

HEALTH SERVICES POLICY & PROCEDURE MANUAL

North Carolina Department Of Correction
Division Of Prisons

SECTION: Continuity of Patient Care

POLICY # CC-7

PAGE 1 of 6

SUBJECT: Transfer Procedures for Referral to Mental
Health

EFFECTIVE DATE: October 2008
SUPERCEDES DATE: September 2007

References

Related ACA Standard

**4th Edition Standards for Adult Correctional
Institutions 4-4368, 4-4371, 4-4404**

PURPOSE

To provide guidelines on how to transfer mental health patients to the appropriate mental health service.

POLICY

Only inmates who have a diagnosable mental illness and who are likely to benefit from inpatient or residential treatment services are to be referred for treatment at these facilities. Inmates who are identified to be management/behavioral problems and who do not have a treatable mental illness should not be referred to a mental health treatment facility.

PROCEDURE

I. INMATE RIGHTS CONCERNING TRANSFER TO INPATIENT/RESIDENTIAL MENTAL HEALTH UNITS

- A. To the greatest extent possible, the transfer of inmates to designated Inpatient Mental Health or Residential Mental Health treatment facilities should be a voluntary informed decision made by the inmate. However, situations may arise when an inmate with a diagnosed mental illness may require treatment services available only at an Inpatient or Residential treatment facility and a transfer to such a treatment facility may be necessary over his/her objections. Since treatment is usually facilitated by the willing participation of the individual receiving the services, every effort will be made to encourage the inmate's voluntary participation in the treatment process.
- B. The inmate shall be notified, in writing, that referral to an Inpatient or Residential Mental Health treatment facility is being considered. This notification shall include the reasons for the referral to the treatment facility.
- C. The inmate has a right to a hearing to be held no sooner than 48 hours after notice is given to allow the inmate time to prepare objections.
- D. The inmate has the right to appear and testify in person at the hearing, present documentary evidence, present witnesses and question witnesses called by the State. The presiding officer at the hearing may find good cause for not permitting such presentation, confrontation, or cross-examination, so long as this finding is not arbitrarily made.
- E. The inmate has the right to a neutral and independent decision maker who may be from within the prison system but who has the authority to refuse transfer to the treatment facility.
- F. The inmate has the right to a written statement from the decision maker indicating his/her decision regarding the transfer and including the reasons for that decision. This decision must be concurred with by two other mental health clinicians, either psychiatrists or psychologists or a combination of the two.
- G. The inmate has the right to qualified and independent assistance from an advisor, not necessarily an attorney, to help the inmate prepare his/her objections for presentation at the hearing.

HEALTH SERVICES POLICY & PROCEDURE MANUAL

North Carolina Department Of Correction
Division Of Prisons

SECTION: Continuity of Patient Care

POLICY # CC-7

PAGE 2 of 6

SUBJECT: Transfer Procedures for Referral to Mental
Health

EFFECTIVE DATE: October 2008
SUPERCEDES DATE: September 2007

H. The inmate has the right to periodic review of the ongoing need for treatment at an inpatient or residential treatment facility.

I. The inmate has the right to effective and timely notification of all of the above rights.

II. VOLUNTARY TRANSFERS

A. Non-emergency voluntary transfers for mental health services to an Inpatient or Residential Mental Health treatment facility are to be initiated at the unit to which the inmate is currently assigned.

1. When an inmate is identified as possibly needing transfer to such a facility, the outpatient psychologist at that unit or designated to review such referrals at that unit will determine whether that inmate is in need of mental health services provided at an Inpatient or Residential treatment facility.
2. If the psychologist determines that the inmate is in need of mental health services at an Inpatient or Residential Mental Health treatment facility, then the inmate will be so advised by the psychologist on the Notice of Referral to a Mental Health Unit form (DC-133R).
3. The reasons for the transfer to the Mental Health treatment unit and expected benefits of treatment will be clearly documented on the DC-133R.
4. The inmate's rights regarding the proposed transfer will be fully explained to the inmate.
5. If the inmate consents to a voluntary transfer to the specified mental health treatment facility, the inmate will be asked to sign the DC-133R. His signature will be witnessed by a member of the prison staff other than the referring psychologist.
6. The referring staff member will then complete any other necessary forms for transfer and contact the receiving unit to arrange the transfer.
7. An inmate who verbally agrees to the transfer but who refuses to sign the DC-133R should have this fact documented and witnessed prior to initiating the transfer to the Mental Health treatment unit.

B. In some cases, especially after normal working hours, there may not be a psychologist present at the unit when an inmate is identified as possibly needing inpatient or residential mental health treatment.

1. In those cases, it is expected that the Office-in-Charge or his/her designee shall attempt to contact by telephone the unit's identified outpatient psychology staff for consultation and assistance in arranging a transfer to a mental health treatment facility.
2. Attempts to contact outpatient psychology staff must be documented on the DC-133R before direct consultation with the Inpatient or Residential Mental Health treatment facility.
3. If the unit's assigned psychology staff cannot be reached for consultation, then the Officer-in-Charge or his/her designee shall contact the Inpatient or Residential Mental Health treatment facility directly for assistance.
4. Each facility shall have procedures in place for contacting outpatient psychology staff to assist in transfers to Inpatient or Residential Mental Health treatment facilities.
5. In no case shall an inmate be transferred to an Inpatient or Residential Mental health treatment facility without a DC-133R being completed at the sending facility.
6. The original DC-133R shall be filed in the inmate's Outpatient Medical Treatment Record in Section I under the Miscellaneous tab. A copy of the DC-133R shall be given to the inmate, and a copy shall be forwarded to the receiving Mental Health treatment facility.

HEALTH SERVICES POLICY & PROCEDURE MANUAL

North Carolina Department Of Correction
Division Of Prisons

SECTION: Continuity of Patient Care

POLICY # CC-7

PAGE 3 of 6

SUBJECT: Transfer Procedures for Referral to Mental
Health

EFFECTIVE DATE: October 2008
SUPERCEDES DATE: September 2007

III. EMERGENCY TRANSFERS

- A. An inmate who has been identified as being in need of mental health services provided at an Inpatient or Residential treatment facility and who refuses to accept a transfer to such a facility will be afforded a hearing **unless** an emergency situation exists.
- B. A mental health emergency situation is one in which
 1. the inmate has a diagnosable mental illness, **and**
 2. presents a substantial risk of harm to himself or others as manifested by recent overt acts or recent expressed threats of violence which present the possibility of physical injury to himself/herself or to others, or
 3. who is so unable to care for his/her own personal health and safety as to create a substantial risk of harm to himself/herself.
- C. Once identified at the unit, the outpatient psychologist at that unit or designated to review such referrals will determine whether an Emergency Transfer is warranted.
 1. If the transfer is indicated and the situation is an emergency as defined above, the outpatient psychologist will complete the DC-133R for an Emergency Transfer and contact the receiving unit to arrange the transfer.
 2. Inmates who are transferred to an Inpatient or Residential Mental Health treatment facility under the conditions set forth here as an Emergency Involuntary Transfer will be afforded a hearing at the receiving treatment unit within ten (10) days of transfer to the treatment unit.
- D. In some cases, especially after normal working hours, there may not be a psychologist present at the unit when an inmate is identified as possibly needing inpatient or residential mental health treatment.
 1. In those cases, it is expected that the Office-in-Charge or his/her designee shall attempt to contact by telephone the unit's identified outpatient psychology staff for consultation and assistance in arranging a transfer to a mental health treatment facility.
 2. Attempts to contact outpatient psychology staff must be documented on the DC-133R before direct consultation with the Inpatient or Residential Mental Health treatment facility.
 3. If the unit's assigned psychology staff cannot be reached for consultation, then the Officer-in-Charge or his/her designee shall contact the Inpatient or Residential Mental Health treatment facility directly for assistance.
 4. Each facility shall have procedures in place for contacting outpatient psychology staff to assist in transfers to Inpatient or Residential Mental Health treatment facilities.
 5. In no case shall an inmate be transferred to an Inpatient or Residential Mental health treatment facility without a DC-133R being completed at the sending facility.
 6. The original DC-133R shall be filed in the inmate's Outpatient Medical Treatment Record in Section I under the Miscellaneous tab.
 7. A copy of the DC-133R shall be given to the inmate, and a copy shall be forwarded to the receiving Mental Health treatment facility.

IV. INVOLUNTARY TRANSFERS

In the case of an inmate who, in the judgment of a mental health clinician, needs mental health treatment at an Inpatient or Residential treatment facility yet refuses a transfer will be afforded a hearing prior to the transfer if the situation is not an Emergency as defined above.

HEALTH SERVICES POLICY & PROCEDURE MANUAL

North Carolina Department Of Correction
Division Of Prisons

SECTION: Continuity of Patient Care

POLICY # CC-7

PAGE 4 of 6

SUBJECT: Transfer Procedures for Referral to Mental
Health

EFFECTIVE DATE: October 2008
SUPERCEDES DATE: September 2007

- A. To initiate a hearing, the referring psychologist will complete the DC-133R stating the reasons for transfer to the treatment facility and the expected benefit from mental health treatment.
- B. The inmate will be advised of his rights concerning the transfer and if s/he refuses to be transferred, the following steps will be taken:
 1. Notice of Hearing
 - a. The inmate will be provided with the date, time, and place of the hearing.
 - b. It is the responsibility of the local Mental Health Program Manager (or equivalent) to contact the Hearing Officer to arrange the hearing.
 - c. The hearing shall not be scheduled for any time sooner than 48 hours from the time the inmate was notified of the request for a hearing to approve a transfer to a mental health treatment facility.
 2. Inmate Advisor
 - a. The inmate being considered for Non-Emergency Involuntary transfer will have an advisor appointed to assist the inmate in preparing for the hearing.
 - b. The Facility Head will be responsible for appointing the inmate's advisor.
 1. It is preferred that the inmate advisor be a member of the Programs staff and readily available to assist the inmate.
 2. It is the role of the inmate's advisor to advise competently and independently on the inmate's behalf.
 3. The advisor shall assist the inmate in arranging for witnesses or statements from witnesses requested by the inmate prior to the day of the hearing.
 4. The advisor shall be free to act **solely** on the inmate's behalf and shall not be subject to any harassment, disciplinary action, pressure, or coercion in connection with his/her role as the inmate's advisor.
 3. The Director of Mental Health shall appoint a sufficient number of Hearing Officers.

The Hearing Officer shall be:

- a. neutral, not directly involved with the treatment of the subject inmate,
- b. independent, and
- c. shall have the authority to refuse the transfer of the inmate when in his/her judgment the transfer is not warranted.

Ex parte attempts to influence the decision of the Hearing Officer are prohibited.

C. Hearing Procedure:

1. The hearing will be conducted no sooner than forty-eight (48) hours from the time the inmate was advised of the referral for transfer as indicated on the DC-133R.
 - a. The Hearing Officer will decide the date, time, and place of the hearing after considering the relevant factors.
 - b. The inmate has the right to waive the 48 hours notice.
2. The referring clinician will present testimony and evidence at the hearing to show that:

HEALTH SERVICES POLICY & PROCEDURE MANUAL

North Carolina Department Of Correction
Division Of Prisons

SECTION: Continuity of Patient Care

POLICY # CC-7

PAGE 5 of 6

SUBJECT: Transfer Procedures for Referral to Mental
Health

EFFECTIVE DATE: October 2008
SUPERCEDES DATE: September 2007

- a. The inmate is mentally ill, and
 - b. The inmate requires services that are not currently available on an outpatient basis, and
 - c. The facility to which the inmate is to be transferred is better able to provide the needed mental health treatment services than the inmate's current facility assignment.
3. A copy of the DC-133R as well as other relevant written documents may be entered as evidence.
- a. Any written documents or verbal information presented at the hearing are considered confidential information as per existing policy for mental health treatment records.
 - b. The inmate will not have direct access to his/her mental health treatment records. However, the advisor may review all mental health treatment records presented at the hearing and may consult with the inmate about the use of the records at the hearing and about any matters contained therein which could be relevant at the hearing, including the questioning of witnesses.
4. The inmate being considered for transfer, or his/her advisor, may question any witnesses for the State, including mental health professionals. The inmate may also present witnesses on his/her behalf with the following limitations:
- a. A reasonable number of witnesses will be allowed at the discretion of the Hearing Officer.
 - b. Testimony may be received by conference telephone call if the hearing is conducted away from the inmate's assigned unit.
 - c. Written statements may be entered in lieu of direct testimony.
 - d. Specific inmate witnesses may be excluded from direct testimony if their presence at the hearing would constitute a justifiable security risk.
5. It is the Hearing Officer's responsibility to:
- a. Ensure that the inmate has an advisor appointed to represent and advise him/her at the hearing. The advisor's name will be entered on the DC-133R.
 - b. Conduct a hearing that follows the guidelines of this policy in a fair and impartial manner.
 - c. Determine from the evidence presented
 - 1) whether the inmate is mentally ill, and
 - 2) that a transfer to the designated Mental Health treatment facility is reasonable, in view of the inmate's treatment needs and the benefits expected from treatment at the Mental Health treatment facility.
6. The Hearing Officer will document the results of the hearing on the DC-133R, including the decision to either transfer the inmate to the designated Mental Health treatment facility or to leave the inmate at his currently assigned housing facility.
- a. The results of the hearing will be communicated to the inmate, by copy of the DC-133R.
 - b. In addition, the Hearing Officer will prepare a written summary of the evidence presented at the hearing, including the rationale for the decision, and forward a copy to the inmate as soon as it is completed.
7. The Hearing Officer's decision must be concurred with by two other mental health professionals (psychologists or psychiatrists), one of whom must be at the receiving unit, before transfer to the receiving unit is allowed.

HEALTH SERVICES POLICY & PROCEDURE MANUAL

North Carolina Department Of Correction
Division Of Prisons

SECTION: Continuity of Patient Care

POLICY # CC-7

PAGE 6 of 6

SUBJECT: Transfer Procedures for Referral to Mental
Health

EFFECTIVE DATE: October 2008
SUPERCEDES DATE: September 2007

8. If the inmate requests, his/her case shall be reviewed by a Hearing Officer within ninety (90) days of the initial hearing to determine whether assignment to the Mental Health treatment facility should be extended or terminated. Subsequent reviews shall take place every 180 days, if the inmate requests additional reviews.
9. The original DC-133R shall be filed in the inmate's Outpatient Medical Treatment Record in Section I under the Miscellaneous tab. A copy of the DC-133R shall be given to the inmate, and a copy shall be forwarded to the receiving Mental Health treatment facility if the inmate is transferred for mental health treatment.

V. CHANGE OF STATUS:

- A. An inmate who is transferred to an Inpatient or Residential Mental Health treatment facility under the provisions of a voluntary case retains the right to request to be transferred out of that Inpatient or Residential Mental Health treatment facility at any time.
 1. The inmate's Request for Discharge shall be documented on form DC-552 (Request for Discharge) and presented to a member of the Mental Health treatment staff.
 2. This is then forwarded to the inmate's Treatment Team where the case will be reviewed and a decision made as to whether the inmate's request for discharge should be granted.
 3. If the Treatment Team determines that the inmate's request should not be granted, then a hearing must be scheduled under the provisions of "Hearing Procedure" of this policy.
 - a. If the hearing officer finds that the inmate does not meet the criteria for involuntary transfer to the Inpatient or Residential Mental Health treatment facility, then the inmate's request for discharge must be granted and the inmate shall be backlogged to a receiving unit awaiting transfer.
 - b. If the hearing officer finds that the inmate does meet the criteria for involuntary transfer, then the inmate shall remain at the Inpatient or Residential Mental Health treatment facility for further treatment.
- B. An inmate who is transferred to an Inpatient or Residential Mental Health treatment facility under the provisions of an emergency involuntary case shall be afforded a hearing within ten days of the emergency involuntary transfer, under the provisions of "Hearing Procedure" of this policy.
 1. Any inmate who consents to voluntary transfer to the Inpatient or Residential Mental Health treatment facility **before** the hearing is held can waive the hearing and be considered a voluntary transfer.
- C. An inmate who is transferred to an Inpatient or Residential Mental Health treatment facility as a non-emergency involuntary case under the provisions of this policy shall remain so until the Inpatient or Residential level of service is no longer required.
 1. If the inmate requests, his/her case shall be reviewed by a Hearing Officer within ninety (90) days of the initial hearing to determine whether assignment to the Mental Health treatment facility should be extended or terminated.
 2. Subsequent reviews shall take place every 180 days, if the inmate requests additional reviews.

Paula Y. Smith, M.D.

10/31/08

Paula Y. Smith, MD, Director of Health Services

Date

SOR: Chief of Mental Health Services