State of Vermont, Agency of Human Services Department of Corrections	Title: **Terminal Illness and Inmate Death - Facilities**		Page 1 of 6
Chapter: Health Services	Directive # 353	NEW	
Attachments, Forms & Companion Documents: 1. Contraband/Criminal Physical Tag and Chain of Custody Form			
Local Procedure(s) Required: No local procedure required **Applicability:** All DOC staff, contractors and volunteers **Security Level:** "B" - Anyone may have access to this document.			
Robert D. Hofmann, Commissioner	March 12, 2006 Date Signed	March 29, 2006 Date Effective	

PURPOSE

The purpose of this administrative directive is to describe the procedures that will be used by the Department of Corrections in the event of an inmate death or in circumstances when an inmate's death is imminent.

POLICY

It is the policy of the Department of Corrections to ensure that inmates who are terminally ill have been given the opportunity to create or modify pre-existing advance directives and to honor their advance directive. It is also the policy that inmate deaths are reported immediately to appropriate officials, that the cause of inmate death is investigated and that the next of kin is notified promptly.

AUTHORITY & REFERENCE

18 V.S.A., §§ 5205, 5239, 5240; 33 V.S.A., § § 2301, 2302; 28 V.S.A. § 803. American Correctional Association Standards for Adult Correctional Institutions, 4th Edition, January 2003, Standards 4-4350, 4-4395, 4-4409, 4-4410, 4-4425.

DEFINITIONS

"Advance Directive": A written document which may include the appointment of an agent, identification of a primary care clinician, instructions on health care desires or treatment goals and anatomical gifts, disposition of remains and funeral goods and services.

Next of Kin: A spouse, adult child, parent, adult sibling, adult grandchild, or any person identified by the individual as a "reciprocal beneficiary" or a person designated by a court to make decisions or have custody of the body.

DNR (Do not resuscitate): A patient-generated document that directs health care providers not to attempt resuscitation.

Untimely Death: Instances of inmate death that occur in a facility, including homicide, suicide, accident, unexpected illness with death resulting and instances where the cause of death is unknown.

PROCEDURAL GUIDELINES

1. Inmates with a Terminal Illness

a. If an inmate who is terminally ill has a properly executed advance directive, directions for end-of-life care and disposition of the remains will be followed.

- If Correctional staff has questions about the validity of a document, they will review the document with the Office of the Attorney General.
- If the advance directive submitted does not meet the witnessing or other legal requirements, the Department will return it and advise the inmate on how to access help in properly executing the document.

b. If an inmate who is terminally ill does not have an advance directive, they will be given the opportunity to create one.

c. Department of Corrections staff shall neither advocate nor discourage any end-of-life decision the inmate may make.

d. Qualified health care professionals are expected to provide medical information to inmates involved in end-of-life planning and who request such assistance in preparing an advance directive.

e. The Superintendent shall, to the extent possible, make available legal and religious counsel of the terminally ill inmate's choosing for purposes of determining how care should proceed and how the person's remains should be disposed of if they die while in prison.

f. The Superintendent will work with the local Hospice or the Vermont Ethics Network to provide terminally ill inmates with assistance in creating or modifying an advance directive.

g. Department of Corrections staff or contractors cannot require an inmate to have executed an advance directive as a condition of receiving treatment.

h. Advance directives properly executed by the inmate will be placed in the inmate's medical file and core file.

- If correctional staff has questions about the validity of a document, they will review the document with the Office of the Attorney General.
- If the advance directive submitted does not meet the witnessing or other legal requirements, the Department will return it and advise the inmate on how to access help in properly executing the document.

i. The name of the person(s) to be notified in case of death or serious illness will be recorded in the inmate's core file.

2. Death of an Inmate in a Vermont Facility

a. Pronouncement of Death: A physician or medical examiner will be the only person to pronounce the death of an inmate. For deaths occurring after hours, the physician on-call, the Medical Examiner or their designee will respond to the facility to make the pronouncement.

b. Securing the Scene: The Shift Supervisor will assign a staff person to secure the scene of death and restrict access to the area until it is released by the Medical Examiner or appropriate investigating authority.

i. The staff person designated to secure the scene will initiate a separate log to document the incident and include the name, time and purpose of anyone entering or exiting the scene and any items brought into or removed from the scene.

ii. No one will be allowed in the area, except the correctional staff assigned to the scene or qualified health care personnel who have performed lifesaving measures, until the Medical Examiner, State's Attorney or designated investigating authority releases the scene.

iii. If lifesaving measures have been performed, correctional staff assigned to the scene will thoroughly document in the log the condition of the scene and what changes occurred as a result of providing medical assistance.

iv. The correctional staff assigned to the scene will preserve all physical evidence such as clothing, personal items, weapons, etc., and will initiate a Chain of Custody form *(Attachment 1)* to document handling of any evidence.

v. To the extent possible, persons present in an untimely death will be separated from each other until such a time that they are interviewed by the investigating authority.

c. Notifications

i. The Shift Supervisor will immediately notify the following:
- Medical Examiner
- Superintendent
- Facilities Executive

In instances of untimely or suspicious deaths the Shift Supervisor will notify
- The Vermont State Police

ii. The Superintendent or Facilities Executive or their designee will ensure immediate notification of the following:
- DOC Director of Health Services
- Commissioner, Deputy Commissioner or their designee, and
- Inmate next of kin

iii. In instances of untimely death (homicide, suicide, accident, unexpected and cause unknown) the Facilities Executive will immediately notify the AHS Investigator.

iv. In instances of expected death, the Facilities Executive or their designee will notify the AHS Investigator by the next business day.

d. Criminal Investigations: The decision to proceed with a criminal investigation is made by the Medical Examiner and State's Attorney's Office. The Superintendent will provide access to the facility as needed.

e. Facility Support: The Superintendent, in consultation with the Facilities Executive and Health Services Director, will ensure that any necessary employee assistance is offered to staff, and grief counseling offered to other offenders as needed.

4. Death of an Inmate in an Out-of-State Facility

Upon notice of inmate death by an out-of-state facility, the Out of State Unit will

a. Notify the following:

- DOC Director of Health Services, Director of Classification and Facilities Executive
- Commissioner, Deputy Commissioner or their designee, and
- Inmate next of kin.

b. Review the investigation reports from the facility and determine the need for further internal investigation.

- If further investigation is deemed necessary, the Unit will designate a staff person to conduct the review or request assistance from the AHS Investigations Unit or law enforcement.

c. Make arrangements as outlined in Section 7b below and transport the body back to Vermont or a mutually agreeable alternative destination for disposition. The Department will pay for all costs to transfer the body from the out of state facility to a funeral home.

5. Inmate related Death in a Hospital or During Transportation

a. When an inmate who is on a facility headcount dies in a hospital, all hospital procedures will be followed. Department staff will make proper notification and begin arrangements for disposition of the body in accordance with this directive.

b. When correctional staff suspects that an inmate has died during transport, they will immediately make a 911 call for assistance and begin whatever appropriate first aid measures that are warranted.

6. Internal DOC and AHS Reviews

a. When any inmate dies in a correctional facility (instate or out of state), the Health Services Director will ensure that:

- An administrative review is conducted to ascertain the sequence of events up to and including the inmate's death;
- A clinical peer review is conducted to determine whether or not the care provided contributed significantly to the outcome and whether or not that care, regardless of its contribution to the outcome, was at, above, or below medical standards;
- Any findings of clinical misconduct are reported to the appropriate authorities, such as the Office of Professional Regulation or Medical Practice Board;
- A root cause analysis is conducted in accordance with protocols established by the appropriate authority, currently the Vermont Department of Health.

b. The AHS Investigations Unit, at its discretion, may investigate instances of untimely death (homicide, suicide, accident, unexpected and cause unknown).

- DOC staff will cooperate with any investigation deemed necessary by AHS.

7. Processing and Release of the Body

a. Following proper examination by a physician and consent of the Medical Examiner, the Superintendent or designee will ensure the body is identified, photographed and released to the next of kin.

b. Upon notification that the body has been released, the next of kin will be responsible to arrange with a funeral director to remove the body from the specified location to a funeral home, except in the case where an inmate dies in an out of state facility. The Department will arrange and pay for transportation from an out of state facility. See 4c.

c. If staff cannot locate the next of kin, or the next of kin refuses to claim the body, the Superintendent will arrange with a licensed funeral director to arrange for the final disposition of the body.

- When an inmate dies and has insufficient known assets to pay for burial or there is no next of kin, the facility will arrange and pay for the burial and related graveside service, if any.

- If the next of kin refuses to claim the body, staff will ask for a refusal in writing. Staff will place this written refusal, or note that there was no written refusal, in the inmate's core file.

8. Disposition of an Inmate's Personal Property

At the time of the death notification, the Superintendent or designee will make arrangements with the next of kin regarding the personal effects of the deceased.

a. If the next of kin does not wish to or is unable to come to the facility to claim the personal effects, the Superintendent will forward a certified letter to them within one (1) week, advising them that they have thirty (30) days to claim the property.

b. If after thirty (30) days the next of kin has not claimed the inmate's personal effects, the Superintendent will dispose of the effects according to DOC procedures.

9. Records

a. Medical Records: Health Services will retain the deceased inmate's medical record in a locked file cabinet at the facility until it can be sent to the Department's Health Services in central office. Following an administrative review, the Department will send the record to the Office of the Attorney General.

b. Core File: The Superintendent will retain the deceased inmate's core file, along with copies of incident reports and other documentation pertaining to the death, in a locked file cabinet at the facility until after consultation with the Office of the Attorney General.

SAMPLE

ATTACHMENT 1

CONTRABAND/CRIMINAL PHYSICAL TAG AND CHAIN OF CUSTODY FORM

Facility/Unit:_____

Classification of contraband/criminal physical evidence: (Check one)

___Weapon
___Drug/drug paraphernalia
___Alcohol (commercial or homemade)
___Appliance (e.g., television, radio, stereo, recorder, etc.)
___Currency (money or other commodity of exchange)
___Clothing
___Miscellaneous property
___Other

Brief description of item or substance and any identifying mark(s):

_____
_____
_____
_____
_____
_____

Location found/confiscated:_____

By: Staff Name_____ Date/Time_____

From: Inmate Name_____

Chain of custody – contraband/criminal physical evidence (signature required)

STAFF FROM	STAFF TO	DATE/TIME	REASON	DISPOSITION