Legal Duty to Have a Jail Medical Plan

Every city or county that operates a jail must develop a plan for providing medical care for inmates. The plan must:
- be designed to protect the health and welfare of the inmates and to avoid the spread of contagious disease,
- provide for medical supervision and emergency medical care for the inmates, and
- provide for the detection, examination, and treatment of inmates who are infected with tuberculosis or sexually transmitted diseases.
G.S. 153A-225(a).

Development and Adoption of the Plan

The city or county must develop the plan in consultation with appropriate local officials and organizations, including the sheriff, the county physician, the local health director, and the local medical society. The local health director must approve the plan, if it is adequate to protect the health and welfare of the inmates. The health director must consult with the local mental health, developmental disabilities, and substance abuse authority before approving the plan. GS 153A-225(a). The plan must be reviewed annually. 10A NCAC 14J.1001(e).

Required Plan Contents

State regulations (commonly known as the NC Jail Health Standards) specify issues that must be addressed in the jail medical plan. 10A NCAC 14J.1001(b).

Description of Health Services

The plan must include a description of the health services available to inmates. 10A N.C.A.C. 14J.1001(a). This rule does not specify what should be included in the description. Other rules suggest that the jail health care provider (or providers) should be identified in the plan.
Policies and Procedures

The plan must include policies and procedures addressing each of the following:

1. **Health screening of inmates**
   - The jail medical plan must include policies and procedures for conducting health screening of inmates upon their admission to the jail. 10A NCAC 14J.1001(b)(1).
   - “Health screening” is defined as “a procedure for each newly-admitted inmate that combines visual observation with an interview to obtain relevant information about the inmate's physical and mental health.” 10A NCAC 14J.0101(17).
   - An officer must complete a health screening form on each inmate admitted. 10A NCAC 14J.1002.
     - There is no standard health screening form in NC.
   - A copy of the form must be kept in any medical file that is maintained for the inmate. 10A NCAC 14J.1002.

2. **Routine medical care**
   - The jail medical plan must include policies and procedures addressing how routine medical care will be handled. 10A NCAC 14J.1001(b)(2).
   - Inmates must have an opportunity to communicate their health complaints daily ("sick call"). The complaints may be received by a health professional or an officer. 10A NCAC 14J.1001(c).
   - The jail must maintain written records of requests for medical care and actions taken. 10A NCAC 14J.1001(c).
   - Qualified medical personnel must be available to evaluate inmates’ medical needs. 10A NCAC 14J.1001(c).
     - “Qualified medical personnel” is defined as “persons who provide medical services to inmates and who are licensed, certified, registered, or approved, in accordance with state law,” including “persons who provide limited medical services under supervision as permitted by law.” 10A NCAC 14J.0101(29).

3. **Inmates with chronic illnesses or known communicable diseases and conditions**
   - The jail medical plan must include policies and procedures addressing the management of inmates with chronic illnesses or known communicable diseases and conditions. 10A NCAC 14J.1001(b)(3).
     - State statutes and regulations provide some additional information about how the plan must address communicable diseases and conditions, but they do not provide further information about how the plan should address chronic illnesses.
   - The plan must provide for detection, examination, and treatment of inmates with tuberculosis or venereal diseases. GS 153A-225.
• The plan must also include provisions for educating jail staff and prisoners about HIV, how it is transmitted, and how to avoid transmitting or acquiring it. 10A NCAC 41A.0202(8).
  • This requirement comes from the NC Communicable Disease Rules, not the NC Jail Health Standards. As a result, this item may have been overlooked in the development of some jail medical plans.

4. Management of prescription and non-prescription medications

• The jail medical plan must include policies and procedures addressing administration, dispensing, and control of prescription and non-prescription medications. 10A NCAC 14J.1001(b)(4).
• The NC Jail Health Standards do not elaborate on this requirement.

5. Emergency medical problems

• The jail medical plan must include policies and procedures addressing the handling of emergency medical problems, including (but not limited to) emergencies involving dental care, chemical dependency, pregnancy, and mental health. 10A NCAC 14J.1001(b)(5).
• “Emergency medical problem” is defined as “a serious medical need, including severe bleeding, unconsciousness, serious breathing difficulties, head injury, severe pain, suicidal behavior or severe burns, that requires immediate medical attention and that cannot be deferred until the next scheduled sick call or clinic.” 10A NCAC 14J.0101(14).
• When an emergency is identified, custodial personnel must secure emergency medical care in accordance with the plan. If the physician designated in the plan to provide emergency care is not available, officers must secure care from any licensed physician who is available. G.S. 153A-224(b).
  • This suggests that the jail medical plan must specifically identify the health care provider who will provide emergency care. Despite the rule’s use of the word “physician,” it is sufficient to identify a health care facility (such as a local hospital with an emergency department).
• Ideally, a health care professional would assess the inmate’s condition and determine whether it is an emergency, but this is not always possible. Instead, in many cases it will be the detention officer who decides whether a particular situation constitutes an emergency. To account for that, the persons involved in developing the plan should consider identifying certain problems that must always be treated as emergencies.

6. Maintenance and confidentiality of medical records

• The jail medical plan must include policies and procedures addressing the maintenance and confidentiality of medical records. 10A NCAC 14J.1001(b)(6).
The NC Jail Health Standards define “medical record” as “a record of medical problems, examinations, diagnoses and treatments.” 10A NCAC 14J.0101(25).

When an inmate is transferred from one jail to another, the transferring jail must send the inmate’s health information and medical records to the receiving jail. G.S. 153A-225(b1).

This is a new law and its requirements may differ from past practices and/or not be reflected accurately in the jail medical plan. Many jails have had a practice of obtaining an inmate’s written permission before sending records or information. A jail does not need an inmate’s oral or written permission to send records or information to a jail to which the inmate is transferred. To the contrary, the law requires a transferring jail to send the information, whether or not the inmate gives permission.

The law requires the jail to transfer “any” health information or medical records in its possession. It is not clear whether this means that the jail must copy and send the entire medical record. Some inmates have extremely large records, either because they are confined in the jail for a long time or because they are repeatedly confined to the jail (the so-called “revolving-door” inmates). In such cases, it seems reasonable that a summary of all relevant medical information should suffice.

Other confidentiality laws may apply to jail medical information. Each jail should determine which confidentiality laws it is subject to and ensure that its plan’s policies and procedures are consistent with those laws.

Privacy during medical examinations and conferences

The jail medical plan must include policies and procedures addressing inmate privacy during medical examinations and conferences with qualified medical personnel. 10A NCAC 14J.1001(b)(7).

Jails are permitted to take security needs into account in implementing this requirement. However, an across-the-board rule that inmates will always be observed by a detention officer during examinations or conferences is probably not defensible. Jails should balance security needs against inmate privacy rights on a case-by-case basis.

Other Legal Requirements Affecting the Plan

Charging inmates for jail medical care

Jails are permitted to establish fees of up to $10 per incident for the provision of non-emergency care. GS 153A-225(a). Any such fees must be included in the jail medical plan. A jail that establishes fees must also establish a procedure for waiving fees for indigent inmates.

The plan should make clear that the fee will be charged for non-emergency care only. Jails are not authorized to charge fees for emergency care. GS 153A-224(b). This statute
requires the jail to pay for emergency medical services, unless the inmate has health insurance. If the inmate has insurance, the emergency medical provider must bill the insurer first. The county remains liable for costs not reimbursed by the insurer. The county may attempt to recover those costs from the inmate.

**Medical isolation**

Jails must separate inmates requiring medical isolation from the general population, either by housing the inmate in a separate area of the jail or by transferring the inmate to another facility. 10A NCAC 14J.1003. This issue should be addressed in the jail medical plan; perhaps as part of the description of how health care will be provided to inmates, or in the policies and procedures regarding communicable diseases.

**Inmate deaths**

Jails must report inmate deaths to the medical examiner, the county coroner (in counties that have coroners), the local health director, and NC DHHS. The medical examiner and/or coroner must be notified immediately. A written report must be provided to the local health director and DHHS within 5 days. GS 153A-225(b). Jails may wish to include policies and procedures in their medical plans to ensure this requirement is met.

**No role for inmates in jail health care**

Inmates must not perform any medical functions. 10 NCAC 3J.3201(d). The significance of this for the jail medical plan is that none of the policies or procedures in the plan should rely on inmates. For example, inmates should not be permitted to collect sick call forms.

**Access to plan for jail personnel**

The jail medical plan must be available for ready reference by jail personnel. 10A NCAC 14J.1001(a).