcock, Medical Survey of Florida Division of Corrections as Ordered by Judge Charles R. Scott (1974). The numerous cases which have ordered increased medical staff similarly recite incredible findings as to medical care.

The problem in jails, over which the department will ultimately wield control, is even worse. The American Medical Association conducted a study in 1972 which discovered that 56% of all jails had only first aid available, and 14% of all jails had no medical facilities or materials at all. American Medical Ass'n, Medical Care in U.S. Jails (1972). This prompted the American Medical Ass'n to establish a Jail Health Committee, and, in August 1977, to conduct the first national Jail Health Conference. See also ABA Joint Comm. at 470-475; LEAA, Prescriptive Health Care Package (for prisons and jails).

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23. The board of prison trustees adopt regulations necessary to establish procedures for inmate recreation programs which include both athletic and cultural activities. (BDR 16-72)
24. The position of ombudsman appointed by and accountable to the state board of prison trustees for the department of prisons be established. In this regard the subcommittee recommends further that the ombudsman should be responsible for monitoring all aspects of the department of prisons and should be granted statutory authority to (a) receive and respond in appropriate fashion to petitions submitted by any affected person or group of persons concerning the rules, policies and practices of prison authorities or prisoners, (b) investigate any matters raised in a petition or initiate his own investigations of any matter related to the department of prisons, its employees, or persons in its custody, (c) have access to all facilities, files, records, personnel and prisoners of the department of prisons and any other state agency as may be necessary to conduct his investigations and to compel the production of evidence and testimony of witnesses if necessary. The ombudsman with respect to such files should have access to confidential information, but should be prohibited from disclosing such information to any person or agency without the consent of the person about whom the information relates, (d) recommend any changes in the rules, policies, practices and procedures of the department of prisons and its employees, (e) publicize any and all investigative findings and recommendations, as well as the response of department of prison's authorities. Where his investigation discovers evidence of criminal activities, he should transmit his findings to prosecuting authorities and suspend publication of his findings while criminal procedures are pending, (f) report annually to the board of prison trustees and the legislature. (BDR 16-73)
25. The statutes be amended to include the procedural due process guidelines for inmate disciplinary proceedings specified in Craig v. Hocker 405 F. Supp 656 (1975). (BDR 16-74)
26. The state board of prison trustees adopt regulations necessary to establish reasonable inmate visitation policies and procedures. The subcommittee recommends further that such regulations should be (a)

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EXHIBIT D

SUBJECT	BDR #	BILL NO.	STATUS
5 member board of prison trustees, appointed by governor for 4-year staggered terms	16-55 & C-56		
State board of prison trustees adopt regulations necessary to establish uniform policies & procedures for carrying out all aspects of the dept. of prisons' business (changed)	18-57	A.B. 384	To Committee on Judiciary.
All correctional officers receive 40 hours of orientation prior to job assignment & an additional 40 hours of training during the first year	16-60	A.B. 394	To Committee on Judiciary.
State personnel division monitor, and report biennially to the state board of prison trustees, on the hiring and promotion policies and practices of the dept. of prisons	16-61		
Dept. of prisons, with assistance from personnel division, initiate use of appropriate psychological screening devices for prospective correctional officers	16-62	A.B. 397	To Committee on Judiciary.

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UBJECT	BDR #	BILL NO.	STATUS
Prison industries be expanded through the passage of a so-called state use law (changed)	16-63	A.B. 446	To Committee on Judiciary.
Private industry be permitted to operate ventures, employing prison inmates, on the grounds of the dept. of prisons' facilities	16-63	A.B. 446	To Committee on Judiciary.
Board of prison trustees adopt, by regulation, criteria for reasonable deductions from pay of inmates employed in prison industries for room & board, savings, family support & restitution	16-63	A.B. 446	To Committee on Judiciary.
Board of prison trustees adopt regulations necessary to establish procedures which provide for inmates to be used in as many non-security or non-managment positions as possible	16-64	A.B. 395	To Committee on Judiciary.
Separate budget category, including all personnel & operating costs, be established for prison farm	16-65		
State board of prison trustees adopt regulations necessary to establish general education & vocational training programs for inmates	16-66	A.B. 435	To Committee on Education.

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SUBJECT	BDR #	BILL NO.	STATUS
State board of parole commissioners be authorized to require that an offender without high school diploma or equivalent pursue remedial study (changed)	16-67	A.B. 447	Committee on Judiciary.
Dept. of prisons develop with BADA a comp. treatment plan & programs for inmates with histories of substance abuse	16-68	A.B. 434	Committee on Health & Welfare.
Dept. of prisons develop research and program evaluation capabilities necessary to determine effectiveness of offender education, rehab, voc ed, plan for effective long & short term programs and provide detailed information on its activities to the board of prison trustees, the governor & the legislature	16-69	A.B. 436	Committee on Judiciary.
No discrimination be made in provision of educational, recreational or employment facilities or services to any prisoners incarcerated in the dept. of prisons on account of race, sex, religion, marital status or national origin	16-70	A.B. 433	Committee on Judiciary.

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SUBJECT	BDR #	BILL NO.	STATUS
State health officer or his agent monitor & report semi-annually to board of prison trustees on the sanitation, health, cleanliness & safety of the dept. of prison facilities	16-71	A.B. 431	Committee on Health and Welfare.
State health officer or his agent monitor & report semi-annually to board of prison trustees on the nutritional adequacy & palatability of the inmates diets	16-71	A.B. 431	Committee on Health and Welfare.
Board of prison trustees adopt regulations necessary to establish procedures for inmate recreational programs which include both athletic & cultural activities	16-72	A.B. 437	Committee on Judiciary.
Establishment of the prison ombudsman with specified duties	16-73		
Statutes be amended to include the procedural due process guidelines for inmate disciplinary proceedings	16-74	A.B. 432	Withdrawn.

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SUBJECT	BDR #	BILL NO.	STATUS
State board of prison trustees adopt regulations necessary to establish reasonable inmate visitation policies & procedures	16-75	A.B. 392	Committee on Judiciary.
Board of prison trustees adopt regulations necessary to establish visitor search procedures which ensure visitor searches are applied uniformly	16-76		
State board of prison trustees adopt regulations specifying the personal property inmates are permitted to retain in their possession.	16-77	A.B. 393	Committee on Judiciary.
State board of prison trustees adopt regulations necessary to establish procedures which ensure that inmates' correspondence is handled in a manner which conforms with state & federal laws	16-78	A.B. 448	Committee on Judiciary.
State board of prison trustees adopt regulations necessary to establish procedures which provide inmates with reasonable access to telephone use	16-78		

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SUBJECT	BDR #	BILL NO.	STATUS
Monthly report be provided to inmate committees at each institution relative to the money in the prisoners' store fund	16-79	A.B. 391	Committee on Judiciary.
Unless unusual security requirements dictate otherwise, correctional officers be prohibited from supervising inmates of the opposite sex in housing, bathing or toilet areas	16-80	A.B. 383	Committee on Judiciary.
Denial or revocation of a license necessary to engage in occupation based solely on the conviction of an offense be prohibited unless offense committed bears substantial relationship to the functions & responsibilities of employment	54-81	A.B. 449	Committee on Judiciary.
Amount of money director of prisons may furnish offender upon his release from prison be increased to \$100. Also suitable clothing	16-82	A.B. 396	Committee on Judiciary.
State board of prison trustees adopt regulations necessary to establish criteria for reasonable deductions from inmates' personal funds to pay for state property inmates willfully destroy or damage	16-83	A.B. 160	Enrolled and to the governor. 2/27/79.

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SUBJECT BDR # BILL NO. STATUS

State health officer semi-annually
report to the board of prison
trustees regarding the medical,
dental and medical facilities of
the department of prisons

16-71

A.B. 431

Committee on Health and Welfare.

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