

**INTERDEPARTMENTAL  
AGREEMENT FOR ADMINISTRATION BY THE DEPARTMENT OF PUBLIC  
HEALTH & HUMAN SERVICES AND THE DEPARTMENT OF  
CORRECTIONS OF A CORRECTIONAL INFIRMARY**

**RECITAL**

The Parties to this Agreement are the Montana Department of Public Health and Human Services (DPHHS) and the Montana Department of Corrections (DOC).

DPHHS, acting through its Addictive & Mental Disorders Division, administers a program of inpatient nursing care services at the Montana Mental Health Nursing Care Center (MMHNCC) for persons with mental health conditions whose primary care needs are geriatric in nature. DOC administers an extensive and broad array of correctional services for criminally-convicted persons including infirmary care administered by DOC's Clinical Services Division.

Pursuant to the authority granted departmental heads in § 2-15-112, MCA, the Directors of DPHHS and DOC enter into this Agreement for the purpose of establishing and maintaining the Lewistown Infirmary (Infirmary) to provide custodial and health care services in an infirmary setting for medically appropriate criminally convicted male offenders (offenders) who are in the custody of DOC. Initial placements into the Infirmary began December 15, 2012.

The provisions of this Agreement address the conditions, cooperative arrangements, and financial arrangements under which the Infirmary will be established and maintained.

**DEFINITIONS:**

**Superintendent:** the superintendent of the MMHNCC, who is also designated as the "Infirmary Superintendent."

**Lewistown Infirmary Manager:** MMHNCC program manager of the infirmary.

**Lewistown Infirmary Security Supervisor:** MSP security manager of the infirmary.

**MSP Health Services Bureau Chief:** Manager of MSP medical/mental health services and primary liaison to MMHNCC Lewistown Infirmary.

**MSP Associate Warden of Security:** Manager of MSP security operations and security oversight of MSP Command Post and Lewistown Infirmary.

**TERMS OF AGREEMENT**

DPHHS and DOC agree to jointly administer the Infirmary as follows:

**I. STATUS OF SERVICE SETTING**

DPHHS will provide nursing and medical care at MMHNCC for medically appropriate offenders in a secure environment, hereinafter referred to as "the Infirmary."

The Infirmary is licensed by the State under § 50-5-201, MCA, as an infirmary type of health care facility. An infirmary is defined in § 50-5-101, MCA, as a facility "...located in a university, college, government institution, or industry for the treatment of the sick or injured...". By rule at ARM 37.106.640 the minimum standards for an infirmary include the provision of skilled nursing services and licensed physician care. As an infirmary providing residential inpatient care the Infirmary will be designated for licensing purposes as an "infirmary – A".

While MMHNCC and the Infirmary will share a building and adjacent parking area, the Infirmary will be physically isolated from the current service setting of MMHNCC via secure walls and doors. Physical access to the Infirmary is to be secure. MMHNCC and the Infirmary are to be clearly distinguished by public signage and other means. Visitation with DOC offenders in the Infirmary will be restricted in accordance with DOC policy 3.3.8, offender visiting and will be carefully monitored.

## **II. SCOPE OF WORK:**

MMHNCC agrees to provide medical care in a prompt and professional manner, including consultation with health care specialists for the inmate population at Lewistown Infirmary. MMHNCC agrees to:

- a. Provide Licensed Nurse Coverage 24 hours a day, 7 days a week.
- b. Provide a Family Nurse Practitioner, Physician Assistant, or Physician.
- c. Design and Conduct Health Education to the staff and inmate population.
- d. Provide Daily medication distribution and treatment care needs.
- e. Maintain all medical records in compliance with local, state, and federal laws.
- f. Participate in Quality Assurance Activities related to Health issues. Supervise, schedule and evaluate providers and other medical professionals in their defined duties at the Infirmary.
- g. Ensure that all medical professionals engaged by MMHNCC performing under this Agreement maintain all applicable state licensing requirements.
- h. Provide all Human Resource functions, including the hiring and/or termination process for all staff employed by MMHNCC.

DOC agrees to provide security at the Infirmary, including employing correctional officers and correctional supervisors, and agrees to do so in a professional manner.

## **III. NUMBER OF BEDS**

DOC agrees to fund on an ongoing basis 25 beds for male offenders at the Infirmary. The parties may mutually agree to adjust the number of beds as appropriate and necessary.

## **IV. INITIAL PLACEMENT AND CONTINUING SUITABILITY OF OFFENDERS**

To be considered for placement at the Infirmary, an offender must, because of illness, injury, or a medical/psychiatric condition, require nursing care and assistance with everyday tasks including but not limited to bathing, personal hygiene, and taking medications. Illnesses, injury, and medical conditions include but are not limited to cardiac conditions, diabetes, multiple sclerosis, Parkinson's disease, amputation, spino-cerebral

degeneration, severe COPD, dementia, cancer, degenerative joint disease, hepatitis C, Crohn's disease, rheumatoid arthritis, psychiatric disorders, and disabilities of hearing and vision.

The MSP Infirmery Special Needs Committee, consisting of physicians, nursing and other medical staff, will identify and screen offenders who may be eligible for placement at the Infirmery. Being identified and screened for possible placement at the Infirmery does not confer to an offender the right to be placed at the Infirmery.

The MSP Health Services Bureau Chief and the Lewistown Infirmery Manager will meet weekly and will review offenders who have been identified by the MSP Infirmery Special Needs Committee for possible placement at the Infirmery. The Infirmery's medical providers will have appropriate time to review the inmate's medical chart, collaborate with the nurse manager and pharmacy services.

The MSP Health Services Bureau Chief and the Lewistown Infirmery Manager will decide whether to accept or deny an offender to the Infirmery.

If requested, DOC will provide the Infirmery Manager with all information on an offender who is being considered for placement at the Infirmery or who has been accepted for placement at the Infirmery, including but not limited to access to the offender's medical chart.

Offenders who meet the following criteria are not eligible for admission to the Infirmery:

1. Are under sentence of death; or
2. who have had a major disciplinary violation within the last 180 days before consideration for placement.

If after placement at the Infirmery there is a question about the continuing suitability of an offender for the Infirmery because of safety and security concerns, the Lewistown Infirmery Manager and the Lewistown Infirmery Security Supervisor will review those concerns and will make a determination and forward the recommendation for placement to the MSP Associate Warden of Security and MSP Health Services Bureau Chief. If after placement at the Infirmery, there is a question about the continuing suitability of an offender for medical reasons, the Lewistown Infirmery Manager and the MSP Health Services Bureau Chief will review the concerns and will make a recommendation and forward the recommendation to the Clinical Services Division Administrator.

## **V. ADMINISTRATION OF CARE**

MMHNCC is responsible for rendering health care services to offenders admitted to the Infirmery, and DOC security staff will not interfere, control or otherwise direct such health care services.

Before transferring an offender who has been approved for admission to the Infirmery, DOC will send the offender's records to the Infirmery no later than 14 days prior to his arrival at the Lewistown Infirmery.

The records include all medical, psychological, and case file records for each offender who has been approved for admission to the Infirmary. In addition, DOC will prepare for each offender a care plan for the orientation and reference of staff at the Infirmary. The care plan must include reference to all necessary daily interventions and treatments necessary for the maintenance of the person's well-being and health, inclusive of necessary therapies, procedures, specialized equipment, and prescriptions. The author of the plan will sign and date the plan and will be available for consultation.

DOC will pay for any health care services provided to an offender that are not available as a health care service through the Infirmary including but not limited to noncontract physicians and other health care professional services, dental services, hospitalization, therapies, and medical testing.

Unless an offender's condition is emergent, MMHNCC will submit pre-authorization requests to the DOC Managed Care RN and receive approval before sending an offender to an off-site healthcare facility for medical or health care services. In the case of an emergent condition for which pre-authorization was not received, MMHNCC will notify the DOC Managed Care RN, the MSP Health Services Bureau Chief, and the MSP Command Post within 24 hours of the inmate receiving medical care off-site, including hospitalization.

Any death must be reported immediately to the proper officials as specified in DOC Policy 4.5.34, Inmate Death.

DOC Transportation Coordinator will make arrangements to transport, including transport by ambulance if necessary, offenders to off-site health care or medical services. However, in exigent circumstances the Infirmary Superintendent may, without prior DOC approval, arrange for necessary medical treatment and ambulance services for resident offenders. The DOC Managed Care RNs shall be notified.

Pharmacy services for the resident offenders of the Infirmary will be provided through the MMHNCC contract with the Central Montana Medical Center. The administrative costs for the pharmacy services will be incorporated into the per diem rate calculated in accordance with Section X. The costs of all drugs provided by DPHHS to the resident offenders will be billed to DOC.

Submission of Medicaid claims will be processed through the DPHHS claims processing agent according to current fee schedules and limits as contained in the Montana Medicaid Manual. Only claims submitted within one (1) year of date of service shall be processed.

Professional staff employed or retained by DOC, inclusive of physicians, psychiatrists and psychologists will be available to consult with DPHHS professional staff on an individual case by case basis when DOC professional staff have specialized knowledge of an offender's care.

## **VI. SECURITY AND SAFETY**

DOC will employ 24-hour, seven days a week on-site security staff for the Infirmary. Staff will include a security supervisor and eight (8) Correctional officers employed by DOC. The DOC staff is responsible for providing adequate safety and security for offenders, staff, and the public. The security supervisor supervises the correctional officers and oversees the

security and safety measures for the offenders and Infirmiry. The MSP Security Supervisor reports directly to the on-duty Shift Commander at Montana State Prison. One specific Shift Commander will be designated as the primary contact for non-emergent issues and daily security operations.

## **VII. STATUS OF STAFF / SUPERVISORY AUTHORITY**

MMHNCC has supervisory authority over Infirmiry medical staff and is responsible for providing medical care to offenders at the Infirmiry. DOC staff will not provide medical care to offenders. However, administration of CPR by a DOC employee certified to do so during an emergency is not considered medical care. A DOC employee administering CPR must yield responsibility to Infirmiry staff immediately upon request. DPHHS Infirmiry staff and DOC security staff will be instructed to report to their supervisor any incident involving a DOC security staffer or other non-medical person providing medical care to an offender.

The Superintendent of the MMHNCC is the Infirmiry Superintendent. The Infirmiry Superintendent is responsible for the supervision of DPHHS employees. DPHHS will employ a program manager for the Infirmiry to assist the Superintendent in the management of the delivery of care and the supervision of the employees. DPHHS will also employ licensed nursing personal and nursing aides for delivery of direct care in the Infirmiry.

The administration of the Infirmiry, though sharing a superintendent and other administrative staff with the MMHNCC, is to be distinguished through separate duties and responsibilities set forth in policies, position descriptions, time allocation, and other administrative features.

The direct care staff and immediate supervisory staff for the Infirmiry are specifically hired for the Infirmiry. DPHHS is to employ all administrative and direct care staff responsible for the day to day delivery of care services to the offenders who are placed into the Infirmiry. DPHHS will directly supervise those employees and will be responsible for training, corrective action, and other aspects of their employment.

The FTE for the Correctional staff described in Paragraph IV are assigned to DOC and DOC and the MSP Shift Commanders will directly supervise, train, and otherwise be responsible for them.

State staff providing facility services to the MMHNCC, inclusive of food service, laundry, and janitorial service, may provide those services in relation to the Infirmiry subject to their conducting those Infirmiry related responsibilities and duties in accordance with the security protocols and measures applicable to the Infirmiry operation.

The Montana State Prison Shift Commanders, Associate Warden of Security, and MSP Infirmiry Security Supervisor, in conjunction with the MSP Health Services Bureau Chief, will recommend measures to DPHHS to assure that direct care staff at the Infirmiry carry out their duties and responsibilities in a secure and safe manner in relation to the offenders.

## **VIII. CUSTODIAL OBLIGATIONS**

DOC is responsible for the custody, transportation, and costs for the movement of offenders to and from the Infirmary whether for placement, for access to needed services, or for movement to other custodial settings. DOC will provide secure transportation and security for offender trips outside the Infirmary to such events including but not limited to outside medical appointments and court appearances. When an offender is hospitalized, DOC will provide for the necessary security.

- a. MMHNCC will provide an ADA compatible van for transport use.
- b. MSP Infirmary Supervisor will be responsible for an inventory of restraints as required for transport.
- c. Infirmary medical staff will accompany correctional staff during the transport.
- d. In the event of lack of MSP correctional staff for security purposes outside the Infirmary, arrangements will be made with the Fergus County Sheriff's Department, or Lewistown Police Department, or Nexus Treatment Facility, or the Lewistown Probation and Parole Office for security coverage at the local hospital, for which DOC is responsible to pay.

DOC will provide transition services including parole and probation services for offenders discharged from the Infirmary.

## **IX. MEDICAL RECORDS**

The Infirmary will keep and maintain individual health care records for all offenders at the Infirmary, and all records required to establish compliance with licensing and accreditation standards, in compliance with local, state, and federal law, including HIPAA. Such records will be fully available to both departments and to health care licensing or accrediting officials for compliance monitoring.

In the instance of offender transfer to another DOC facility, a copy of the offender's individual health care record will transfer with the offender to the facility.

## **X. FACILITY AND CUSTODIAL MANAGEMENT**

DPHHS is responsible for the delivery of nursing and other health related services determined by DPHHS to be appropriate to the needs of the offenders under the custody of DOC who are placed into the Infirmary. Therefore, the Infirmary Superintendent will have access to the Infirmary, facility health and other records, financial records, and staff and inmates at all times.

DOC/MSP retains the legal and custodial responsibility for those offenders who are placed into the Infirmary. Therefore, DOC/MSP will have access to the Infirmary, facility health and other records, financial records, and staff and inmates at all times, including to enable the DOC/MSP to conduct periodic program reviews and/or audits of the facility and its programs for the purpose of compliance monitoring.

If either DPHHS or DOC determines there is need for further measures to provide for appropriate custodial security, the Lewistown Infirmary Manager and the Lewistown Infirmary Security Supervisor will consult on the matter to determine what measures may be

necessary, whether those measures are appropriate to the mission of the Infirmery, whether they are feasible, whether DPHHS or DOC will be responsible for the costs of those measures, and whether DPHHS or DOC will be responsible for the implementation of those measures.

If any exigent circumstances arise with respect to offender security issues, MSP corrections staff will promptly take whatever actions are necessary to provide for the security of the Infirmery and the safety of the other offenders, staff, and the public. Infirmery staff will immediately notify MSP Security of any such exigent circumstances. DOC/MSP will be primarily responsible for the resolution of any exigent circumstance which is not immediately resolved.

If DPHHS/MMHNCC determines an offender presents an emergent risk to the safety or security of the Infirmery, staff, or other offenders, DPHHS/MMHNCC will give the Lewistown Infirmery Security Supervisor notice of the emergent need. DOC/MSP will remove the person promptly or take other appropriate actions to resolve the risk.

## **XI. REIMBURSEMENT**

DOC will compensate DPHHS for the operation and delivery of services at the Infirmery through payment of a per diem rate calculated by DPHHS multiplied by the number of agreed upon beds. The per diem rate will be billed on a quarterly basis. The per diem rate of One Hundred Eighty-Eight and 50/Dollars (\$188.50) is denoted in Attachment A.

Before the end of the fiscal year DPHHS will calculate a proposed per diem rate for the ensuing fiscal year. The proposed per diem rate will be based on the projected costs for the contract year and adjustments for any planned or known cost differences for the ensuing year, less the residual fund balance for the state fiscal year for which the accounting records have been closed. DPHHS will provide the proposed per diem to DOC for its review. If the per diem rate as proposed is not acceptable to DOC, DPHHS and DOC will negotiate a final per diem rate.

In addition to the per diem rate, the costs of all drugs provided by DPHHS to the resident offenders will be billed to DOC.

## **XII. POLICIES**

The Lewistown Infirmery Security Supervisor and MSP Health Services Bureau Chief are responsible for ensuring that the following DOC/MSP policies and procedures are followed by security staff at the Infirmery:

- DOC 1.3.14 Prison Rape Elimination Act
- DOC 3.3.3 Offender Grievance Program
- DOC 3.4.1 Offender Disciplinary System
- DOC 3.3.5 Offender/Staff Communication Methods
- DOC 3.3.6 Offender Mail
- MSP 3.4.3 Tobacco Use Regulations
- DOC 4.1.3 Offender Personal Property
- DOC 4.1.4 Indigent Status
- DOC 4.5.34 Offender Death

Offender grievances against DOC staff will be handled through the MSP chain of command. The parties agree that the Lewistown Infirmary Manager will have access to the grievances filed by offenders against Infirmary staff.

**XIII. LIAISON**

The following persons are the respective liaisons for the Departments in all matters pertaining to the responsibilities set forth in this Agreement.

Dianne Scotten, the Superintendent at MMHNCC and the Superintendent of the Infirmary, is the liaison for DPHHS and may be contacted at 406.538.7451.

Heidi Abbott, the ADON is the liaison for DOC and may be contacted at 406.846.1320 ext. 2522.

**XIV. TERM OF AGREEMENT**

The term of this Agreement is from the date of execution to June 30, 2017. The Agreement may be extended thereafter on a fiscal year basis by the Parties.

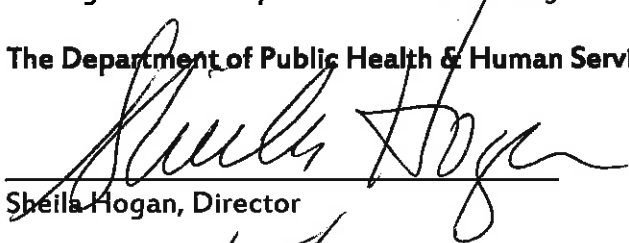
DPHHS and DOC by mutual agreement may terminate in writing this Agreement at any time if circumstances necessitate the closure of the Infirmary.

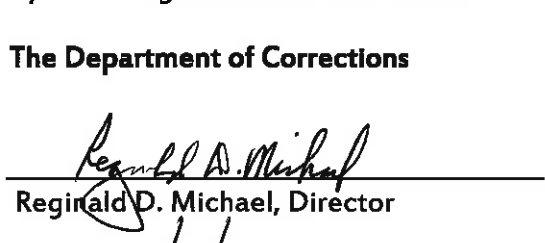
**XV. MODIFICATIONS**

This Agreement may be modified in writing at any time by mutual agreement of the Parties.

The Department of Public Health & Human Services

The Department of Corrections

  
\_\_\_\_\_  
Sheila Hogan, Director

  
\_\_\_\_\_  
Reginald D. Michael, Director

DATE: 11/15/2017

DATE: 11/9/17