

**MINIMUM STANDARDS AND REGULATIONS FOR MANAGEMENT OF STATE
CORRECTIONAL FACILITIES**

PART	7600	<u>LEGAL AUTHORITY</u>
PART	7601	<u>DEFINITIONS</u>
PART	7602	<u>ENVIRONMENTAL HEALTH AND SAFETY</u>
PART	7603	<u>VARIANCES</u>
PART	7605	<u>POLICIES AND PROCEDURES</u>
PART	7612	<u>PRISONER PERSONAL HYGIENE</u>
PART	7621	<u>MAXIMUM FACILITY CAPACITY</u>
PART	7633	<u>SANITATION</u>
PART	7634	<u>CHEMICAL AGENTS</u>
PART	7640	<u>USE OF BODY IMAGING SCANNING EQUIPMENT</u>
PART	7651	<u>HEALTH SERVICES</u>
PART	7677	<u>ACADEMIC EDUCATION</u>
PART	7679	<u>LIBRARY SERVICES</u>
PART	7695	<u>NONDISCRIMINATORY TREATMENT</u>

PART 7600 LEGAL AUTHORITY

Section 7600.1. Legal authority

(a) Article XVII, section 5 of the New York State Constitution provides that there shall be a State Commission of Correction which shall visit and inspect all institutions used for the detention of sane adults charged with or convicted of a crime.

(b) Correction Law, article 3 delineates the functions, powers and duties of the commission which include:

(1) to request and receive from any department, division, board, bureau, commission or other agency of the State or any political subdivision thereof or any public authority, such assistance, information and data as will enable the commission, the board and the council to properly carry out its functions, powers and duties (Correction Law, § 44[4]);

(2) to visit, inspect and appraise the management of correctional facilities with specific attention to matters such as safety, security, health of inmates, sanitary conditions, rehabilitative programs, disturbance and fire prevention and control preparedness and adherence to laws and regulations governing the rights of inmates (Correction Law, § 45[3]);

(3) to establish procedures for the speedy and impartial review of grievances referred to it by the Commissioner of the Department of Corrections and Community Supervision (Correction Law, § 45[4]);

(4) to promulgate rules and regulations establishing minimum standards for the care, custody, correction, treatment, supervision, discipline and other correctional programs for all persons confined in correctional facilities (Correction Law, § 45[6]);

(5) to close any correctional facility which is unsafe, unsanitary or inadequate to provide for the separation and classification of prisoners required by law or which has failed to adhere to or comply with the rules and regulations promulgated by the commission (Correction Law, § 45[8]);

(6) to approve or reject plans or specifications for the construction or improvement of correctional facilities (Correction Law, § 45[10]);

(7) to adopt, amend or rescind such rules and regulations as may be necessary or convenient to the performance of the functions, powers and duties of the commission (Correction Law, § 45[15]);

(8) to have access at any and all times to any correctional facility or part thereof and to all books, records and data pertaining to any correctional facility deemed necessary for carrying out the commission's functions, powers and duties (Correction Law, § 46[1]);

(9) to issue and enforce a subpoena or a subpoena duces tecum, administer oaths and examine persons under oath (Correction Law, § 46[2]);

(10) to notify the chief administrative officer of any violation of the rules and regulations promulgated by the commission and recommend remedial action and to issue a directive requiring compliance with such rules and regulations. Upon the failure of the chief administrative officer to comply with such directive, the commission may apply to the Supreme Court for an order requiring compliance with such rule, regulation or law (Correction Law, § 46[4]); and

(11) to investigate and review the cause and circumstances surrounding the death of any inmate of a correctional facility (Correction Law, § 47[1] [a]).

History

Sec. filed May 3, 1983 eff. May 3, 1983; amd. filed May 21, 2013 eff. June 5, 2013.

PART 7601 DEFINITIONS

Section 7601.1. Definitions

Unless otherwise specifically provided herein, the following words and terms used in this Chapter are defined as follows:

- (a) *Commission and Commission of Correction* shall mean the New York State Commission of Correction.
- (b) *Commissioner* shall mean the Commissioner of the New York State Department of Corrections and Community Supervision.
- (c) *Correctional facility and facility* shall mean any place operated by the department and designated by the commissioner as a place for the confinement of persons under sentence of imprisonment or persons committed for failure to pay a fine.
- (d) *Department and departmental* shall mean the New York State Department of Corrections and Community Supervision.
- (e) *Facility health services staff* shall mean one or more of the following personnel employed within a facility by the department for the purpose of delivering health care services to inmates: New York State licensed clinical physicians, licensed registered professional nurses, registered physicians' assistants and/or registered nurse practitioners.
- (f) *Inmate* shall mean any person committed, transferred or placed in the care and custody of the Commissioner of the New York State Department of Corrections and Community Supervision for confinement in a correctional facility as defined by section 2(4) of the Correction Law.
- (g) *Maximum security facility* shall mean a facility operated by the department and designated as maximum security by the department.
- (h) *Medium security facility* shall mean a facility operated by the department and designated as medium security by the department.
- (i) *Minimum security facility* shall mean a facility operated by the department and designated as minimum security by the department.
- (j) *Superintendent* shall mean the chief administrative officer of a correctional facility as appointed by the commissioner.
- (k) *Watch commander* shall mean a facility staff member at the rank of lieutenant or sergeant who is appointed by the superintendent to be in charge of the normal routine activities occurring within the facility during his particular tour of duty and is responsible for bringing unusual activities or incidents to the attention of higher authority on call or on duty within the facility.

History

Sec. filed April 28, 1987 eff. May 19, 1987; amd. filed May 21, 2013 eff. June 5, 2013.

PART 7602 ENVIRONMENTAL HEALTH AND SAFETY

Section 7602.1. Policy

(a) The department shall ensure that all prisoners are housed and work in an environment which adequately provides for their physical well-being.

(b) Consistent with the provisions of this Part, the department shall develop written policies and procedures to ensure that all prisoners are housed and work in an environment which adequately provides for their physical well-being.

History

Sec. filed May 3, 1983 eff. May 3, 1983.

Section 7602.2. Prisoner housing

The department shall ensure that each facility provide adequate individual housing, activity space and, where appropriate, adequate multiple housing.

History

Sec. filed May 3, 1983 eff. May 3, 1983.

Section 7602.3. Lighting

The department shall ensure that all areas of each facility shall be provided with illumination sufficient to provide adequate supervision and safety and which complies with all applicable laws, codes, rules and regulations.

History

Sec. filed May 3, 1983; amds. filed: Jan. 31, 1989; Oct. 21, 2005 eff. Nov. 9, 2005.

Section 7602.4. Water supply

The department shall ensure that each facility maintains a water supply which complies with all applicable laws including 10 NYCRR Part 5, entitled "Drinking Water Supplies."

History

Sec. filed May 3, 1983; amd. filed March 24, 1998 eff. April 8, 1998.

Section 7602.5. Plumbing

The department shall ensure that plumbing installations in each facility comply with all applicable laws, codes, rules and regulations.

History

Sec. filed May 3, 1983; amds. filed: March 24, 1998; Oct. 21, 2005 eff. Nov. 9, 2005.

Section 7602.6. Noise control

The department shall ensure that noise levels are controlled to provide adequate supervision and safety.

History

Sec. filed May 3, 1983 eff. May 3, 1983.

Section 7602.7. Temperature control

Each facility shall maintain an adequate heating system which shall safely heat all appropriate areas of the facility and which complies with all applicable laws, codes, rules and regulations.

History

Sec. filed May 3, 1983; amds. filed: Jan. 31, 1989; Oct. 21, 2005 eff. Nov. 9, 2005.

Section 7602.8. Ventilation

All facility areas shall be provided with ventilation in accordance with all applicable laws, codes, rules and regulations.

History

Sec. filed May 3, 1983; amds. filed: Jan. 31, 1989; Oct. 21, 2005 eff. Nov. 9, 2005.

Section 7602.9. Environmental health and safety inspections

In order to facilitate the environmental health and safety of all persons in a facility the department shall, at a minimum:

- (a) provide that each facility employ a fire and safety officer; and

(b) provide that such fire and safety officer shall inspect the facility for compliance with state environmental health and safety standards on a continuous basis and ensure any deficiencies are corrected.

History

Sec. filed May 3, 1983; amd. filed Aug. 20, 1996 eff. Sept. 4, 1996.

PART 7603 VARIANCES

Section 7603.1. Policy

The Commission of Correction recognizes the need to provide a mechanism by which the department may apply for a variance to the requirements of this Chapter when situations exist or arise that would prevent or alter the department's ability to meet a requirement as set forth in this Chapter. The commission shall grant such variances only under certain conditions when so doing will not jeopardize the safety, security or good order of a correctional facility.

History

Sec. filed April 28, 1987 eff. May 19, 1987.

Section 7603.2. Conditions for applying for a variance

(a) The commissioner may apply to the commission for a variance to requirements of this Chapter when:

- (1) compliance with a specific rule or regulation cannot be achieved by the effective date of such rule or regulation;
- (2) due to a temporary condition or situation, compliance with a specific rule or regulation cannot be achieved; or
- (3) compliance is to be achieved in a manner other than that which is specified in such rule or regulation.

(b) In addition to the conditions cited in subdivision (a) of this section, the commissioner may apply to the commission for a variance to Part 7621 of this Title when the department has established that the programming or other important needs of one or more inmates cannot reasonably be met, or would be inordinately delayed, in the absence of such variance.

(c) The provisions of this Part shall not apply to any requirements of this Chapter where it is specifically stated that variances to such requirements are prohibited.

History

Sec. filed April 28, 1987 eff. May 19, 1987; amd. filed July 17, 2012 eff. Aug. 1, 2012.

Section 7603.3. Variance applications

(a) Any application to the commission for a variance shall be made in writing by the commissioner.

(b) Such application shall include:

- (1) the specific rule, regulation or provision that is the subject of the application;
- (2) the specific reasons and facts supporting the belief that compliance with the specific rule and regulation cannot be achieved;
- (3) when the application is made for reasons stated in paragraphs (1) and (2) of section 7603.2(a) of this Part, the specific plans, provisions and timetables for achieving full compliance with the rule or regulation at issue, the time period for which the variance is requested and any other material that the commissioner deems supportive of the application; and
- (4) when the application is made for reasons stated in section 7603.2(a)(3) of this Part, the specific plans which fully explain and support alternative methods of compliance when compliance is to be achieved in a manner other than that which is specified in the provisions of this Chapter.
- (5) when the application is made for reasons stated in section 7603.2(b) of this Part, the specific program(s) or need(s) in question shall be described in detail, together with an explanation as to why such program(s) or need(s) cannot reasonably be met, would be inordinately delayed, or cannot be established at an alternate correctional facility sufficient to meet the needs of the inmate population.

(c) The commission may require additional information concerning any variance application prior to rendering its decision.

History

Sec. filed April 28, 1987 eff. May 19, 1987; amd. filed July 17, 2012 eff. Aug. 1, 2012.

Section 7603.4. Review of variance applications

(a) The commission shall review and issue a written determination to the commissioner on each variance application which complies with the requirements of this Part.

(b) When a variance is granted, the commission's determination shall specify:

- (1) the time period for which the variance is granted; and
- (2) any special requirements or conditions imposed as a condition of the variance.

(c) When a variance is granted, such variance and any special requirements or conditions imposed shall become the standard for compliance with the specific rule or regulation at issue for the department or the facility involved.

(d) When a variance is denied, the commission's determination shall include the specific facts and reasons underlying its decision.

(e) Within 30 days after a variance is denied by the commission pursuant to this Part, the commissioner may request a hearing before the commission. Such hearing shall provide the department an opportunity to present its position and to respond to any questions the members of the commission may have on the matter.

History

Sec. filed April 28, 1987 eff. May 19, 1987.

Section 7603.5. Variance reapplications

(a) When a variance is denied, the commissioner may reapply to the commission for a variance if:

(1) additional information is available which supports the application and addresses the specific facts and reasons for the denial; and/or

(2) conditions or circumstances within a particular facility or the entire department have changed in a manner which would justify reconsideration of the application.

(b) Any such reapplication shall be made in accordance with the requirements of this Part.

History

Sec. filed April 28, 1987 eff. May 19, 1987.

PART 7605 POLICIES AND PROCEDURES

Section 7605.1. Policy

In order to promote compliance with all Parts of this Chapter and other applicable laws, adherence to generally accepted correctional practices and consistency in operations in all correctional facilities, the department shall formulate and implement a formal system governing the development of and adherence to written policies and procedures.

History

Sec. filed April 28, 1987 eff. May 19, 1987.

Section 7605.2. Definitions

As used in this Part, the following definitions shall apply to the terms listed below:

- (a) **Policy** shall mean a statement of guiding principles which are the basis for decisions, actions and procedures directed toward the attainment of objectives.
- (b) **Procedure** shall mean a detailed description which sets forth the means and methods of policy implementation, including the steps to be taken, the order in which they are to be carried out and the person(s) responsible.

History

Sec. filed April 28, 1987 eff. May 19, 1987.

Section 7605.3. Policy and procedure manuals

- (a) Each correctional facility shall maintain one or more policy and procedures manuals which shall contain all current written policies and procedures issued or promulgated by or under the direct or designated authority of the commissioner.
- (b) Each correctional facility shall maintain one or more facility operations manuals which shall contain all current written policies and procedures which address issues specific to that facility which are not addressed within departmental policies and procedures.
- (c) A sufficient number of such manuals shall be maintained in locations within each facility which are accessible to all facility staff.
- (d) Each major unit or division within each correctional facility shall maintain a copy of those policies and procedures which directly apply to its functions and responsibilities.

History

Sec. filed April 28, 1987; repealed, new added by renum. 7605.4, filed May 20, 1997 eff. June 4, 1997.

Section 7605.4. Orientation to policies and procedures

(a) All facility staff and civilians and volunteers who perform services at the facility on a regular basis shall receive notification and adequate orientation concerning all existing and newly issued policies and procedures which govern their duties and responsibilities.

(b) All inmates shall receive notification and adequate orientation concerning all existing and newly issued policies and procedures which directly affect them as long as such disclosure is not a threat to the safety or security of the facility.

(c) Current copies of all policies and procedures which the department deems appropriate for inmate access shall be available in each facility's inmate law library.

History

Sec. filed April 28, 1987; renum. 7605.3, new added by renum. 7605.5, filed May 20, 1997 eff. June 4, 1997.

Section 7605.5. Assessment and revision of policies and procedures

(a) All departmental policies and procedures developed pursuant to the requirements of this Part shall be reviewed, assessed and revised as necessary to ensure they are in compliance with this Chapter, all current laws, rules and regulations and continue to state and support departmental policies.

(b) Such review and assessment shall be conducted periodically.

(c) A written record shall be maintained of all periodic reviews and assessments.

History

Sec. filed April 28, 1987; renum. 7605.4, new added by renum. and amd. 7605.6, filed May 20, 1997 eff. June 4, 1997.

PART 7612 PRISONER PERSONAL HYGIENE

Section 7612.1. Policy

The department shall develop written policies and procedures designed to ensure that prisoners are entitled to access to facilities and items necessary to maintain personal hygiene.

History

Sec. filed May 3, 1983 eff. May 3, 1983.

Section 7612.2. Showers

(a) There shall be sufficient bathing facilities to permit prisoners to have hot showers at least three times a week. Water for showers shall be thermostatically controlled to ensure the safety of the prisoners.

(b) Consistent with the department's health requirements, the chief administrative officer shall require prisoners to shower periodically and when certain work assignments or activities mandate.

History

Sec. filed May 3, 1983 eff. May 3, 1983.

Section 7612.3. Shaving

(a) Prisoners shall be permitted to shave daily. Necessary shaving items shall be provided at facility expense and shall be maintained in a safe and sanitary condition.

(b) Hot water sufficient to enable prisoners to shave with care and comfort shall be provided.

History

Sec. filed May 3, 1983 eff. May 3, 1983.

Section 7612.4. Hair

(a) All prisoners shall be permitted to adopt hair styles, including facial hair styles of any length, which in the opinion of the department does not constitute a threat to the safety, security or good order of a facility.

(b) When in the opinion of the chief administrative officer, the growth or removal of a prisoner's hair, including facial hair, creates an identification problem, a new photograph may be taken of that prisoner at facility expense.

(c) There shall be hair care services available to prisoners which comply with applicable health requirements. Hair equipment shall be stored securely when not in use.

History

Sec. filed May 3, 1983 eff. May 3, 1983.

Section 7612.5. Personal health care items

(a) The department shall require that upon admission to a facility, all prisoners shall be provided at facility expense with an issue of personal health care items. The department shall specify those articles necessary for maintaining proper personal hygiene and health care including at a minimum, soap, toothpaste, toothbrush, drinking cup, toilet paper and bath towels.

(b) In addition to subdivision (a) of this section, all female prisoners shall be provided at facility expense with necessary feminine hygiene items in order to provide for the special hygiene needs of females. All feminine hygiene items shall be stored and dispensed in a manner sufficient to ensure that they are sanitary.

(c) All personal health care items issued pursuant to subdivisions (a) and (b) of this section shall be replenished or replaced as needed.

History

Sec. filed May 3, 1983 eff. May 3, 1983.

Section 7612.6. Clothing

(a) The department shall require each facility to issue adequate prisoner clothing at facility expense, which is properly fitted and climatically suitable.

(b) When weather conditions necessitate, additional clothing for prisoners who will be outside the facility shall be provided.

(c) The department shall require each facility to provide for the issue of special and protective clothing and equipment to prisoners when appropriate.

(d) All prisoners' clothing shall be limited to those items that, in the opinion of the department, do not constitute a threat to the safety, security or good order of a facility.

History

Sec. filed May 3, 1983 eff. May 3, 1983.

Section 7612.7. Bedding and linen

(a) The department shall require that each facility provide for the issuance of suitable clean bedding and linen, including at a minimum two sheets, a pillowcase, one mattress and sufficient blankets to provide comfort under existing temperature controls.

(b) Mattresses and mattress covers shall be constructed of approved fire-retardant and water-resistant materials which are easily sanitized.

History

Sec. filed May 3, 1983 eff. May 3, 1983.

Section 7612.8. Laundry: clothing, bedding and linen

(a) *Personal clothing.* Each facility shall provide for the thorough cleaning and when necessary disinfecting of prisoner personal clothing before storage or allowing a prisoner to keep and wear personal clothing.

(b) *Facility-issued clothing.* Consistent with section 7612.6(a) of this Part, a clothing exchange shall be provided to all prisoners a minimum of two times per week. All facility-issued clothing shall be laundered and repaired prior to being reissued to another prisoner.

(c) *Bedding and linen.* There shall be provisions for linen and towel exchange on at least a weekly basis. Blankets shall be laundered at least once a year or when necessary.

(d) Blankets, pillows and mattresses shall be cleaned and sprayed or sterilized before reissue. Linens and towels shall be laundered before reissue.

History

Sec. filed May 3, 1983 eff. May 3, 1983.

Section 7612.9. Inventory/storage of clothing, bedding and linen

(a) The inventory of clothing, bedding and linen shall exceed that required for the facility inmate population.

(b) The department shall develop a written policy and procedure for the accountability of prisoner clothing, bedding and linen.

(c) All items of clothing, bedding and linen stored within a facility shall be maintained in a safe, secure and sanitary manner.

History

Sec. filed May 3, 1983 eff. May 3, 1983.

PART 7621 MAXIMUM FACILITY CAPACITY

Section 7621.1. Policy

In order to promote a safe, secure and healthy correctional environment, there shall be a limit on the total number of inmates confined at any given time within each correctional facility.

History

Sec. filed July 19, 1988 eff. Aug. 3, 1988.

Section 7621.2. Definitions

As used in this Part, the term **maximum facility capacity** shall mean the greatest number of inmates that may be confined at one time within each correctional facility as certified by the commission pursuant to the requirements of this Part.

History

Sec. filed July 19, 1988 eff. Aug. 3, 1988.

Section 7621.3. Facility population limitation

The total number of inmates confined within each correctional facility shall not exceed the maximum facility capacity of such facility.

History

Sec. filed July 19, 1988 eff. Aug. 3, 1988.

Section 7621.4. Establishment of housing units

The department may establish individual occupancy housing units, double occupancy housing units, and multiple occupancy housing units, as hereinafter defined in sections 7621.5, 7621.6, 7621.7, and 7621.8 of this Part, respectively.

History

Sec. filed July 19, 1988; renum. 7621.5, new filed Aug. 26, 1997; amd. filed Dec. 26, 2000 eff. Jan. 17, 2001.

Section 7621.5. Individual occupancy housing units

(a) An *individual occupancy housing* unit is a housing unit with an individually controlled locking device secured from inmate access equipped to accommodate one inmate. Each individual occupancy housing unit shall contain at least 60 square feet of floor space; however, an individual occupancy housing unit may contain less than 60 square feet of floor space if such unit was originally constructed for single occupancy or has been rated for single occupancy by the commission.

(b) Except as otherwise provided in subdivision (c) of this section, each individual occupancy housing unit shall contain:

- (1) one bed and mattress;
- (2) one functioning toilet; and
- (3) one functioning sink.

(c) The equipment required pursuant to subdivision (b) of this section may be modified or excluded for individual occupancy housing units used for short term medical/mental health observation of inmates when the presence of such equipment may pose a threat to such inmates or to the safety or security of the facility.

(d) At least one functioning shower shall be available for each tier or section of individual occupancy housing units.

(e) Each individual occupancy housing unit shall house only one inmate.

History

Sec. filed July 19, 1988; amds. filed: Aug. 30, 1990; June 29, 1993; March 28, 1995 as emergency measure; renum. 7621.6, new filed: May 2, 1995 as emergency measure; June 26, 1995; June 28, 1995; July 21, 1995 as emergency measure; Sept. 7, 1995 as emergency measure; Sept. 19, 1995; July 16, 1996; renum. 7621.6, new added by renum. and amd. 7621.4, filed Aug. 26, 1997 eff. Sept. 3, 1997. Amended (a).

Section 7621.6. Double occupancy housing units originally designated for individual occupancy

(a) A *double occupancy housing unit originally designated for individual occupancy* is a housing unit with an individually controlled locking device secured from inmate access that was originally designated for individual occupancy and which is equipped to accommodate two inmates. Each double occupancy housing unit originally designated for individual occupancy shall provide a minimum of 23 square feet of floor space per inmate.

(b) Each double occupancy housing unit originally designated for individual occupancy shall house no more than two inmates.

(c) Each double occupancy housing unit originally designated for individual occupancy shall contain the following:

- (1) one functioning toilet;
- (2) one functioning sink;
- (3) one bed and mattress for each inmate; and
- (4) one safe storage area for each inmate.

(d) At least one functioning shower shall be available for each tier or section in which double occupancy housing units originally designated for individual occupancy are located.

(e) In determining which inmates will be assigned to double occupancy housing units originally designated for individual occupancy, the department shall first consider those inmates newly transferred into the facility where such units have been established.

(f) Each inmate shall undergo a screening and risk assessment, including a review of medical records, prior to being assigned to a double occupancy housing unit originally designated for individual occupancy. Only those inmates determined by the department to be suitable shall be assigned to double occupancy housing units originally designated for individual occupancy. The department shall adopt regulations setting forth the standards for determining an inmate's suitability for assignment to a double occupancy housing unit originally designated for individual occupancy. Such standards shall include, but not be limited to, the following factors:

- (1) the physical characteristics of the inmate;
- (2) the age of the inmate;
- (3) the mental state of the inmate;
- (4) the health of the inmate;
- (5) the inmate's disciplinary and behavioral record; and
- (6) the inmate's criminal history and the nature of the offense(s) for which the inmate is currently incarcerated.

(g) An inmate designated as OMH level I shall not be assigned to a double occupancy housing unit originally designated for individual occupancy.

(h) If an inmate is determined to be suitable for assignment to a double occupancy housing unit originally designated for individual occupancy, such inmate shall receive a physical assessment by facility health care staff prior to or within 48 hours of actual placement in a double occupancy housing unit.

(i) Only those inmates determined by the department to be compatible shall be housed together in a double occupancy housing unit originally designated for individual occupancy. The department shall adopt regulations setting forth standards for selecting which inmates of those determined to be suitable are to be housed together in a double occupancy housing unit originally designated for individual occupancy. Such standards shall include, but not be limited to, the following factors:

- (1) whether two inmates have requested to be housed together;
- (2) the ethnic and religious backgrounds of the inmates;
- (3) the age of the inmates;
- (4) the physical size of the inmates;
- (5) the length of time left to be served by the inmates;
- (6) the program or job assignment of the inmates;
- (7) whether there is a familial relationship between the inmates;
- (8) whether the inmates smoke; and
- (9) known enemies of record.

(j) Inmates shall be moved on the basis of seniority from double occupancy housing units originally designated for individual occupancy to individual or multiple occupancy housing units as such units become available; subject however to the facility's needs and the program assignments of the affected inmates. No inmate shall be confined in a double occupancy housing unit originally designated for individual occupancy for a period of more than 60 days unless such inmate volunteers to remain in such unit for a longer period of time. At the expiration of the 60 days, if an inmate does not volunteer to remain in a double occupancy housing unit originally designated for individual occupancy he shall be moved to an individual or multiple occupancy housing unit at either his current facility or a new facility.

(k) No individual occupancy housing unit may be converted by the department to a double occupancy housing unit originally designated for individual occupancy without the approval of the commission. The factors the commission shall consider in determining whether to approve the conversion of an individual occupancy housing unit to a double occupancy housing unit originally designated for individual occupancy shall include, but not be limited to, the following:

- (1) the proximity of the unit to a security station or to security staff;
- (2) whether the unit will comply with the requirements of subdivisions (a), (b), (c) and (d) of this section; and
- (3) the effect conversion will have on the facility's ability to provide programs and services.

(l) If the commission approves conversion of an individual occupancy housing unit to a double occupancy housing unit originally designated for individual occupancy, the department shall reformulate the affected facility's maximum facility capacity consistent with sections 7621.10 and 7621.11 of this Part.

History

Sec. filed July 19, 1988; renum. 7621.7, new added by renum. 7621.5, filed: May 2, 1995 as emergency measure; July 21, 1995 as emergency measure; Sept. 7, 1995 as emergency measure; Sept. 19, 1995; amd. filed April 2, 1996; renum. 7621.7, new filed Aug. 26, 1997; amd. filed Dec. 26, 2000 eff. Jan. 17, 2001. Amended sec. title, (a)-(l).

Section 7621.7. Double occupancy housing units originally designated and constructed for double occupancy

(a) *A double occupancy housing unit originally designated and constructed for double occupancy* is a housing unit with an individually controlled locking device secured from inmate access that was originally designated and constructed to accommodate two inmates. Each double occupancy housing unit originally designated and constructed for double occupancy shall provide a minimum of 50 square feet of floor space per inmate.

(b) Each double occupancy housing unit originally designated and constructed for double occupancy shall house no more than two inmates.

(c) Each double occupancy housing unit originally designated and constructed for double occupancy shall contain the following:

- (1) one functioning toilet;
- (2) one functioning sink; and
- (3) one bed and mattress for each inmate.

(d) Each inmate housed in a double occupancy housing unit originally designated and constructed for double occupancy shall have available one safe storage area.

(e) At least one functioning shower shall be available for each tier or section in which double occupancy housing units originally designated and constructed for double occupancy are located.

(f) Each inmate shall undergo a screening and risk assessment, including a review of medical records, prior to being assigned to a double occupancy housing unit originally designated and constructed for double occupancy. Only those inmates determined by the department to be suitable shall be assigned to double occupancy housing units originally designated and constructed for double occupancy. The department shall adopt written policies and procedures, which shall be filed with the commission, setting forth the standards for determining an inmate's

suitability for assignment to a double occupancy housing unit originally designated and constructed for double occupancy. Such standards shall include, but not be limited to, the following factors:

- (1) the physical characteristics of the inmate;
- (2) the mental state of the inmate;
- (3) the health of the inmate;
- (4) the inmate's disciplinary and behavioral records; and
- (5) the inmate's criminal history and the nature of the offense(s) for which the inmate is currently incarcerated.

(g) An inmate designated as OMH level I shall not be assigned to a double occupancy housing unit originally designated and constructed for double occupancy.

(h) Only those inmates determined by the department to be compatible shall be housed together in a double occupancy housing unit originally designated and constructed for double occupancy. The department shall adopt written policies and procedures, which shall be filed with the commission, setting forth standards for selecting which inmates of those determined to be suitable are to be housed together in a double occupancy housing unit originally designated and constructed for double occupancy. Such standards shall include, but not be limited to, the following factors:

- (1) the ethnic and religious backgrounds of the inmates;
- (2) the physical capabilities of the inmates;
- (3) whether the inmates smoke; and
- (4) known enemies of record.

History

Sec. filed July 19, 1988; renum. 7621.8, new added by renum. 7621.6, filed: May 2, 1995 as emergency measure; July 21, 1995 as emergency measure; Sept. 7, 1995 as emergency measure; Sept. 19, 1995; renum. 7621.8, new added by renum. and amd. 7621.6, filed Aug. 26, 1997; amd. filed Feb. 24, 1998; renum. 7621.8, new filed Dec. 26, 2000 eff. Jan. 17, 2001.

Section 7621.8. Multiple occupancy housing units

(a) A *multiple occupancy housing unit* is a housing unit equipped to accommodate at least three and not more than 60 inmates. Each multiple occupancy housing unit shall provide a minimum of 50 square feet of floor space per inmate in the sleeping area.

(b) Each multiple occupancy housing unit shall house no more than 60 inmates.

(c) Each multiple occupancy housing unit shall have a bed and mattress for each inmate and have available:

- (1) at least one functioning toilet for every 12 inmates;
- (2) at least one functioning shower for every 15 inmates; and
- (3) at least one functioning sink for every 12 inmates.

(d) The provisions of paragraphs (c)(1), (2) and (3) of this section shall not apply to multiple occupancy housing units originally constructed or approved for occupancy by the commission prior to the effective date of this Part, provided that such units contain showers, toilets, and sinks in sufficient number to assure the personal hygiene of inmates housed in such units.

History

Sec. filed July 19, 1988; renum. 7621.9, new added by renum. and amd. 7621.7, filed: May 2, 1995 as emergency measure; July 21, 1995 as emergency measure; Sept. 7, 1995 as emergency measure; Sept. 19, 1995; renum. 7621.9, new added by renum. 7621.7, filed Aug. 26, 1997; renum. 7621.9, new added by renum. 7621.7, filed Dec. 26, 2000 eff. Jan. 17, 2001.

Section 7621.9. Medical housing units and treatment areas

(a) Each individual occupancy housing unit used to house inmates apart from general population for purposes of medical observation or treatment shall have a minimum of 80 square feet of floor space.

(b) Each multiple housing unit used to house inmates apart from general population for purposes of medical observation or treatment shall have a minimum of 80 square feet of floor space per inmate in the sleeping area.

History

Sec. added by renum. and amd. 7621.8, filed: May 2, 1995 as emergency measure; July 21, 1995 as emergency measure; Sept. 7, 1995 as emergency measure; Sept. 19, 1995; renum. 7621.10, new added by renum. 7621.8, filed Aug 26, 1997; renum. 7621.10, new added by renum. 7621.8, filed Dec. 26, 2000 eff. Jan. 17, 2001.

Section 7621.10. Formulating maximum facility capacity

(a) Consistent with the requirements of this Part, the department shall formulate a proposed maximum facility capacity in writing for each correctional facility in a form and manner prescribed by the commission.

(b) Such proposed capacity shall be approved in writing by the commissioner or his designee.

(c) In formulating the proposed maximum facility capacity for each facility, the department shall determine the maximum number of inmates that can be housed in individual, double, and multiple occupancy housing units pursuant to the requirements of this Part. Such determination shall be based on the following:

(1) the number of properly equipped individual occupancy housing units, including the number of properly equipped admissions, medical and mental health and any other special housing units;

(2) the number of properly equipped double occupancy housing units;

(3) the number of properly equipped multiple occupancy housing units, including the number of properly equipped admissions, medical and mental health and any other special housing units; and

(4) the facility's ability to provide required programs and services and to comply with other rules and regulations of this Chapter which are related to facility capacity.

(d) Upon receipt of a proposed maximum facility capacity from the department, the commission shall review such proposed capacity and may either approve or modify it.

(e) Upon completion of such review, the commission shall issue a certified maximum facility capacity for such facility to the commissioner.

(f) Within 60 days after receipt of the certified maximum facility capacity, the commissioner may, if the commission has modified the department's proposal, appeal for a revision to the certified capacity.

(g) Any such appeal shall be made in writing and include the specific facts, reasons or special circumstances underlying the request.

(h) The commission shall respond to such appeal within 60 days after its receipt and shall either sustain or amend its original certified capacity.

(i) The commission's determination shall be made in writing, state the specific facts and reasons underlying its decision and shall be forwarded to the commissioner.

History

Sec. added by renum. and amd. 7621.9, filed Aug. 26, 1997; renum. 7621.11, new added by renum. 7621.9, filed Dec. 26, 2000 eff. Jan. 17, 2001.

Section 7621.11. Applying for a change in maximum facility capacity

(a) Upon a change in any of the factors delineated in section 7621.10(c) of this Part, the commissioner may apply to the commission for a revision of a facility's certified maximum facility capacity.

(b) Such application shall be made in writing and include the specific facts, reasons or special circumstances underlying the request.

(c) Within 60 days after receipt, the commission shall review such application and forward its determination in writing to the commissioner.

History

Sec. added by renum. and amd. 7621.10, filed Dec. 26, 2000 eff. Jan. 17, 2001.

PART 7633 SANITATION

Section 7633.1. Policy

- (a) The department shall ensure that each facility is maintained in a sanitary manner.
- (b) Consistent with the requirements of this Part, the department shall develop written policies and procedures designed to ensure that each facility is maintained in a sanitary manner.

History

Sec. filed May 3, 1983 eff. May 3, 1983.

Section 7633.2. Facility sanitation equipment

- (a) The department shall require that each facility maintain a sufficient inventory of facility sanitation equipment.
- (b) The department shall specify what such equipment shall include.
- (c) All facility sanitation equipment shall be maintained in good condition and stored in a safe and secure manner.

History

Sec. filed May 3, 1983 eff. May 3, 1983.

Section 7633.3. General facility sanitation

- (a) The department shall develop a written housekeeping plan for all areas of a facility's physical plant which shall provide for daily housekeeping and regular maintenance by assigning specific duties and responsibilities to staff and inmates to ensure that all areas of a facility are maintained in a sanitary manner.
- (b) Each prisoner confined in a facility shall maintain his individual housing unit in a sanitary manner. Any prisoner failing to comply with this requirement may be subject to disciplinary action.

History

Sec. filed May 3, 1983 eff. May 3, 1983.

Section 7633.4. Food service sanitation

- (a) The department shall ensure that the food service areas, including equipment and utensils, in each facility are maintained in a sanitary manner.
- (b) The department shall specify the sanitization procedures which are to be employed in the food service areas of each facility.
- (c) The department shall specify all food equipment and utensils which are necessary in the food service areas.
- (d) The department shall require that all persons employed in the food service area of a facility maintain high levels of cleanliness and conform to hygienic practices while on duty consistent with applicable laws.

History

Sec. filed May 3, 1983 eff. May 3, 1983.

Section 7633.5. Insect and rodent control

- (a) The department shall ensure that each facility provide for the control of vermin and pests.
- (b) Any pesticide or pesticide applicator authorized by the department for use in a facility shall:
 - (1) be maintained in a safe and secure manner;
 - (2) be used as directed by the manufacturer and in accordance with the requirements established by the New York State Department of Environmental Conservation; and
 - (3) be approved by the New York State Department of Environmental Conservation.

History

Sec. filed May 3, 1983; amd. filed Nov. 19, 1996 eff. Dec. 4, 1996. Amended (b).

Section 7633.6. Sanitation inspections

- (a) The department shall require weekly sanitation inspections of all institution areas by a designated staff member. Such inspections shall be recorded in writing.
- (b) The department shall request at least annual inspections by Federal, State and/or local sanitation and health officials in compliance with all applicable laws of the governing jurisdiction. There shall be documentation that deficiencies have been corrected. Such inspections conducted pursuant to this subdivision shall be designed to ensure compliance with the

requirements of this Part and with applicable provisions of the State's Sanitary Code as contained in 10 NYCRR Chapter I.

(c) The department shall require that the institution's potable water source, whether owned or operated by the public water department or the institution, is certified in compliance with jurisdictional laws and regulations.

(d) The results of any inspections conducted pursuant to this Part shall be recorded in writing.

History

Sec. filed May 3, 1983; amd. filed Nov. 19, 1996 eff. Dec. 4, 1996. Amended (a) and (d).

Section 7633.7. Waste disposal

The department shall ensure that each facility provide for waste disposal which protects the health and safety of prisoners and staff and complies with all applicable laws and codes.

History

Sec. filed May 3, 1983 eff. May 3, 1983.

PART 7634 CHEMICAL AGENTS

Section 7634.1. Policy

The use of chemical agents in a correctional facility shall be controlled and reasonably applied only when necessary to protect the safety, security and good order of the facility. Chemical agents when used appropriately by trained facility staff under certain conditions have proven to be an effective method in preventing the loss of authority without resorting to physical contact or deadly physical force.

History

Sec. filed April 28, 1987 eff. May 19, 1987.

Section 7634.2. Authorized chemical agents

(a) The only chemical agents which shall be stored or used in a correctional facility shall be chloroacetophenone (CN) and ortho chlorobenzalmalonitrile (CS).

(b) Chemical agents shall be administered only by the use of department-approved grenades, projectiles, aerosols, fogging and dusting devices.

(c) Devices such as tear gas billies, pens or other small caliber devices of similar design shall be strictly prohibited.

History

Sec. filed April 28, 1987 eff. May 19, 1987.

Section 7634.3. Authorization for the use of chemical agents

(a) No chemical agents shall be used by facility staff without proper authorization pursuant to the requirements of this section.

(b) Authorization for the use of chemical agents shall emanate from the highest authority available within each facility. Except as otherwise provided in subdivision (c) of this section, only facility staff at or above the rank of lieutenant or in the position of watch commander who have been trained in the use of chemical agents shall have the authority to order the use of such agents.

(c) In extreme cases, when a delay in the use of chemical agents presents an immediate threat of death or serious injury or severely threatens the safety or security of the correctional facility, facility staff have the authority to use chemical agents without authorization pursuant to the requirements of subdivision (b) of this section.

History

Sec. filed April 28, 1987 eff. May 19, 1987.

Section 7634.4. Use of chemical agents

- (a) Chemical agents shall not be used as a means of punishment.
- (b) The use of any chemical agent shall be supervised by a staff person at the rank of sergeant or above who have been trained in the use of chemical agents, except in extreme cases when a delay in the use of such agents presents an immediate threat of death or serious injury or severely threatens the safety or security of the facility.
- (c) Prior to the use of chemical agents, the person authorizing such use shall notify facility health services staff, except in extreme cases when a delay in the use of such agents presents an immediate threat of death or serious injury or severely threatens the safety or security of the facility.
- (d) Prior to the use of chemical agents, facility health services staff who are trained in the medical consequences of the use of such agents shall make reasonable efforts to inform the authorizing officer whether such use may aggravate any existing injuries, illnesses or other physical conditions of any person who may be exposed.
- (e) Prior to the use of chemical agents, facility staff shall consider:
 - (1) the safety hazards such agents can produce when used under certain conditions for certain periods of time in enclosed areas;
 - (2) the safety hazards presented by the use of burning-type grenades and projectiles in the vicinity of combustible materials; and
 - (3) the distinctive characteristics of each type of agent and how these characteristics will affect the situation for which they are being considered for use.
- (f) Information pertaining to the requirements of this section shall be included in the training program required pursuant to section 7634.5 of this Part.
- (g) No chemical agent shall be used on any person if a determination has been made pursuant to subdivision (d) of this section that the use of such agent may aggravate any existing injuries, illnesses or other physical conditions of any recipient, unless such use is reasonable to prevent death, serious injury or a serious threat to the safety or security of the facility.
- (h) Whenever possible, prior to the use of any chemical agent, all reasonable efforts shall be made to evacuate all persons for whom the use of such agents is not intended.
- (i) In all cases of exposure to any chemical agent, facility health services staff shall examine and treat all persons exposed to such chemical agents as soon as possible.

(j) All facility health services staff shall be properly trained in the treatment of persons exposed to chemical agents.

(k) Appropriate decontamination of persons and area cleanup procedures shall be completed as soon as possible after the use of any chemical agent.

(l) No chemical-agent munitions or devices shall be used after they have passed the predetermined expiration date established by the manufacturer.

History

Sec. filed April 28, 1987 eff. May 19, 1987.

Section 7634.5. Training in the use of chemical agents

(a) All facility staff who have the authority to order the use of chemical agents pursuant to section 7634.3 of this Part, supervise such use pursuant to section 7634.4(b) of this Part, and use such agents, shall have successfully completed a chemical agents training program developed by the department.

(b) Such training program shall incorporate accepted practices in the use of chemical agents and shall be submitted to the Commission of Correction for approval before delivery to department staff.

(c) All facility staff who have the authority to order the use of chemical agents pursuant to section 7634.3 of this Part, supervise such use pursuant to section 7634.4(b) of this Part, and use such agents, shall also receive additional annual in-service training to ensure continued proficiency in chemical agent issues.

History

Sec. filed April 28, 1987; amd. filed May 20, 1997 eff. June 4, 1997. Amended (c).

Section 7634.6. Storage and maintenance of chemical agents

(a) All chemical agent equipment, munitions or devices stored within a facility shall be maintained in a safe and secure manner. Such storage shall ensure that only persons trained in the use of such articles have access to them.

(b) Quarterly inspections of all such equipment, munitions or devices shall be conducted.

(c) A written record of all such inspections shall be maintained.

(d) Munitions and devices which have passed their predetermined expiration date shall be stored separately from the usable stock.

(e) Such munitions and devices shall be disposed of in compliance with accepted practices or used for training purposes only.

History

Sec. filed April 28, 1987; amd. filed May 20, 1997 eff. June 4, 1997. Amended (c).

Section 7634.7. Recording the use of chemical agents

(a) A written record of all incidents of chemical agent use, except when such agents are used for training purposes, shall be maintained.

(b) Such record shall include, but not be limited to:

- (1) the date and time of use;
- (2) the location of the incident within the facility;
- (3) the facts and circumstances surrounding the use of the agent;
- (4) the name of the person authorizing the use of the agent;
- (5) the name(s) of any person(s) on whom the agent was used;
- (6) the name(s) of any facility staff involved in the use of the agent;
- (7) the brand name of the agent used;
- (8) the approximate amount of agent used;
- (9) the approximate length of time each person was exposed to the agent from the use of the agent to initiation of decontamination procedures;
- (10) the name and professional title of facility health services staff providing medical advice and assistance in accordance with the provisions of section 7634.4(d) of this Part and any treatment provided; and
- (11) any adverse physical reactions of any person(s) to the use of the agent.

History

Sec. filed April 28, 1987 eff. May 19, 1987.

PART 7640 Use of Body Imaging Scanning Equipment

Section 7640.1 Policy

The purpose of this Part shall be to ensure that body imaging scanning equipment is used in correctional facilities to prevent the entry of contraband, in a manner that ensures for the safety and security of both incarcerated individuals and facility staff.

History

Filed Dec. 20, 2023 eff. Jan. 10, 2024 (Register dated Jan. 10, 2024).

Section 7640.2 Definitions

As used in this Part, the following definitions shall apply to the terms listed below:

(a) Body imaging scanning equipment shall mean equipment that utilizes a low dose of ionizing radiation to produce an anatomical image capable of detecting objects placed on, attached to, or secreted within a person's body.

(b) Department of Health shall mean the New York State Department of Health.

(c) Visitor shall mean a person entering a correctional facility with the intent of visiting an incarcerated individual, but shall not include an attorney, acting in a professional capacity and authorized to practice law in New York State or in any jurisdiction where the incarcerated individual has a legal action, proceeding or other legal matter pending, or any individual with the statutory authority to visit, at pleasure, any correctional facility within the state.

History

Filed Dec. 20, 2023 eff. Jan. 10, 2024 (Register dated Jan. 10, 2024).

Section 7640.3 General use of body imaging scanning equipment

(a) The department shall ensure that the installation, registration, recordkeeping, maintenance, operation and inspection of any body imaging scanning equipment utilized in a correctional facility shall comply with the regulatory requirements promulgated by the Department of Health.

(b) An individual who is pregnant shall not be subject to body imaging scanning equipment at any time.

(c) Procedures for identifying pregnant individuals shall be implemented by the department, consistent with applicable Department of Health regulations.

(d) Body imaging scanning equipment may not be used for medical examinations or to diagnose an illness or injury.

(e) Absent exigent circumstances, all body scans must be conducted by an officer of the same sex as the individual being scanned. Individuals who are transgender or intersex may request that they be scanned by an officer of a specific gender.

History

Filed Dec. 20, 2023 eff. Jan. 10, 2024 (Register dated Jan. 10, 2024).

Section 7640.4 Body imaging scanning of incarcerated individuals

(a) Incarcerated individuals may be searched utilizing body imaging scanning equipment in the following circumstances:

- (1) upon admission to a correctional facility;
- (2) when subject to a drug or special watch;
- (3) when involved in an assault or other significant facility incident;
- (4) during a facility-wide or random individual search;
- (5) prior to exiting and upon returning to a facility;
- (6) at the conclusion of a contact visit; or
- (7) when other means of searching an incarcerated individual provide a basis to believe the individual is in possession of contraband.

(b) Alternative methods of screening may be used to accommodate incarcerated individuals who decline or are unable to be screened by body imaging scanning equipment for diagnosed medical reasons. No incarcerated individual shall be subjected to any form of harassment, intimidation or disciplinary action for choosing to be searched by an alternative method of screening in lieu of body imaging scanning.

(c) Notwithstanding the provisions of subdivision (b) of this section, an incarcerated individual may be screened by body imaging scanning equipment, despite declining such screening for reasons other than pregnancy or diagnosed medical reasons, where security considerations warrant.

(d) Any determination to utilize body imaging scanning equipment following an incarcerated individual's declination, pursuant to subdivision (c) of this section, shall be made by the watch commander, or facility staff member of higher rank, in writing, and shall state the specific facts and reasons underlying the determination.

History

Filed Dec. 20, 2023 eff. Jan. 10, 2024 (Register dated Jan. 10, 2024).

Section 7640.5 Body imaging scanning of visitors

(a) Visitors may be searched utilizing body imaging scanning equipment when entering a facility to visit an incarcerated individual or participating in the Family Reunion Program.

(b) Alternative methods of screening may be used to accommodate visitors who decline or are unable to be screened by body imaging scanning equipment for diagnosed medical reasons. No visitor shall be subjected to any form of harassment or intimidation for choosing to be searched by an alternative method of screening in lieu of body imaging scanning.

(c) Notwithstanding the provisions of subdivision (b) of this section, a visitor may be required to submit to screening by body imaging scanning equipment, despite declining such screening for reasons other than pregnancy or diagnosed medical reasons, where security considerations warrant. Ensuing declination by the visitor to screening by body imaging scanning equipment shall constitute grounds to deny the visitation.

(d) Any determination to require screening by body imaging scanning equipment following a visitor's declination, pursuant to subdivision (c) of this section, shall be made by the watch commander, or facility staff member of higher rank, in writing, and shall state the specific facts and reasons underlying the determination.

History

Filed Dec. 20, 2023 eff. Jan. 10, 2024 (Register dated Jan. 10, 2024).

PART 7651 HEALTH SERVICES

Section 7651.1. Policy

Adequate health care and health care services shall be provided to all inmates in order to protect their physical and mental well-being. Such care and services shall promote inmate health through the prevention of disease and disability and the detection, treatment and management of disease.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.2. Applicability

The provisions of this Part shall apply to the department and to all correctional facilities operated by the department.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.3. Definitions

As used in this Part, the following definitions shall apply to the terms listed below:

(a) *Administrative health services authority* shall mean a person or organized group of persons responsible for the management of the health care delivery system of a correctional facility or group of facilities, excluding direct patient care.

(b) *Ambulatory services clinic* shall mean a designated area within a correctional facility, including a room or group of rooms, with facilities, services, equipment and personnel providing nonresidential medical management of outpatients, which is planned, organized, operated and maintained to function as an integrated unit within correctional facilities.

(c) *Certified or registered ambulance service* shall mean an ambulance service having a valid certificate or statement of registration issued pursuant to article 30 of the Public Health Law.

(d) *Clinical health services authority* shall mean an organized group of licensed health care professionals responsible for the overall medical management of inmates and for all aspects of direct patient care of inmates within correctional facilities.

(e) *Clinical physician* shall mean a physician licensed to practice medicine in New York State who is an independent contractor with or employee of the Department of Corrections and Community Supervision.

(f) *Drug room or pharmaceutical substock* shall mean any place within a correctional facility in which drugs, prescriptions or poisons are stored for delivery after having been compounded, preserved or dispensed in a pharmacy.

(g) *Full-time* shall mean the personal availability of employees for the discharge of their assigned duties and responsibilities for a period of not less than 37 1/2 hours during each facility work week, excluding holidays and authorized leave periods, 30 hours of which shall consist of their personal presence at their assigned work stations.

(h) *Health screening* shall mean an interview and visual assessment of an inmate conducted by a facility health care staff member which is reduced to writing and designed to elicit a past history or current evidence of a medical or mental health condition requiring immediate medical or psychiatric evaluation and treatment.

(i) *Hemodialysis center* shall have the same meaning as set forth in 10 NYCRR Part 757.

(j) *HIV illness* shall mean a medical, physical or mental health condition diagnosed by methods approved by the national Centers for Disease Control (CDC) indicative of a defect in cell-mediated immunity believed to be caused by infection with the human immunodeficiency virus (HIV).

(k) *Hospital* shall have the same meaning as set forth in Public Health Law, article 28.

(l) *Infant* shall mean a child one year of age or less.

(m) *Infectious, reportable disease* shall mean an infectious disease transmissible to uninfected persons by air and listed as reportable in 10 NYCRR 2.1.

(n) *Infirmiry* shall mean a designated area within a correctional facility, including a multiple occupancy room or group of rooms, with facilities, services, equipment and personnel providing residential nursing care and medical management of inpatients admitted for 24 hours or more and which is planned, organized, operated and maintained to function as an integrated unit within a correctional facility.

(o) *Medical hold* shall mean the retention of a named inmate at a facility for so long as it is believed that transfer to another facility would be detrimental to the inmate's health or would hinder the effectiveness and efficiency with which necessary health services are provided to such inmate.

(p) *Medical isolation* shall mean the confinement of an inmate diagnosed or suspected of having an infectious reportable disease to a private room which is negative air-flow ventilated and which is otherwise designed and equipped to assist health care staff in practicing appropriate isolation techniques.

(q) *New construction or renovation* shall mean any of the following:

- (1) a facility constructed after September 1, 1985;

(2) acquisition of a physical plant not previously operated as a health care delivery setting;

(3) construction of a new physical plant; or

(4) renovations, additions and/or alterations to the health care delivery setting within an existing facility which involve major physical and/or structural changes or major fixed equipment changes, other than replacements.

(r) *Partial care patient* shall mean an inmate who meets either of the following conditions:

(1) requires moderate assistance with personal care and activities of daily living; or

(2) requires some nursing supervision.

(s) *Pharmacy* shall have the same meaning as set forth in Education Law, section 6802.1.

(t) *Physical therapy service* shall mean an organized unit which is designed, staffed and equipped to provide evaluation, treatment or prevention of disability, injury, disease or other condition of health using physical, chemical and mechanical means including, but not limited to: heat; air; water; sound; electricity; massage; and mobilization and therapeutic exercise with or without assistive devices, performed in accordance with a physician's order, diagnosis or referral.

(u) *Rooming-in* shall have the same meaning as set forth in 10 NYCRR 405.21(b)(5).

(v) *Self care patient* shall mean an inmate who meets all of the following conditions:

(1) is capable of self-care with minimal nursing supervision;

(2) is alert and aware of surroundings; and

(3) can walk unassisted by mechanical or human means.

(w) *Skilled nursing service* shall mean an organized nursing care unit in which there are employed and on duty throughout each 24-hour period:

(1) a director, assistant director or charge nurse who is a licensed registered professional nurse; and

(2) registered professional nurses, licensed practical nurses and nurses' aides in sufficient number to provide a combined average of direct nursing care of not less than one hour for each self care patient, two hours for each partial care patient and four hours for each total care patient.

(x) *Skilled professional health care services* shall mean:

(1) a skilled nursing service; and

(2) a physical therapy service.

(y) *Total care patient* shall mean an inmate who meets any one or more of the following conditions:

- (1) is dependent for all or most of all nursing and personal care;
- (2) needs continuous nursing supervision because of physical or mental status;
- (3) is prevented or severely limited in independent activity because of severe emotional states, conditions resulting from use of medications, physiological changes and/or is restrained physically; or
- (4) is bedfast, chair-fast or room-bound; or who can sit in, but not propel, a wheelchair; or who can use a walker if assisted by two persons.

(z) *Utilization review plan* shall mean a written plan which provides for the analysis, review and evaluation of clinical and health services administrative practices within the department and those affecting services used by the department outside the confines of correctional facilities in order to promote the efficient and effective use of health care services.

(aa) *Well-infant nursery* shall have the same meaning as set forth in 10 NYCRR 405.21(b)(9).

History

Sec. filed Nov. 10, 1992; amd. filed March 24, 1998 eff. April 8, 1998; amd. filed May 21, 2013 eff. June 5, 2013.

Section 7651.4. Departmental and facility policies and procedures

The department shall develop and implement standard operating procedures pursuant to Part 7605 of this Title.

History

Sec. filed Nov. 10, 1992; amd. filed Dec. 17, 1996 eff. Dec. 31, 1996. Repealed (a)-(d).

Section 7651.5. Administrative health services authority

(a) The department shall establish administrative health services authorities. The department shall require that health care delivery in correctional facilities is governed by an administrative health services authority.

(b) Every administrative health services authority shall fall under the management of a health services administrator.

(c) The department shall develop a written job description for the position of health services administrator.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.6. Clinical health services authority

- (a) The department shall establish clinical health services authorities. The department shall require that direct health care delivery in correctional facilities is governed by a clinical health services authority.
- (b) At a minimum, each clinical health services authority shall consist of: a medical director; director of nursing; and health care staff.
- (c) The department shall develop written job descriptions outlining the duties and responsibilities of the medical director, director of nursing and health care staff.
- (d) Each medical director shall be a physician currently licensed to practice medicine in the State of New York. Each clinical health services authority with jurisdiction over more than one correctional facility shall be staffed by a full time medical director.
- (e) Each medical director shall be responsible for the quality, continuity and availability of all health care provided to inmates within each correctional facility.
- (f) Each director of nursing shall be a registered professional nurse in the State of New York.
- (g) The department shall provide each clinical health services authority with a health care staff which consists of adequate numbers of New York State licensed clinical physicians, registered professional nurses, licensed practical nurses and/or registered physician's assistants and/or certified nurse practitioners to meet the health care needs of the inmate population under the care of the clinical health services authority. In determining the adequacy of each health care staff, the department shall take into account factors including, but not limited to:
 - (1) the annual average size of the inmate population under the care of the clinical health services authority;
 - (2) the level(s) of care to be delivered by the clinical health services authority as defined by the department consistent with the requirements of this Part; and
 - (3) impediments to or limitations upon inmate access to health services associated with security imperatives and/or physical plant location or configuration.
- (h) At a minimum, the following health care staffing requirements shall be met:
 - (1) each clinical health services authority shall be staffed with one registered professional nurse on a 24-hour basis each day and shall provide for the continuous access, without undue delay, to such nurse by all inmates for whom the clinical health

services authority is responsible. Reasonably proximate clinical health services authorities may share nursing staff for purposes of compliance with this paragraph;

(2) if a correctional facility operates an infirmary unit, it shall be staffed with registered professional nurses, licensed practical nurses and/or nurses' aides in sufficient number to furnish each infirmary patient direct nursing care and related services including assessments, treatments, medications, diets and other health services in accordance with each inmate treatment and nursing care plan prepared pursuant to section 7651.11(e) of this Part; and

(3) the services of a clinical physician shall be available on call to each correctional facility every day during the hours in which no physician is present within the facility.

(i) All health care staff members shall at all times be clearly and readily identifiable as to name and professional title.

(j) The department shall maintain records of current New York State licensure or registration of all physicians, nurses and health care staff in its employ.

History

Sec. filed Nov. 10, 1992; amd. filed May 20, 1997 eff. June 4, 1997. Amended (e), (h).

Section 7651.7. Medical treatment areas generally

(a) All buildings housing medical treatment areas within each correctional facility shall provide space for diagnosis and treatment adequate to meet the needs of the facility population.

(b) In newly constructed or renovated facilities, each medical treatment area shall contain a nurses' station which shall be an enclosed area and be proximate to the infirmary and observation rooms.

(c) Consistent with the requirements of 10 NYCRR Subparts 70-1 and 70-2, solid waste originating in medical treatment areas, including but not limited to: garbage, rubbish and other refuse; biological waste; and infectious materials shall be disposed of in such a manner that will prevent the transmission of disease and not create a nuisance, fire hazard or breeding place for insects or rodents.

(d) The department shall develop, implement and enforce a comprehensive medical housekeeping and infection control policy and procedure specifically tailored to each medical treatment area.

(e) The department shall ensure that all details, finishes and furnishings in medical treatment areas are able to be easily cleaned and in a condition which facilitates infection control.

History

Sec. filed Nov. 10, 1992; amd. filed Dec. 17, 1996 eff. Dec. 31, 1996. Repealed (d)(1)-(10).

Section 7651.8. Independent health care services

The department shall require that all independent providers of health care treatment and services to inmates comply with the pertinent requirements of this Part.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.9. Reception health assessment

(a) The department shall develop and implement a reception health assessment process for each inmate which includes, but is not limited to:

- (1) a health screening which shall be performed as soon as possible after each inmate's reception into the custody of the department, but in no event later than 24 hours after reception;
- (2) a complete written medical history which shall be obtained from each inmate within 14 days following reception into the custody of the department and which shall include a chemical dependency assessment and assessment of risk behaviors for HIV infection; and
- (3) a complete physical examination which shall be offered to each inmate within 14 days of reception into the custody of the department, at no greater than five year intervals thereafter, and prior to release from custody.

(b) Each inmate's physical examination shall be conducted by a clinical physician, dentist as appropriate, registered physician's assistant, certified nurse practitioner or trained nurse clinical specialist and shall include, but is not limited to:

- (1) an examination of major body systems;
- (2) a chest radiograph;
- (3) a urinalysis;
- (4) a venereal disease reaction level test;
- (5) a purified protein derivative test;
- (6) a blood chemistry analysis;

- (7) an electrocardiogram if the inmate is over the age of 40 years or has a history of heart disease;
- (8) a complete blood count with white blood cell count and differential study;
- (9) a dental examination;
- (10) a PAP smear for women; and
- (11) a breast examination for women.

(c) All inmates who, as determined by the facility medical director, are exhibiting significant abnormal health assessment findings with clinical correlation shall be evaluated for differential diagnosis in a timely fashion at the reception center, or at a facility expressly designated for the evaluation of inmates under extended classification procedures.

(d) Inmates undergoing the evaluation noted in subdivision (c) of this section may be placed on a medical hold status at the discretion of the facility medical director.

(e) The medical history document and/or medical problem list of each inmate transferred between correctional facilities shall be reviewed within 24 hours of the inmate's arrival at the receiving correctional facility.

(f) All findings made pursuant to subdivision (a) of this section shall be recorded in writing and included in each inmate's permanent medical record. Such findings shall be legibly signed and dated by a clinical physician, certified nurse practitioner or physician's assistant, together with identification of professional title.

(g) The department shall require that all inmates are oriented to the health care services available at each facility and to the correct procedures for using such services.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.10. Ambulatory health care services

(a) The department shall require each correctional facility to provide access to ambulatory health care services.

(b) Each maximum and medium security correctional facility shall maintain an ambulatory services clinic.

(c) Each correctional facility shall provide ambulatory services access adequate to meet the needs of the inmate population. Except in emergencies, no inmate shall be denied access to such services during their hours of operation.

(d) Treatment plans shall be formulated and implemented for all inmates in need of continuing medical treatment on an ambulatory service basis. Such treatment plans shall provide for regular, periodic medical reevaluation of such inmates.

(e) The department shall require that each facility's ambulatory services clinic provide sufficient numbers of separate rooms which shall include, but are not limited to:

- (1) a storage area for medical records and medical supplies;
- (2) an emergency service room;
- (3) a private examination and treatment room; and
- (4) an adequate waiting space.

(f) Ambulatory services clinics shall be located so that ambulatory service patients do not enter infirmary areas.

(g) Each ambulatory services clinic shall have at least two fully equipped lavatories available, one for staff use, and one for inmate use.

(h) Where an inmate is punitively segregated in a cell or room apart from the general population of the facility for a period in excess of 24 hours, such inmate shall be visited by a member of the health care staff in accordance with paragraph (c) of subdivision (6) of section 137 of the Correction Law.

History

Sec. filed Nov. 10, 1992; amds. filed: Dec. 17, 1996; April 16, 1997 eff. May 7, 1997. Amended (h).

Section 7651.11. Infirmary services

(a) The department shall ensure that all inmates have access to infirmary services.

(b) Except in emergencies, inmates shall be admitted to a facility infirmary only upon the order of a clinical physician. If an inmate is admitted to a facility infirmary from a hospital, the clinical physician shall request a written comprehensive treatment summary and plan for continuing care from such hospital.

(c) Any inmate admitted to a facility infirmary who the facility medical director determines may have an infectious reportable disease shall be placed in medical isolation.

(d) Within 24 hours of admission to a facility infirmary, each inmate shall receive a physical examination.

(e) Within 48 hours of admission to a facility infirmary, a written treatment plan and a written nursing care plan shall be formulated for each inmate. Such written plans shall identify and address the specific medical and direct nursing care needs of each inmate, shall be updated at specified intervals and shall be made a part of each inmate's medical record.

(f) Each inmate in a facility infirmary shall be visited and evaluated by a physician at intervals prescribed by the medical director and specified in each written treatment plan.

(g) After each evaluation, the physician shall make a written progress note in the inmate's medical record. Each note shall be legibly signed and dated by the physician making such evaluation, together with identification of professional title.

(h) At least once every hour on a 24-hour basis each day, a nurse shall visit and observe each inmate in the infirmary. Each such visit shall be recorded in ink in a nursing observation log maintained for that purpose which may be separate from the clinical record.

(i) A summary of relevant activities, problems, orders and precautions shall be recorded in each infirmary patient's record at the termination of each shift.

(j) No inmate shall be discharged from the infirmary unless by order of a clinical physician.

(k) The discharge of an inmate from a facility infirmary for the purpose of effecting a transfer to another correctional facility shall be made only after the medical director of the sending facility has documented in writing the medical appropriateness of such transfer and only after direct consultation between the medical directors of the sending and receiving facilities has taken place. Such determination shall be made a part of the inmate's permanent medical record.

(l) Each correctional facility which operates an infirmary shall have an infirmary discharge planning program in effect for the continuing medical follow-up care of inmates which is adequate for their post-discharge needs.

(m) Infirmaries in newly constructed or renovated facilities shall provide a minimum of 80 square feet of floor space per inmate in the sleeping area.

(n) Each infirmary shall have available areas for the separation of all isolation patients. Such areas shall have facilities for medical and nursing isolation techniques as required by this Part.

(o) Each facility infirmary shall have a linen inventory sufficient to meet the needs of the infirmary, with provisions for handling, storage and processing laundry in a manner to prevent the spread of infection and to ensure the maintenance of clean linen.

(p) Each facility infirmary shall provide adequate toilet and bathing facilities appropriate in number, size and design to meet the needs of infirmary residents. At a minimum, at least one centralized toilet shall be provided for each eight infirmary inmates, and at least one bathing facility for each 20 infirmary patients, one of which shall be equipped for handicapped inmates.

(q) Each facility infirmary shall provide at least one room which shall be equipped and located to permit close, short-term observation of inmates.

(r) Infirmaries in newly constructed or renovated facilities shall provide separate clean and soiled utility rooms.

History

Sec. filed Nov. 10, 1992; amd. filed May 20, 1997 eff. June 4, 1997. Amended (o).

Section 7651.12. Medical emergency services

(a) Each correctional facility shall provide access to emergency services which permit the medical evaluation, treatment and disposition of medical emergency cases on a 24-hour basis each day.

(b) Each correctional facility shall designate a primary and, if practicable, a secondary certified or registered ambulance service. Such designations shall be documented in writing and approved by the department.

(c) Each correctional facility shall designate a primary and, if practicable, a secondary nearby hospital emergency room to provide emergency medical services on a 24-hour basis each day. Such designations shall be documented in writing and approved by the department.

(d) Each correctional facility shall develop security procedures providing for the immediate medical transfer of inmates.

(e) Inmates requiring hospital emergency room service shall be personally presented at such emergency room for treatment. Every refusal of hospital emergency room service to inmates so presented which, in the opinion of the facility medical director, constitutes a violation of 10 NYCRR 405.19(e) shall be reported in complaint form to the New York State Department of Health, Bureau of Hospital Services by such medical director.

(f) Every refusal by a New York State Health Department certified or registered ambulance service to respond to a medical emergency at a correctional facility shall be reported in complaint form by the medical director of such facility to the New York State Department of Health, Bureau of Emergency Medical Services.

(g) Each correctional facility shall provide first aid kits adequate in number, distribution and contents to meet the needs of security and health care staff as determined by the facility medical director.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.13. Hospital services

- (a) Consistent with the requirements of this Part, the department shall provide access for all inmates to the services of a hospital.
- (b) The department shall designate in writing hospitals for acute care and outpatient hospital services adequate to meet the needs of the inmate population.
- (c) The department shall determine acute care hospital services needs, including future needs. In making such determination, the department shall take into account the utilization review activities as they relate to hospital services.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.14. Quality assurance program

The department shall establish and maintain a formal, coordinated program which periodically evaluates the health care delivery activities of each facility within the context of the overall departmental health care delivery system for the purpose of enhancing the quality of inmate-patient care and identifying and preventing medical and dental malpractice. Such activities shall involve all aspects of inmate medical care at correctional facilities.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.15. Skilled professional health care services

- (a) The department shall provide every total care patient access to skilled professional health care services.
- (b) Consistent with the requirements of this Part, the department shall also provide access to skilled professional health care services for all other inmates the facility medical director determines require such services.
- (c) A registered physical therapist shall be in charge of each physical therapy service.
- (d) There shall be a full time medical director responsible for the provision of skilled health care services who shall be a physician licensed to practice medicine in New York State.
- (e) The department shall provide or provide access to sufficient diagnostic, therapeutic and rehabilitative equipment for skilled health care services and shall ensure that it is maintained in good order and repair.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.16. Special diagnostic and therapeutic services

(a) The department shall provide access to special diagnostic and therapeutic services provided by qualified medical specialists to all inmates as ordered by the facility medical director.

(b) The department shall require that:

(1) emergency surgery is performed immediately;

(2) diagnostic surgery is performed in a timely manner; and

(3) elective surgery approved by the medical director to correct conditions determined by the medical director to be progressively deteriorating is performed within a time span recommended by the medical director in each case, but in no event more than 120 days after completion of such pre-surgical approval in each case.

(c) At the discretion of the facility medical director, each inmate who has completed a pre-surgical evaluation, or who is scheduled for surgery, shall be placed on a medical hold status.

(d) The department shall provide access to hemodialysis treatment for all inmates the facility medical director determines require such treatment. Except during emergencies, inmates shall be provided hemodialysis treatment only in hemodialysis centers which meet operating standards set forth by the New York State Department of Health.

(e) The department shall provide all inmates access to optometric services, including provision of properly fabricated and fitted prescription eyeglasses for each inmate the facility medical director determines is in need of such eyeglasses.

(f) The department shall provide access to medical prosthetic services, devices and equipment to all inmates who the facility medical director determines need such services, devices and equipment.

(g) Scheduled trips by inmates outside the confines of correctional facilities for purposes of health care treatment shall not be cancelled except as directed or approved by the facility superintendent and only after consultation with the facility medical director. A written explanation of the circumstances surrounding all such cancellations shall be recorded in ink in the inmate's medical record.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.17. Prenatal and infant care services

- (a) The department shall provide comprehensive prenatal care delivered by qualified specialists for all pregnant inmates which shall include, but is not limited to, regular medical examinations, advice on appropriate levels of activity and safety precautions, nutritional guidance, and HIV education.
- (b) The department shall provide facilities and services for the rooming-in housing and care of infants which are adequate to meet the needs of the inmate population.
- (c) The department shall require every correctional facility where infants are housed to maintain a well-infant nursery with equipment and furnishings which shall include, but is not limited to:
 - (1) a separate formula room which shall be used for no purpose other than preparation of infant feedings;
 - (2) a bassinet or crib approved by the medical director for each infant;
 - (3) a refrigerator used for no purpose other than the storage of infant feedings;
 - (4) effective screening for all exterior doors and windows used for ventilation;
 - (5) a foot-controlled, covered receptacle for the disposal of wet or soiled diapers, and sanitary equipment for the sanitary disposal of linen other than wet or soiled diapers;
 - (6) sufficient quantities of fresh, clean covers for scale pans and changing tables such that each infant is weighed, diaper-changed, examined or treated on a freshly covered scale or changing table;
 - (7) a sink with hot and cold running water, soap, and disposable towel dispenser; and
 - (8) a linen inventory sufficient to meet the needs of the nursery.
- (d) The department shall prohibit common bathing of infants.
- (e) The department shall arrange for the regular and on-call services of a physician who is a board-eligible pediatrician or family physician to be provided to each infant housed in a correctional facility.
- (f) The department shall require every correctional facility which operates a nursery to establish programs of prescription and provision of therapeutic nutrition as ordered by the medical director in consultation with the pediatrician for all infants in need of such programs.
- (g) Each infant admitted to a facility nursery shall have a complete physical examination within 30 days of admission which shall be conducted by a board-eligible pediatrician or family practitioner.

(h) A permanent individual written medical record and, if appropriate, dental record shall be maintained for each infant housed in a correctional facility. Such record(s) shall be maintained in a manner consistent with the requirements of section 7651.19 of this Part.

(i) Consistent with the requirements of this Part, the department shall develop and require implementation of a written housekeeping procedure for all facility nurseries.

(j) Any infant known to be exposed to or diagnosed with diarrheal disease or a communicable condition causing intractable emesis, shall be housed in a room physically separate from the well-infant nursery and shall be observed pending differential diagnosis.

(k) Nothing in this section shall be interpreted to limit the authority and responsibility of the department to take lawful action to safeguard the welfare of any infant in its care and custody.

History

Sec. filed Nov. 10, 1992; amd. filed May 20, 1997 eff. June 4, 1997. Amended (c)(8).

Section 7651.18. Special provisions applicable to the management of illness associated with the human immunodeficiency virus (HIV)

(a) The department shall develop and implement uniform policies, procedures and protocols for the early detection and diagnosis of HIV illness.

(b) Policies, procedures and protocols developed and implemented pursuant to subdivision (a) of this section shall ensure compliance with all applicable laws, rules and regulations.

(c) Such procedures shall include, but are not limited to, uniform written policies, procedures and protocols which govern and standardize the availability and administration of HIV antibody tests to inmates consistent with Public Health Law, article 27-F, its implementing regulations and any other applicable laws.

(d) The department shall provide all inmates known to have HIV illness access, at the discretion of the medical director, to outpatient consultation and therapeutic services sufficient to meet their needs in a timely fashion which shall include, but is not limited to, the services of specialists qualified to treat infectious diseases.

(e) The department shall provide all inmates acutely ill with HIV illness access to inpatient hospital services sufficiently staffed and equipped to provide effective therapy for HIV illness and its complications on a 24-hour basis which includes, but is not limited to:

(1) a 24-hour physician staff;

(2) an intensive care unit;

(3) daily 24-hour respiratory therapy and ventilatory support; and

- (4) daily 24-hour laboratory and pharmacy services sufficient to meet the needs of HIV patients.
- (f) The department shall maintain the capability to provide all drugs, equipment and other resources necessary and sufficient to carry through plans for the treatment and management of HIV illness formulated for each inmate by medical specialists to whom inmates are referred for such treatment.
- (g) Consistent with the requirements of this Part, the department shall define, establish and implement alternate levels of care for the medical management of inmates diagnosed with HIV illness. Such alternate levels of care shall be defined only according to inmate-patient need.
- (h) The department shall require that a written, comprehensive care plan, reviewed periodically, is developed for each inmate with HIV illness who is medically managed at a department-operated congregate or alternate advanced care facility or unit established pursuant to subdivision (g) of this section. The care plan shall be developed by an interdisciplinary team which includes, as appropriate, a physician, a registered professional nurse and a member of the mental health staff, assigned to the facility in accordance with Correction Law, section 401.
- (i) Consistent with the requirements of this Part, the department shall inquire into, develop and implement programs to meet the special nutritional needs of inmate HIV patients.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.19. Medical records

- (a) A permanent individual medical record shall be recorded and maintained for every inmate.
- (b) All health care services provided to inmates by facility health care staff or by independent health care providers shall be permanently recorded in the medical record.
- (c) Medical records shall contain sufficient information to justify the diagnosis and warrant the treatment and results.
- (d) Each inmate's medical history shall be kept current.
- (e) Each active inmate medical record shall contain a written, regularly updated list of diagnosed medical problems located at the beginning of the record.
- (f) The department shall maintain a professional review system which ensures that a representative sample of inmate medical records in every facility is periodically reviewed for completeness and for quality of medical care based upon evidence in the medical record.

- (g) The department shall provide each clinical health services authority with a trained medical records clerk responsible for inmate medical records.
- (h) Each clinical health services authority shall maintain a system of storage and identification to ensure the prompt location and retrieval of every inmate medical record.
- (i) Consistent with Public Health Law, article 27-F the medical record of every inmate transferred between correctional facilities shall be routinely forwarded with the inmate at the time of transfer to the receiving facility. If, due to an emergency situation, it is not possible to forward the medical record at the time of an inmate's transfer, such record shall be forwarded to the receiving facility within 24 hours of the time of transfer. When an inmate is transferred to a local correctional facility, the transfer of medical records shall be consistent with the requirements of section 601 of the Correction Law.
- (j) All inmate medical records shall be safely and securely retained as required by law.
- (k) All inmate medical records shall be confidential and access to them restricted as required by law.

History

Sec. filed Nov. 10, 1992; amd. filed May 20, 1997 eff. June 4, 1997.

Section 7651.20. Medical isolation

- (a) Consistent with the requirements of this Part, each correctional facility which operates an infirmary shall develop and implement procedures for medical isolation.
- (b) There shall be at least one isolation room in each correctional facility which operates a facility infirmary.
- (c) Additional isolation rooms shall be provided at a ratio of one isolation room for every 30 infirmary beds.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.21. Radiology services

- (a) Each correctional facility shall have access to radiology services adequate to make satisfactory radiographs as ordered by the medical director and sufficient to meet the needs of its population.

- (b) All radiographs other than dental radiographs shall be interpreted by a board-eligible radiologist. Interpretations shall be recorded in writing, signed and dated by the radiologist.
- (c) Only licensed X-ray technicians shall operate facility radiology equipment except that dentists and dental hygienists under the supervision of a dentist may operate facility dental radiology equipment.
- (d) All radiology equipment operated by a correctional facility shall be licensed and registered by State or local authorities.
- (e) A radiation physicist other than an employee of the department shall inspect each correctional facility's radiology equipment on an annual basis to ensure that it is free of hazards for inmates and staff members. Such inspections shall be recorded in writing and forwarded to the department.
- (f) The department shall establish a radiation protection program for each correctional facility which operates radiology services.
- (g) Facility radiology services shall be used solely for medical diagnostic purposes and only when ordered by a clinical physician.
- (h) The department shall maintain a system of storage, identification and retrieval to ensure the prompt location of every inmate radiograph.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.22. Laboratory services

- (a) Each correctional facility shall have access to licensed clinical laboratory services which meet clinical laboratory operating standards set forth by the New York State Department of Health sufficient to meet the needs of its population as ordered by the facility medical director.
- (b) Clinical laboratory services provided within a correctional facility shall be provided only by registered clinical laboratory technologists or clinical physicians.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.23. Pharmacy services

- (a) The department shall require that in every correctional facility which operates a pharmacy, such pharmacy is under the direct supervision of a licensed pharmacist.

- (b) In each facility that maintains a drug room or a pharmaceutical substock, such room or substock shall be under the supervision of a licensed pharmacist.
- (c) Each facility pharmacy shall maintain a perpetual record of stock on hand and of the dispensing of all legend drugs.
- (d) Each facility pharmacy shall maintain written medication profiles on all inmates who receive prescription medication.
- (e) The department shall provide each correctional facility with a standardized formulary or list of drugs accepted for use in correctional facilities.
- (f) All controlled substances shall be delivered or administered only by a member of the health care staff.
- (g) Injectable medications shall be administered to inmates by a member of the health care staff. If the facility medical director approves individual inmates to self-administer certain injectable subcutaneous medications, such self-administration shall be performed under the direct visual supervision of a registered professional nurse.
- (h) All such approvals for individual inmates to self-administer certain subcutaneous medications shall be documented in writing by the facility medical director and recorded in the inmate's medical record.
- (i) All stocks of legend drugs, syringes, and needles shall be stored in a manner which prevents unauthorized access.
- (j) Consistent with the requirements of this Part, the department shall develop and enforce procedures to ensure that there are adequate safeguards and appropriate accountability for the delivery of medication to individual inmates by correction officers.
- (k) The department shall establish and implement written standard operating procedures regarding:
 - (1) telephone medication orders;
 - (2) verbal medication orders;
 - (3) standing orders for medication;
 - (4) medication renewals;
 - (5) automatic stop dates for prescribed medication; and
 - (6) possession of prescription medication by inmates.
- (l) The department shall establish written policies and procedures to make provision for coordination and continuity of prescriptions between mental health care providers and other health care providers.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.24. Dental services

- (a) Every inmate shall be provided access to preventative, curative, restorative and prosthetic dental care adequate to maintain good dental and general health.
- (b) The department shall provide each inmate with a thorough dental assessment within 14 days of reception into departmental custody.
- (c) The department shall establish dental services units accessible to all inmates, each under the direction of a dentist licensed to practice in New York State.
- (d) Each dental services unit shall have a dental services staff consisting of a dental director and sufficient numbers of licensed dentists, certified dental hygienists and dental assistants to meet the routine dental care needs of the inmate population in a timely manner as determined by the facility dental director.
- (e) Each dental services unit shall be provided with modern equipment in good repair adequate to meet the needs of the dental services staff as determined by the facility dental director.
- (f) Consistent with the requirements of this Part, each dental services unit shall be equipped to make satisfactory radiographs of the mouth as ordered by the dental director and sufficient to meet the needs of the facility population.
- (g) All inmates shall have access to special diagnostic and therapeutic dental services provided by qualified medical and dental specialists as ordered by the facility dental director in consultation with the medical director.
- (h) Each facility shall provide access to emergency services which permit the timely evaluation, treatment and disposition of emergency dental cases.
- (i) Except in emergencies, dental appointments for inmates shall be classified and scheduled according to inmate need.
- (j) A permanent individual written dental record shall be maintained for every inmate and for infants as appropriate. Such record shall be maintained in a manner consistent with the requirements of section 7651.19 of this Part.

History

Sec. filed Nov. 10, 1992; amd. filed Dec. 17, 1996 eff. Dec. 31, 1996. Amended (b), repealed (b)(1)-(2).

Section 7651.25. Medical diets

The department shall require every correctional facility to establish programs of prescription and provision of therapeutic nutrition as ordered by the facility medical director for all inmates in need of such programs.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.26. Inmates' rights as patients

(a) Consistent with the requirements of this Part, the department shall afford inmate patients the right to:

- (1) considerate and respectful care;
- (2) obtain, upon request, the name of the physician responsible for coordinating his/her care;
- (3) the name and function of any person providing health care services to him/herself;
- (4) obtain from the facility medical director or his/her designee current information concerning his/her diagnosis, treatment and prognosis in terms the inmate can reasonably be expected to understand. When it is not medically advisable to give such information to the inmate, the information shall be made available to an appropriate person on his/her behalf;
- (5) receive from his/her physician information necessary to give informed consent prior to the start of any procedure or treatment involving either a nonemergency treatment procedure or surgery or a diagnostic procedure which involves invasion or disruption of the physical integrity of the body. Such informed consent shall include, at a minimum: the specific procedure or treatment; the reasonably foreseeable risks involved; and alternatives to care and treatment, if any;
- (6) refuse treatment to the extent permitted by law and be informed of the medical consequences of this action;
- (7) privacy to the extent consistent with providing adequate medical care to the inmate and with the safety and good order of the facility; and
- (8) privacy and confidentiality of all records pertaining to the inmate's treatment, except as otherwise provided by law and consistent with the safety and good order of the facility.

(b) No punitive action shall be taken against any inmate based exclusively upon his/her requests for health care services, or exclusively upon assertion of the rights set forth in subdivision (a) of this section.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.27. Experimentation and research

(a) The department shall prohibit participation by inmates in medical, pharmaceutical or cosmetic experiments.

(b) Nothing in this section shall prohibit the provision of investigational medical therapies to inmates in need of such medical therapies or their consensual participation in therapeutic research programs consistent with the requirements of this Part and those of the Public Health Law, article 24-A.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.28. Inmate health care workers

(a) The department shall require that every inmate health care worker, inmate nurses' aide or inmate dental assistant satisfactorily complete training necessary to carry out the duties assigned.

(b) The department shall prohibit employment of inmate health care workers, inmate nurses' aides or inmate dental assistants to perform the following duties:

- (1) performing direct patient care services for which they are not trained;
- (2) performing dental chairside assistance unless trained;
- (3) operating equipment for which they are not trained;
- (4) scheduling health care appointments;
- (5) determining other inmates' access to health care services; and
- (6) handling or having access to surgical instruments, syringes, needles, prescription medications and medical, mental health or dental records.

History

Sec. filed Nov. 10, 1992; amd. filed May 20, 1997 eff. June 4, 1997.

Section 7651.29. Inmate health education

The department shall establish and implement a program of continuing health education which shall provide comprehensive health education information which shall be accessible to all inmates.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.30. Inmate mortality

(a) The department shall report the death of every inmate on its official count of inmates to the commission by telephone within six hours of pronouncement of death in a form and manner prescribed by the commission.

(b) Each facility shall mail a certified copy of every deceased inmate's entire departmental health care record to the commission within 10 days of death.

(c) Each facility shall immediately report the death of every inmate on its official count of inmates to the coroner or medical examiner having jurisdiction in the place where such inmate is pronounced dead.

(d) The department shall not, absent approval of identifiable next of kin, dispose of inmate remains by cremation.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.31. Education and training

(a) The department shall provide a formal orientation and training program for new health care staff which shall include an orientation to the correctional setting and the department's written policies and procedures for health services.

(b) A formal continuing in-service training program in clinical medicine shall be provided for all health care staff members employed in each correctional facility.

(c) Such continuing in-service training program shall include, but is not limited to:

- (1) training in physical assessment for registered professional nurses who conduct ambulatory clinic screening of inmates;

(2) training in the detection, diagnosis and clinical management of HIV disease, including its associated psychosocial problems, provision of current effective therapies and associated techniques, and infection control;

(3) assessment and treatment of persons exposed to chemical agents pursuant to the requirements of Part 7634 of this Title, including decontamination procedures; and

(4) training in all aspects of the emergency and disaster preparedness plan required pursuant to section 7651.32 of this Part.

(d) The department shall require that all newly appointed correction officers obtain certification in adult cardio-pulmonary resuscitation provided or approved by a recognized health care training authority.

(e) The department shall develop and deliver in all correctional facilities a continuing formal education and training program for inmates and correction officers on the nature, transmission and detection of HIV illness.

History

Sec. filed Nov. 10, 1992; amd. filed May 20, 1997 eff. June 4, 1997. Amended (d).

Section 7651.32. Emergency and disaster preparedness

Each correctional facility shall have in effect a written health services emergency and disaster preparedness plan.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

Section 7651.33. Health systems records and data

Nothing in this Part shall prevent access by the commission or any employee designated by the chairman of the commission to any and all records maintained by the department or any correctional facility or to any information from any employee of the department, including but not limited to telephonic consultation, pertaining to any inmate's medical treatment.

History

Sec. filed Nov. 10, 1992 eff. Jan. 1, 1993.

PART 7677 ACADEMIC EDUCATION

Section 7677.1. Policy

The department shall develop and provide a comprehensive academic education program that is accessible to all inmates and designed to meet the needs of the inmate population. The department shall encourage inmate participation in this program so that inmates may obtain those educational skills and credentials that are necessary to function more productively and responsibly both during incarceration and after release.

History

Sec. filed March 22, 1990 eff. April 11, 1990.

Section 7677.2. Applicability

The requirements of this Part shall apply to all maximum and medium security facilities except facilities or portions of facilities used as reception centers, residential treatment facilities, work release or temporary release facilities.

History

Sec. filed March 22, 1990 eff. April 11, 1990.

Section 7677.3. Departmental policies and procedures

The department shall develop and implement written policies and procedures governing the operation of its system-wide academic education program which meet the requirements of this Part and Part 7605 of this Chapter.

History

Sec. filed March 22, 1990; amd. filed Feb. 25, 1997 eff. March 12, 1997.

Section 7677.4. Required program components

- (a) At a minimum, the department's academic education program shall extend from basic literacy training through secondary education.
- (b) The educational program shall include, but is not limited to, the following components:
 - (1) adult basic education, including instruction in functional social skills;

- (2) instruction as required for completion of the general education development (GED) test leading to a high school equivalency diploma;
 - (3) special education for inmates identified as having an educationally handicapping condition(s) and/or special learning needs; and
 - (4) bilingual programs designed to meet the needs of the department's limited and non-English speaking inmate populations.
- (c) The design and implementation of curricula for adult basic education programs and instruction as required for completion of the GED test leading to a high school equivalency diploma shall be standardized at all correctional facilities.
- (d) The department shall develop and implement a system of incentives which are designed to encourage functionally illiterate, non-English speaking and learning handicapped inmates to enroll and remain in academic education programs.
- (e) Each facility shall provide a minimum of five hours of actual classroom instruction time each weekday for academic education programs.
- (f) Academic education programs shall be developed so that they are:
- (1) integrated with and provide necessary skills instruction for the vocational programs offered at each facility; and
 - (2) realistic and relevant to the needs and requirements of the current labor market.
- (g) All academic education programs up to the and including GED completion shall be available at no cost to all inmates.
- (h) Inmate participation and progress in alternative academic education programs which are offered by the department and provided outside traditional classroom settings shall be monitored by qualified academic education personnel.
- (i) The department shall ensure that qualified inmates are made aware of all post-secondary opportunities available to them and sources where assistance can be obtained in applying to post-secondary institutions and for available education funding.

History

Sec. filed March 22, 1990 eff. April 11, 1990.

Section 7677.5. Consultation with the State Education Department

The department's academic education programs and curricula shall be developed after consultation with the State Education Department.

History

Sec. filed March 22, 1990; amd. filed Feb. 25, 1997 eff. March 12, 1997.

Section 7677.6. Program accessibility

(a) During facility reception and orientation, each inmate shall receive the following information concerning the department's academic education program.

- (1) the types of academic education programs offered at the facility;
- (2) eligibility requirements; and
- (3) procedures for requesting to participate in academic education programs.

(b) Following reception and orientation, all inmates shall periodically receive current information about existing academic education programs at the facility and at other department facilities.

(c) Each inmate shall have the opportunity to participate in those academic education programs offered at the facility for which he/she is eligible.

(d) The academic education program shall provide for flexible scheduling to encourage maximum inmate participation.

(e) Inmates in segregation or who are otherwise unable to attend instruction in a classroom shall not be denied access to educational opportunities. These inmates shall be provided the opportunity to pursue academic education through alternative programs offered by the department outside traditional classroom settings.

History

Sec. filed March 22, 1990 eff. April 11, 1990.

Section 7677.7. Qualifications for teaching personnel, education counselors and volunteers

(a) All academic education teaching personnel employed by the department shall meet the certification requirements or other required experience established by the Department of Civil Service or other applicable laws.

(b) The educational guidance and counseling functions required pursuant to this Part shall only be performed by qualified education counselors.

(c) All inmates and community volunteers who assist or tutor in departmental academic education programs shall be selected and monitored by academic education personnel.

History

Sec. filed March 22, 1990 eff. April 11, 1990.

Section 7677.8. Student assessment and evaluation

(a) As soon as practicable following reception into the department, each inmate shall undergo assessments in his/her dominant language in order to identify educational needs and interests.

(b) At a minimum, such assessments shall determine:

- (1) IQ level;
- (2) achievement test levels in reading and mathematics;
- (3) oral proficiency in English for speakers of other languages;
- (4) language dominance; and
- (5) educationally handicapping conditions or special learning needs which may require special education placement.

(c) Following such assessments, all inmates shall be recommended for placement in appropriate academic education programs.

(d) Teaching personnel shall evaluate all inmates participating in academic education programs at regular intervals as prescribed by the department in order to determine their progress.

(e) Education counselors shall:

- (1) monitor the progress of all inmates participating in academic education programs;
- (2) maintain written records documenting such progress;
- (3) recommend adjustments in programming when necessary; and
- (4) meet with inmates as needed to discuss program participation and progress.

History

Sec. filed March 22, 1990 eff. April 11, 1990.

Section 7677.9. Training

(a) Prior to teaching in a facility, all academic education teaching personnel employed by the department shall receive an orientation to the correctional setting, the field of correctional education and the department's written policies and procedures on academic education.

(b) In-service training for academic education personnel shall be conducted as necessary, but at least annually.

(c) Prior to assuming their responsibilities, all inmates and community volunteers who assist or tutor in departmental academic education programs shall receive appropriate training from academic education personnel.

History

Sec. filed March 22, 1990 eff. April 11, 1990.

Section 7677.10. Staffing, program space, resources and materials

(a) The staffing levels for teaching personnel and education counselors in each facility shall be adequate to meet the department's stated goals and objectives and the requirements of this Part.

(b) The department shall establish a student/teacher ratio for each class which meets the demands of the programs taught.

(c) The department shall design and provide adequate appropriate classroom space at each correctional facility.

(d) Academic education personnel shall be furnished with an adequate supply of those materials, resources and specialized equipment the department deems necessary for an effective academic education program.

History

Sec. filed March 22, 1990 eff. April 11, 1990.

Section 7677.11. Education records

The department shall develop and implement a recordkeeping system which provides for the accurate and up-to-date documentation of the performance and achievement of each inmate participating in the academic education program.

History

Sec. filed March 22, 1990; amd. filed Feb. 25, 1997 eff. March 12, 1997.

Section 7677.12. Program evaluation and revision

(a) The department shall conduct an annual needs assessment of the inmate population which identifies educational needs. The findings of the needs assessment shall be documented in writing.

(b) A written evaluation of the academic education program and each of its components shall be conducted by the department as necessary, but at least annually.

(c) Such evaluation shall:

(1) examine the department's progress in meeting stated goals and objectives;

(2) describe program strengths and weaknesses at each facility;

(3) present staff and inmate views of the program; and

(4) offer recommendations and strategies for future developments and direction.

(d) The department shall document in writing the dates of such evaluations and the person(s) responsible for conducting them.

(e) The department shall design and implement a systematic curricula development and revision process for all departmental academic education programs which addresses the current identified needs of the inmate population and the findings of the annual program evaluation required pursuant to this section.

History

Sec. filed March 22, 1990 eff. April 11, 1990.

PART 7679 LIBRARY SERVICES

Section 7679.1. Policy

In order to provide inmates with the opportunity to pursue educational, vocational, informational or recreational interests and reduce idleness during incarceration, the department shall ensure that each correctional facility provides inmates regular access to library services. Such library services shall be designed and administered to support, broaden and strengthen each facility's total program.

History

Sec. filed April 28, 1987 eff. May 19, 1987.

Section 7679.2. Definitions

As used in this Part, the following definition shall apply to the term listed below:

General institutional library shall mean an area designated on a permanent basis within a facility that allows for the adequate storage, organization and display of library materials. Such area shall also include space for tables and chairs and be designed and maintained by the facility to ensure convenient access and direct use of materials by inmates. The term *general institutional library* shall not refer to those materials or services related to the provision of law libraries.

History

Sec. filed April 28, 1987 eff. May 19, 1987.

Section 7679.3. General institutional library services

- (a) All maximum and medium security facilities shall maintain a general institutional library in conformance with the requirements of this Part.
- (b) Materials and services provided by each general institutional library shall include, but not be limited to:
 - (1) print and nonprint materials which are current and responsive to the educational, vocational, informational and recreational interests and needs of the inmate population at a variety of ability levels;
 - (2) a reference collection which consists of general and specialized materials;
 - (3) informational materials relating to life skills, reintegration and prerelease which shall include current listings of human service programs and agencies which provide

information on housing, employment, community/state resources and educational opportunities;

(4) an orientation program to the library service which includes, but is not limited to, instructions in library procedures and the use of library resources such as informational tools or aids to locate materials and facts in the library; and

(5) an inter-library loan service.

History

Sec. filed April 28, 1987 eff. May 19, 1987.

Section 7679.4. Material selection in general institutional libraries

(a) The acquisition and provision of library materials by each general institutional library shall be based on a systematic selection process designed to determine and meet the library service interests and needs of the inmate population, including those of non-English speaking inmates.

(b) Such selection process shall be conducted and coordinated by the facility librarian at each facility.

(c) Library materials for each facility shall be acquired on a continual and planned basis.

(d) The department shall provide for a review of all materials selected for acquisition and provided by the general institutional library to determine if such materials are a threat to the safety, security or good order of a facility.

(e) Such review shall be consistent with existing departmental policies and procedures governing the screening of incoming publications for inmate use.

(f) Materials that are determined to pose a threat to the safety, security or good order of a facility shall not be acquired or held for circulation by a facility.

History

Sec. filed April 28, 1987 eff. May 19, 1987.

Section 7679.5. Accessibility to general institutional library services

(a) In facilities that maintain a general institutional library, inmates shall have the opportunity to access the library service at least once a week.

(b) Such access shall include the opportunity to directly use and study in the library.

(c) If inmates do not have direct access to the general institutional library, and such access has not been limited or removed as a result of a disciplinary action, the facility shall make provisions for reading material requests and delivery and pickup of library materials on a weekly basis at designated areas or, if such areas are not accessible to the inmates, at their housing units.

(d) A current list of library materials accessible to inmates specified in subdivision (c) of this section and a description of services provided by the library shall be made available to all inmates who do not have direct access to the general institutional library.

History

Sec. filed April 28, 1987 eff. May 19, 1987.

Section 7679.6. General institutional library staff

(a) A person with a master of library science degree shall be designated to administer and coordinate the provision of library services for the department at all facilities.

(b) Each general institutional library shall be supervised by a librarian who shall have a master of library science degree.

(c) The librarian who supervises library services at each facility shall be responsible for:

(1) selection of print and nonprint materials and equipment as provided for in this Part;

(2) management of the facility's library service including, but not limited to, the organization of materials and services, the budgetary process and long- and short-range planning and evaluation;

(3) assistance in the selection, training and use of inmates as library clerks who shall be selected on the basis of educational background, experience and institutional record;
and

(4) completion of a written annual evaluation of the library services program against stated performance goals and objectives which shall be submitted to the department.

History

Sec. filed April 28, 1987 eff. May 19, 1987.

Section 7679.7. Library services in minimum security facilities

(a) Inmates in minimum security facilities which do not maintain a library within the facility shall have the opportunity to access library services provided outside the facility at least once a week, providing such access has not been limited or removed as a result of a disciplinary action.

(b) Such access shall include, but not be limited to, the use of an inter-library loan service.

(c) In minimum security facilities, library services shall be supervised and coordinated by facility program staff who are knowledgeable in the provision of such services.

History

Sec. filed April 28, 1987 eff. May 19, 1987.

PART 7695 NONDISCRIMINATORY TREATMENT

Section 7695.1. Policy

In order to provide for the fair and equal treatment of all inmates, the department shall develop procedures designed to prevent unlawful discrimination based upon race, religion, national origin, sex, sexual orientation, age, disability, or political belief.

History

Sec. filed Nov. 21, 1989 eff. Dec. 12, 1989.

Section 7695.2. Definitions

As used in this Part, the following definitions shall apply to the terms listed below:

(a) *Unlawful discrimination* shall mean acts or policies which adversely affect individuals based on race, religion, national origin, sex, sexual orientation, age, disabling condition(s) or political belief, except as provided by law.

(b) A *disabled individual* shall mean one who has a physical or mental limitation which substantially limits one or more of such person's major life activities. Such disability shall be based upon a medically documented record of impairment and such person shall be regarded as having a disability.

History

Sec. filed Nov. 21, 1989 eff. Dec. 12, 1989.

Section 7695.3. Policies and procedures

(a) The department shall develop and implement written policies and procedures for all facilities designed to prevent the unlawful discriminatory treatment of any inmate or visitor. Such policies and procedures shall include, but are not limited to:

- (1) methods to address racial and ethnic tensions within and between inmate groups and between staff and inmates;
- (2) the method of inquiry to be used when staff members or volunteers have allegedly engaged in discriminatory incidents of harassment, including but not limited to, racial and ethnic slurs against inmates or visitors;
- (3) a process that provides a discriminatory treatment complaint procedure for visitors;

(4) provisions to ensure equal opportunity for employment and education to eligible inmates; and

(5) the ways in which the department shall ensure reasonably comparable access to program opportunities and activities for female inmates.

(b) The department shall annually review and, if necessary, revise all departmental policies, procedures, directives, and rules and regulations to ensure adherence to non-discriminatory practices.

History

Sec. filed Nov. 21, 1989 eff. Dec. 12, 1989.

Section 7695.4. Non-discriminatory treatment of inmates

(a) Each facility shall ensure that inmates are not subject to unlawful discrimination in any facility decision-making process, including but not limited to, selection for educational, religious, vocational or temporary release programs, work assignments, classification, disciplinary decisions, or grievance decisions.

(b) Each facility shall provide reasonable access to programs and cultural activities suitable for those racial and ethnic groups with significant representation within the inmate population.

(c) Non-English speaking and illiterate inmates shall be provided assistance to read and/or understand all official departmental communications that significantly affect them, including but not limited to, communications regarding orientation, facility rules and regulations, and disciplinary proceedings.

(d) Disabled and aged inmates shall be afforded reasonable access to facility programs and provided, when practicable, with alternative programs.

(e) The conditions of confinement for female inmates shall be comparable to those of male inmates.

History

Sec. filed Nov. 21, 1989 eff. Dec. 12, 1989.

Section 7695.5. Determinations by the department

Notwithstanding any other provision of this Part, nothing shall prevent the department from making determinations pertaining thereto consistent with legitimate penological objectives, and

nothing contained herein shall be deemed to grant any person any additional rights, privileges or cause of action not otherwise granted or provided by law.

History

Sec. filed Nov. 21, 1989 eff. Dec. 12, 1989.