Health Care Of Prisoners And Detainees

1998

1. Preamble

Prisoners and detainees have the same right to access, equity and quality of health care as the general population. Because prisoners will return to society after their imprisonment, their health is an issue of concern to the general population. The health of prisoners is also important for the occupational health and safety of the staff of correctional facilities.

Governments and prison authorities have a duty of care to all prisoners and detainees under their control, including those in private correctional facilities. The physical environment of correctional facilities influences the health of prisoners and detainees. Governments must provide basic humane standards and should strive to achieve world's best practice in all Australian correctional facilities. Correctional facilities should accommodate the language, cultural and religious needs of prisoners and detainees.

The provision of health care is potentially constrained due to the physical and social environment of correctional facilities. Prisoners and detainees may face particular health problems, both pre-existing and associated with incarceration, such as exposure to blood-borne and sexually transmitted infections, inadequate provision of a broad range of harm-minimisation measures, and lack of access to health education programs.

Correctional facilities should provide suitable health facilities with appropriate equipment and trained staff, or arrange for such services to be made available, for the continuing treatment and care of all prisoners and detainees.[i]. Correctional facilities should also assist the continuation of medical care following the prisoner's release.

Medical practitioners should not deny treatment to any prisoner or detainee on the basis of their culture, ethnicity, religion, political beliefs, gender, sexual orientation or the nature of their illness. The duty of medical practitioners to treat all patients professionally with respect for their human dignity and privacy applies equally to the care of those detained in prison, whether convicted or on remand[ii], irrespective of the reason for their incarceration.

The Role of Prison Medical Practitioners

Medical practitioners should:

- act in the patient's best interest;
- not withhold appropriate medical care;
- base their medical judgements on the needs of their patients; these judgements should take priority over non-medical matters;[iii]
- not authorise or approve any physical punishment;
- not participate in any form of inhumane treatment;
- abstain from any form of human research or experimentation without the prisoner's consent. Recognising the difficulty in obtaining consent in correctional facilities, all research requires the approval of an external ethics committee functioning outside the criminal justice system;
- respect the confidentiality of information obtained in the course of professional relationships with incarcerated patients. If the maintenance of confidentiality could cause, or result in, injury to another prisoner, detainee, staff member or other person, concerns should be communicated to the appropriate authority on the basis of sound medical judgement (refer to AMA ***Code of Ethics***, *1996,* Section 1.3, *Responsibilities to Patients*).

2. Health Services

2.1 Every correctional facility health care service in Australian states and territories should be a part of the general health system and independent of Departments of Corrective Services or their equivalent.

2.2 Medical practitioners should be mindful of the requirements of Departments of Corrective Services.

2.3 Prisoners and detainees should retain their entitlement to the Medicare system (including retaining their Medicare card).

In the process of privatisation and in the on-going management of privatised prison health care services, economic decisions should not take precedence over the quality of health care. It is the Government's responsibility to establish and monitor publicly accountable standards.

2.4 Correctional facility health care services should seek accreditation through the Australian Council of Health Care Standards.

3. Medical Services Within Correctional facilities

3.1 Each correctional facility must have at least one medical practitioner on-call and available twenty-four hours a day to attend to prisoners or detainees. Medical services should be organised in close relationship with the general health system and must include access to psychiatric and drug treatment services.

3.2 Prisoners and detainees, who require treatment which cannot be provided adequately and safely within the prison environment, should be transferred to appropriate facilities.

3.3 Where hospital facilities are provided within a correctional facility, equipment, furnishings and pharmaceutical supplies must be suitable for the medical care and treatment of prisoners and detainees. Medical and other health professional staffing must meet accreditation standards.[iv]

4. Health Education

4.1 The medical profession has an obligation to educate people working in corrective services to understand and manage the health needs of prisoners and detainees, especially Aboriginal and Torres Strait Islander people.

4.2 All staff of correctional facilities should receive First Aid training (eg Red Cross Senior First Aid or St Johns Level 2 Certificate).

4.3 Prison medical practitioners often work alone, without the benefit of interaction with colleagues. Professional medical bodies have a responsibility to support them, and to provide on-going training and other professional activities for prison medical practitioners.

5. Body Cavity Searches

5.1 Body cavity searches should be performed by medical practitioners only.

5.2 Medical practitioners should not perform body cavity searches to obtain evidence or to retrieve substances for evidentiary purposes.

5.3 Medical practitioners may perform body cavity searches on non-consenting prisoners or detainees only when, in the opinion of the attending medical practitioner, the life of the prisoner or detainee is likely to be endangered.

5.4 If an emergency or life-threatening situation is believed to be due to absorption of a substance, a body cavity search can be performed on a prisoner or detainee without any of the usual administrative requirements. Such incidents should be recorded and subsequently assessed by an independent medical review.

5.5 Where possible, a medical practitioner from outside the correctional facility should perform body cavity searches, subject, however, to the requirements in 5.2 and 5.3.

6 Solitary Confinement

6.1 Solitary confinement, defined as a correctional facility regime in which a prisoner or detainee is confined separately from other prisoners or detainees as a means of punishment, is inhumane. Solitary confinement is medically harmful as it may lead to a number of physical and/or mental disorders.

7. Separation of a Prisoner or Detainee

7.1 A prisoner or detainee may need to enter protective custody if at risk of self-harm or of harm by other prisoners or detainees.

7.2 A prisoner or detainee with a blood-borne or sexually transmitted infection may need to be separated for infection control.

7.3 The design of correctional facilities should be such that, when a prisoner or detainee requires protective custody, that person can be separated from others in an environment similar to that of the other prisoners and detainees. Where this results in the prisoner or detainee being isolated from all other prisoners or detainees, the isolated person should be provided with the opportunity to have regular contact with people outside the correctional facility environment, either face-to-face or by telephone.

8. Health Screening

8.1 Health screening should be undertaken by a medical practitioner or a nurse. Health screening for addictive, physical and psychiatric problems, including potential suicide risk, should occur on admission to the facility; this must occur within six hours following admission. All significant medical findings should be referred immediately to a medical practitioner.

8.2 All medical management of prisoners and detainees should be undertaken by a medical practitioner.

8.3 Access to adequate resources for the management of medical conditions detected in the screening process must be available to prisoners and detainees.

8.4 Adequate facilities for detoxification and for management of alcohol and substance abuse must be available to prisoners and detainees.

8.5 Mandatory testing of prisoners or detainees will not, on its own, prevent the transmission of blood-borne and sexually transmitted infections. Effective prevention among correctional facility populations includes the establishment of preventative education programs, needle-exchange programs, methadone programs, and safe-sex programs as found in the general population.

8.6 Pre-test counselling and testing for blood-borne and sexually transmitted infections should be available to all prisoners and detainees.

8.7 All prisoners and detainees should be offered immunisation for Hepatitis B and other similarly preventable infectious diseases.

8.8 There should be systematic, on-going, health review for each individual prisoner or detainee.

9. Harm Minimisation

9.1 Many prisoners and detainees have used injectable drugs. Imprisonment can increase drug use and the risks of transmission of blood-borne and sexually transmitted infections. Harm-reduction programmes are important in the prevention of the spread of HIV and Hepatitis C among injecting drug users.

9.2 Imprisonment increases the risks of sexual and physical assault. Adequate resources should be provided for preventing sexual and physical assaults from occurring in prisons. Appropriate counselling should be provided for those who have been sexually and physically assaulted in prison.

9.3 In order to protect staff, prisoners, detainees and the public, appropriate arrangements for access to needle and syringe exchange programs, sterilising equipment for tattooing and skin piercing, provision of methadone maintenance therapy, specific education about HIV, Hepatitis C and other blood-borne and sexually transmitted infections, and access to condoms should be available.

9.4 Health care should be provided for all prisoners and detainees known to have a blood-borne or sexually transmitted infection. With the prisoner or detainee's consent, effective community follow-up should be organised prior to their release.

9.5 9.5 Critical incident monitoring and review is vital to any harm-minimisation program. In particular, rape, suicide, assault and illicit substance use should be monitored. The results of such monitoring should be regularly reviewed by an appropriately constituted group, drawn from both health and corrections authorities.

9.6 Non-smoking prisoners and detainees should not be exposed to environmental tobacco smoke.

10. Hunger Strikes

10.1 Where a prisoner or detainee refuses nourishment and is considered by the medical practitioner to be capable of forming an unimpaired and rational judgement concerning the consequences of such a voluntary refusal of nourishment, the practitioner should refuse to co-operate in artificial feeding. The decision as to the capacity of the prisoner or detainee to form such a judgement should be confirmed by at least one other independent medical practitioner. The practitioners must explain to the prisoner or detainee the consequences of the refusal of nourishment.[v]

11. Aboriginal and Torres Strait Islander People

11.1 There is a disproportionately large number of Aboriginal and Torres Strait Islander people in detention. Constant review is required to ensure that alternatives to detention and imprisonment are available.

11.2 Aboriginal and Torres Strait Islander prisoners and detainees should be ensured access to Elders and to relevant representatives of their communities to address their beliefs and needs.[vi]

11.3 Aboriginal and Islander cultural beliefs and practices which relate to health and health services must be respected in the design and implementation of Aboriginal and Islander health care programs in all correctional facilities.

11.4 Medical and other health professionals involved in the provision of services to Aboriginal and Islander people in correctional facilities should, at all times, be aware of, and sensitive to, Aboriginal and Islander culture.

11.5 Appropriate, on-going, orientation courses in Aboriginal and Islander culture should be conducted for all health workers in correctional facilities.

12 Women

12.1 Female prisoners and detainees must have access to ante-natal, obstetric and post-natal care and gynaecological health services.

12.2 Wherever practicable, arrangements should be made for infants to be born in a hospital outside the correctional facility. If an infant is born in a correctional facility, this fact must not be recorded on the birth certificate.

12.3 When a prisoner gives birth, the infant should be able to remain with that prisoner at least until the age of two years, provided that the infant's welfare is not compromised by such arrangements.

12.4 An infant who remains with their parent in a correctional facility must have adequate nutrition and access to paediatric care either within or outside the correctional facility.

12.5 There should be sufficient facilities for the parent to properly care for the infant, including the provision of play areas.

13. Persons with Psychiatric Disorders

13.1 Medical practitioners with suitable qualifications and experience in psychiatry should be represented at the policy-making and decision-making level in the administrative structures of all health authorities which administer correctional facility health care services.

13.2 Prisoners and detainees should have ready access to psychiatric services within the corrective facility medical service.

13.3 Medical practitioners with relevant experience in psychiatry should be involved in the day-to-day management of prisoners and detainees suffering from psychiatric disorders.

13.4 Prisoners and detainees with a severe psychiatric illness should be moved to an appropriate psychiatric facility.

13.5 Persons must not be remanded in a correctional facility solely for psychiatric assessment.

13.6 Steps should be taken, by arrangement with the appropriate agencies, to ensure the continuation of psychiatric treatment and the provision of psychiatric care after release from the correctional facility.[vii]

14. Suicide Prevention

14.1 Suicide prevention and the management of suicidal behaviour in corrective facilities is a major health and prison management issue and present a significant challenge for Departments of Corrective Services and correctional facility health care services.

14.2 The physical environment and operations of the correctional facility should aim to minimise the risk of a detainee or prisoner attempting suicide.

14.3 The principle of nursing suicidal prisoners and detainees is supportive human contact. A prisoner or detainee should not be put into seclusion solely on account of their suicidal ideation.

14.4 When a prisoner or detainee is identified as having a significant risk of suicide, the attending staff should arrange for the prisoner or detainee to communicate with someone trusted, including family members and other appropriate people outside the correctional facility as appropriate.

15. Intellectually and Physically Disabled

15.1 Intellectually and physically disabled prisoners should be provided with relevant services and facilities.

16. Young People

There is a disproportionately large number of young people in correctional facility populations. Their needs are different from those of adults.

16.1 The focus of correctional facilities for young people should be primarily on rehabilitation and education.

16.2 Prisoners or detainees under the age of 18 should not be housed in an adult correctional facility.

References:

[i] adapted from T W Harding, Prevention of torture and inhuman or degrading treatment: medical implications of a new European convention, The Lancet, May 27, 1989, pp 1191-1193

[ii] adapted from British Medical Association, Guidance for Doctors Providing Medical Care and Treatment to Those Detained in Prison, March 1996

[iii] adapted from the International Council of Prison Medical Services, Oath of Athens, 1979

[iv] adapted from The Corrective Services Ministers' Conference, March 1995, Standard Guidelines for Corrections in Australia, 1996, page 28

[v] adapted from World Medical Association Declaration of Tokyo, Guidelines for Medical Doctors concerning Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in relation to Detention and Imprisonment, October 1975

[vi] adapted from The Corrective Services Ministers' Conference, March 1995, Standard Guidelines for Corrections in Australia, 1996, page 31

[vii] adapted from The Corrective Services Ministers' Conference, March 1995, Standard Guidelines for Corrections in Australia, 1996, page 30

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