



the review

Randy Perkins, PA-C, Editor

March, 2013

This edition of “the review” looks at the different aspects of corrections (prison) medicine. As in any healthcare system, this requires a multidisciplinary approach.

Mission:

The mission of NDAPA is to promote quality, cost-effective, accessible health care to enhance the health and well-being of the people of North Dakota and to promote the professional and personal development of Physician Assistants.

35th Annual Primary Care Conference May 2-3, 2013 Fargo, Holiday Inn

The 35th Annual primary care seminar offers up to 13 CME/CEU hours of continuing education in a wide variety of topics for both primary care and specialties. The objectives of this conference are 1) to enhance the performance of providers through the modernization of attitudes; 2) increase provider knowledge through the elimination of outdated information and 3) expose providers to contemporary theory, practice and knowledge.

In addition to obtaining quality continuing education, this conference is also a great place to network with your colleagues. You will also be able to register for a chance to win a 2014

conference registration, or one-year membership to NDAPA. You have the option to join or renew your membership to NDAPA for the July 1, 2013—June 30, 2014 year by paying the full registration fee. You will however still be required to fill out a membership application.

Agenda, lodging and registration information can be found on the conference website: <http://conferences.und.edu/primarycare/>.

Deadline for early-bird registration is April 24th. Registration after that date will be \$50 higher. The NDAPA website, www.ndapa.net, also has a direct link to the conference website.

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THE ROLE OF A PHYSICIAN ASSISTANT IN THE CORRECTIONAL SETTING

By Deb Houdek, PA-C

There are approximately 1300 offenders in the Department of Corrections and Rehabilitation (ND DOCR) four institutions. Of these



1300, over 50 inmates have a life sentence and will not leave “the walls.” The rest are serving anywhere from a 1 year sentence to a 40 year sentence. Incarceration emphasizes both the correctional aspect and the rehabilitation portion. This population includes a wide variety of criminal behaviors. Some have mental illnesses and many have previously unmet medical needs.

If there is to be any chance of success after discharge from the prison system

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Medical Care in the Prison System: What Rights Do Prisoner's Have?

By Luke Heck and Ben Freedman

The Eighth Amendment, which protects against cruel and unusual punishment, also secures a prisoner's access to healthcare. However, it does so as a "negative" right.ⁱ There is no constitutional guarantee of health care for inmates, but prisoners have a right to not be punished in a cruel and unusual way, and denial of health care can qualify as this type of punishment under certain circumstances.

So when does denial of health care violate the Eighth Amendment? The Supreme Court addressed this question in *Estelle v. Gamble*, a 1976 case.ⁱⁱ Gamble, an inmate, injured his back during prison duty. After

seeing a doctor and given a brief break from work duty, Gamble refused to return to his work assignment, claiming his back pain had not decreased. He was consequentially disciplined and placed in solitary confinement. Did this denial of care violate Gamble's Eighth Amendment rights?

The Supreme Court established a two prong test for claims under the Eighth Amendment pertaining to health care. A valid claim requires 1) that the prisoner have a "serious medical need," and

2) prison officials display a "deliberate indifference" to this need. Gamble's claim was remanded to a lower court for analysis of his case under this new test.



The Supreme Court clarified the "deliberate indifference" part of the test in 1994 in *Farmer v. Brennan*ⁱⁱⁱ. Farmer was a preoperative male-to-female transvestite who was kept in general population despite Farmer's increased vulnerability and likelihood of

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Healing Inside the Corrections Systems

By William Alexander

At Southern Michigan Correctional Facility, twelve of us sit around four long squared tables with a large space in the center. When we go to the podium to read our poetry, we are not permitted to apologize for what we have written, although maybe once a month, if one wants to, he or she (my partner is a woman) can apologize. When we go

to the podium, we can't step away until we have finished talking with the poet about his or her work. We are at once gentle and tough-minded



but never harsh, never hyper-critical, unlike many university poetry and fiction classes. We ask questions about the content, because usually the content has resonated with us, whether it is comical or deadly serious and up out of one's heart, soul, and memories. We are generous, because we realize that all of us are, at our best, taking personal risks as writers and as human beings. We urge each other to find our own words, to develop our own rhythms and, for those who rhyme, eschew easy rhymes. Eventually we will give a public reading to other prisoners and to outsider guests. And so we work together to become, as some say, a family, something rare in a prison. Years ago Hollis-El, in a

theater workshop, told me that in the yard he is a clenched fist, while in the workshop, he opens a tiny space between his index finger and thumb, then returns to the yard as a clenched fist.

Writing is a chance. Writing poetry or fiction or creative non-fiction, one can leave prison while still there. If one writes carefully and goes to one's memories, to the comical and harsh parts of one's life, into one's traumas and pleasures, and if the writing is honest and goes to the heart of one's life, then one discovers what one is really thinking. The pen and our own concentration take us there. After a certain point we add no new members, because our

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The Role of the Physician Assistant in the Correctional Setting

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then psychiatric and medical needs to be addressed during their incarceration.

As with every medical practice, correctional medicine has its own set of challenges. The healthcare needs of the inmate prior to incarceration, is, many times neglected due to lack of insurance. Some were treated for emergency needs only on the "streets". Chronic illnesses such as diabetes, heart disease, and hypertension are dismissed or neglected by the offender either due to lack of knowledge of their illness or lack of funds to pay for their healthcare needs.

Public health is a priority in correctional medicine. Upon arrival at the penitentiary, the offender is screened for chlamydia, gonorrhea, hepatitis C and HIV. Providing screening and treatment for these diseases is essential to protect others in the community after the inmate is released. Hepatitis B vaccines are completed if not already done. Hepatitis C treatment is also provided if the inmate is staying in one of the four correctional facilities for at least 2 years.

Each new inmate receives an intake physical. Here a

thorough screening of mental illness, medical issues, injuries, surgeries, medications, and allergies are reviewed. Many inmates arrive with diagnoses such as seizures, heart disease, cancer, hypertension, diabetes, chronic pain and hepatitis. We have admitted offenders with liver transplants, renal transplants, and end stage renal disease.

Often, the inmate did not seek healthcare in the community at all. Many times, their diagnoses are made once they are incarcerated. The mission of the ND DOCR is: 1) Safety of the people of North Dakota 2) Safety of the staff 3) Safety of the inmate. This means that as their medical provider, I have to provide as much medical care



“within the walls” that is possible. We can meet many of their needs but many do require outside consultations. Due to security reasons, the inmate is never informed when he has an out-of-prison appointment date

or time. If that is ever mistakenly told to the inmate, the process is stopped and rescheduled. Coronary bypass surgery,

The mission of the ND DOCR is:

- 1) *Safety of the people of North Dakota;*
- 2) *Safety of the staff; and*
- 3) *Safety of the inmate.*

arthroscopic procedures, screening colonoscopies, and chemotherapy are a few of the procedures that these inmates need.

There is a high prevalence of mental illness for which psychiatric care is provided on site. Dental and eye care are also provided without the inmate leaving the facility. With over 50 inmates incarcerated for life, we also address the needs of an aging population including dementia, immobility, and end of life issues. Hospice has also been provided for a few inmates who were in the final stages of cancer and had no other place to die as they abandoned their family many years ago.

My role is to provide continuity of care and to meet their medical needs as they arise during their imprisonment so that when they re-enter into their community, they can be productive working citizens with control over their addiction or mental illness.

(Editor's Note: Houdek is employed by the North Dakota Department of Corrections and Rehabilitation—DOCR)

The Curious Case of Kate Richards O'Hare

By Randy Perkins, PA-C

Significant events happen every day that often become lost to history. Such is the

case of Kate Richards O'Hare. Kate was born in 1876. Most North Dakotans have never heard of this person.

However, Kate had a significant impact on prison reform and specifically female inmates' health care reform. Kate's life would likely have been very different had it not been for a short visit to North Dakota in 1917.

"In the tiny, remote town of Bowman, North Dakota, a small crowd gathered on a hot summer day in 1917 to listen to a woman from the Socialist Party speaking out against America's participation in World War I. Although she never urged young men to avoid the draft or suggested any violation of the law, she was accused of saying that the women of the United States were being turned into "brood sows, to raise children to get into the army and be made into fertilizer." For this speech, the U.S. government convicted Kate Richards O'Hare of

violating the espionage act of 1917 and sentenced her to five years in prison."



"After all appeals were exhausted and despite considerable public protest, O'Hare, the mother of four children, began serving her sentence in April, 1919, five months after the Armistice had ended World War I. Because there were no federal prisons for women, O'Hare was incarcerated in the women's section of the Missouri State Penitentiary in Jefferson City, where she was to dwell until May 1920, when President Woodrow Wilson commuted her sentence because of her deteriorating health."

"The atrocious conditions that she encountered led O'Hare to send "In Prison" a report by Kate Richards O'Hare to the president of the United States as to the conditions under

which women federal prisoners are confined in the Missouri State Penitentiary... to Wilson in 1920." "Three years later she published an expanded version, entitled "In Prison", a book that was to become a major text in the prison reform of succeeding decades. In 1938, O'Hare became the assistant director of the California Department of Penology, a position that she used to help reform the barbarous California prison system." Kate wrote an interesting account of her prison time, "Crime and Criminals". (Franklin, H. Bruce. Ed. "Prison Writing in 20th Century America". Penguin. 1998)

Prison health care reform is an ongoing process. North Dakota is part of that history. It is not that long ago when health care inside a prison or jail was almost unobtainable. Inmate prison activists, corrections administrators, clinicians, politicians, standard setting organizations and others have combined their efforts to advance corrections health care.

(Editor's Note: Perkins provides medical care to 425 inmates at the James River Correction Center—a component of the North Dakota DOCR.)

Medical Care in the Prison System...

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sexual victimization. Farmer was raped and contracted HIV. The Supreme Court held that for a valid Eighth Amendment claim, the prison official must know that the inmate faces serious harm and disregard that risk. In other words, the prison official must have “knowledge,” and will not be held liable for what he does not know. The case was remanded to a lower court to decide if prison officials disregarded a known risk to Farmer’s health.

Thus, after *Estelle* and *Farmer*, it was clear that prison officials have a duty to provide health care when not doing so would constitute cruel and unusual punishment. A two part test was established for courts to use in analyzing claims by inmates. The

second part required “knowledge” of prison officials. But what about the first part of the test? How does a court define a “serious medical need”?

Questions about the definition of this term remain. Courts have supplied some factors for consideration: the existence of substantial pain, whether the inmates daily activities are significantly affected, and whether a reasonable doctor or patient would perceive the medical need as important and worthy of treatment. The Supreme Court in *Helling v. McKinney* even ruled that a risk of future harm can qualify as a serious medical need, even when there is no present harm.^{iv} A court will likely find that a condition was a serious medical need if it is so obvious that even a lay person would easily recognize the need for attention from a doctor.^v

Although the Supreme Court test for a valid claim presents some ambiguity, it is clear that an inmate is entitled to medical care. However, it is not by affirmative right, but because denial of care can amount to a

violation of the Eighth Amendment. And although its application can be difficult to predict, the two part test is conceptually simple: a valid claim brought by the prisoner must assert a serious medical need, which prison officials objectively knew of and disregarded.

(Editor’s Note: Luke Heck and Ben Freedman are both Candidates for Juris Doctor at the University of St. Thomas School of Law. Heck is a Jamestown, ND native.)

- i. Richard Siever, HMOS Behind Bars: Constitutional Implications of Managed Health Care in the Prison System, 58 Vand. L. Rev. 1365 (2005).
- ii. *Estelle v. Gamble*, 429 U.S. 97 (1976).
- iii. *Farmer v. Brennan*, 511 U.S. 825 (1994).
- iv. *Helling v. McKinney*, 509 U.S. 25 (1993).
- v. *Hill v. DeKalb Reg’l Youth Detention Ctr.*, 40 F.3d 1176 (11th Cir. 1994).

My Two Cents Worth... By Curt Kroh, President Elect

I was looking over the NDAPA website the other day and was reminded of host of resources available in one location. For example, after you complete the JAAPA CME post-test, there is a link to the AAPA home page so you can grade your test and get your certificate. After you have your CME certificate you can use the handy NCCPA link to then log your new CME for recertification. Another handy link is the “What’s new” button where interesting updates from the Department of Health and other health organizations as well as the Medical Letter. If you

are interested in employment opportunities, there is a page where PA jobs are posted. (If anyone knows of an employer looking for a PA, let Terri know at terri.lang@med.und.edu and it will be posted for 30 days.) Also, there is a members only section and if you don’t remember your username or password, e-mail Terri and she will help you get logged on. In short, the NDAPA website is worth a look-see the next time you have some time on your hands or even if you are looking for something!

Healing Inside the Corrections System

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energy and spirit is devoted to honesty and trust of each other. If a workshop becomes small, members can invite someone they know and trust into the circle, though one of my favorite poetry workshops at the end came down to my partner Rachel Richardson, myself, and George Hall, a lifer and powerful poet. Our anthology was titled *The Shape of Anger*.

I have written in *Is William Martinez Not Our Brother?; Twenty Years of the Prison Creative Arts Project*

(University of Michigan Press, 2010) about what happens for the artists in our workshops and in our Annual Exhibition of Art by Michigan Prisoners, now in its eighteenth year. In the seventeenth exhibition, 252 Michigan artists had 397 pieces. The artists tell us that they become *visible*, that they are *stimulated* in a place where normally one is not permitted to

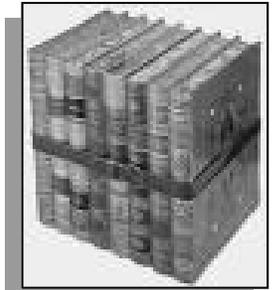


think, that it gives them a *new image of themselves* (the artists, actors, and poets are recognized by their peers for their talents), that it can mean *survival* (some artists have not committed suicide because of the exhibition, and one artist writes that his workshop brought him “a kind of forgiveness,” not for his crime, but because the work with the University of Michigan students enabled him to re-enter the world. For all the artists, writers, and actors the work means *resistance*, not only to the humiliating conditions of prison, but also to what they were given at birth: low standard health care and housing and schools; little access to employment; dangerous neighborhoods; unemployed, angry, negligent, absent, struggling, addicted, punitive parents; malnutrition; seductions of the streets, of drugs, gangs, prostitution; the heritage of violence. To become an artist, actor or poet, to *grow* into articulation and originality and

dignity, resists what has been done to one and what one has done to oneself and to others.

The Prison Creative Arts Project is now in its twenty-fourth year working in Michigan prisons, Michigan youth facilities, and Detroit high schools. The work is profoundly transformative for those we work with and for *ourselves*. Although we are in an era of mass incarceration, our work enables some of us to be healed.

(Editors Note: Alexander teaches English and literature as part of his work with the University of Michigan. In recognition of his teaching and other work with the Prison Creative Arts Project, he was named by the Carnegie foundation for the Advancement of Teaching and the council for Advancement and Support of Education as the national winner of the 2005 Professor of the Year for Doctoral and Research Studies.)



UND PA Corner...

UND PA Program Presented White Coats to Class of 2014

Fifty-five health professionals from 18 states began the clinical portion of their studies the end of January to earn the Master of Physician Assistant Studies at the University of North Dakota School of Medicine and Health Sciences. The students come from a wide variety of health professional backgrounds including nursing, respiratory therapy, radiology technology paramedics and other health related professions with an average of eight years of experience. Nearly 60% of the students come from the tri-state area of North Dakota, Minnesota and South Dakota. On January 25, 2014 the students were presented their white coats. During that ceremony, welcome remarks were given by Wayne Swisher, PhD, interim dean of the UND Graduate School, and Gwen Halaas, MD, MBA, SMHS senior associate dean for Academic and Faculty Affairs. Eric Johnson, MD, medical director of the Physician Assistant Program presented the keynote that focused on the role of the PA in primary care and the importance of professionalism and compassion in clinical practice. Robert Beattie, MD, chair of the Department of Family and Community Medicine provided closing remarks. “The presentation of the white coat is symbolic of the new profession the students are entering,” said Jeanie McHugo, PhD, program director. The coats will be worn by students through the clinical phase of their training and denote their involvement with the Physician Assistant Program in North Dakota. Students spend the first four weeks in Grand Forks before returning to their home communities where most of their training takes place under the supervision of physician-preceptors. They will return to UND for several weeks at different junctures for education and training.

Silent Auction to be Held at NDAPA 35th Annual Primary Care Seminar

A silent auction will be held to raise money for the **Kathy Ohly Scholarship Fund** at the NDAPA 35th Annual Primary Care Conference being held in Fargo at the Holiday Inn on May 2-3, 2013. The funds are used to award \$500 scholarships to deserving North Dakota residents who are enrolled in the Physician Assistant Master's Program at UND. The NDAPA Board would like to challenge all members to help make the silent auction a huge success by donating items. Some great auction items that have been used in the past include gift baskets; gift certificates to almost anything – stores, movies, a round of golf, etc. Other ideas include computer items, clothing, candy, music CDs; golf putters/clubs; books, a signed UND hockey jersey, home made items including – food, crafts, embroidery, home grown farm fresh eggs, cards, pictures... just about anything goes. You might also consider approaching your employer or local business to donate an item or two. Without the generosity of the NDAPA membership, these scholarships would not be available. We hope you will consider bringing an item with you to the 35th Annual Primary Care Conference.



2013 PA of Year Nominations Sought

Annually, the North Dakota Academy of Physician Assistants (NDAPA) awards the distinction of North Dakota Physician Assistant of the Year. NDAPA would like to provide you the opportunity to nominate the PA of your choice. If you know a PA who you would recommend as a candidate, please complete the form below and send a letter detailing the reasons for your nomination to:

*Terri Lang, Executive Secretary; NDAPA; 1412 Cottonwood Avenue; Minot, ND 58701
Phone: 701.720-5010; E-mail: terri.lang@med.und.edu*

Deadline for nominations is **April 16, 2012**. All nominations will be reviewed and selected by the NDAPA Board. The award will be presented at the NDAPA Spring Conference in Fargo on Friday, May 3, 2013. Nominees do not have to be NDAPA members. The PA of the Year nominee may be a PA who works and/or resides in North Dakota and who provides excellent care and service not only to their patients but also to the community and the profession. Other areas of attributes/qualities that you may want to consider for ND Physician Assistant of the Year may include: *Educator*—This is not limited to the academic setting. It is equally applicable to the PA educating the public and their patients on health related issues or the PA profession. *Humanitarian* — This may include the PA whom you feel is giving of himself or herself in the service of others, not only to their patients but also to their community, third world, and/or their profession.

--Nomination Form--

2013 North Dakota Physician Assistant of the Year Award Sponsored by: North Dakota Academy of Physician Assistants

I nominate the following individual for PA of the Year:

Nominee Name: _____

Address: _____

City/State/Zip: _____ Telephone: _____

Nominated by (Name) : _____ Date: _____

Nominator Address: _____

City/State/Zip: _____ Telephone: _____

Please include a letter of recommendation, indicating your reasons for nomination.

The deadline for nominations is **April 5, 2013**.



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North Dakota Academy of Physician Assistants
 Terri Lang, Executive Secretary
 1412 Cottonwood Avenue
 Minot, ND 58701
 Phone: 701-720-5010
 E-mail: terri.lang@med.und.edu

**We're on the Web:
 NDAPA.net**

President

Cheryl Ulven
 PO Box 265
 Ray, ND 58849
 H—568-2281
 W—627-2990
 E—parabar@nccray.com

President-Elect

Curtis Kroh
 2700 State Street
 Bismarck, ND 58503
 H—462-8663
 W—221-9152
 E—curtis.kroh@va.gov

Vice President

Shelley Bartow
 PO Box 133
 Lignite, ND 58752
 H—933-5488
 E—shelbartow@yahoo.com

Secretary

Michelle Lueck
 PO Box 51
 Enderlin, ND 58027
 H—320-2865
 W—234-8860
 E—michelle.lueck@sanfordhealth.org

Treasurer

Patricia Blomquist
 8268 Hwy 40
 Battle View, ND 58773
 H—464.5760
 W—572-7651
 E—patrnpac@yahoo.com

Director at Large

Lori Dockter
 1608 Centennial Street
 Minot, ND 58701
 H—839-8037
 W—857-5854
 E—bldoc@min.midco.net

CME

Julie Andersson
 UND PA Program
 501 N. Columbia road, Stop 9037
 Grand Forks, ND 58202-9037
 W: 777-4217
 E—Julie.andersson@med.und.edu

Corporate Sponsor

Michael Verhey
 1535 7th St. N.
 Fargo, ND 58102
 H: 235-1251
 W:232-3241
 E—Michael.verhey@va.gov

Elections

Rhonda Wallace
 501 N Columbia Road Stop 9037
 Grand Forks, ND 58202-9037
 W—777-3428
 E—rhonda.wallace@med.und.edu

Legislative/Government Affairs

Scott Barry
 1461 10th St. N.
 Fargo, ND
 H—476-0567
 W—232-3241
 E—msbarry105@gmail.com

Membership

Shelly Bartow
 PO Box 133
 Lignite, ND 58752
 H—933-5488
 W—965-6349
 E—shelbartow@yahoo.com

Newsletter

Randy Perkins
 2015 2nd Place NE
 Jamestown, ND 58401
 H—252-6828
 W—253.2087
 E—randperkins@hotmail.com

PA Program Liaison

Julie Andersson
 501 N Columbia Road Stop 9037
 Grand Forks, ND 58202-9037
 W — 777-4217
 E—Julie.Andersson@med.und.edu

Professional Wellness

Alice Schatz
 820 74th St. SE
 Linton, ND 58552
 H—782-4281
 W—530-7000
 E—temvikal@bektel.com

Public Relations/Awards

Cindy Renner
 800 St. Louis Place
 Bismarck, ND 58504
 H—223.4865
 W—221-0900
 F—221-9197
 E—eatchocl8@aol.com

Reimbursement

Rodney Sigvaldson
 9434 Deer Park Lane
 PO Box 577
 Cavalier, ND 58220
 H—265-8140
 W—776-5261
 E—kards@polarcomm.com

Scholarship

Cheryl Ulven
 PO Box 265
 Ray, ND 58849
 H—568-2281
 W—627-2990
 E—parabar@nccray.com

2013 Chief Delegate—AAPA HOD

Michelle Lueck
 PO Box 51
 Enderlin, ND 58027
 H—320-2865
 W—234-8860
 E—michelle.lueck@sanfordhealth.org

2013 Junior Delegate—AAPA HOD

Scott Barry
 1461 10th St. N.
 Fargo, ND
 H—476-0567
 W—232-3241
 E—msbarry105@gmail.com

2013 Alternate Delegates—AAPA HOD

Lori Dockter
 1608 Centennial Street
 Minot, ND 58701
 H—839-8037
 W—857-5854
 E—bldoc@min.midco.net

Curtis Kroh
 2700 State Street
 Bismarck, ND 58503
 H—462-8663
 W—221-9152
 E—curtis.kroh@va.gov