

## Bureau of Prisons, Justice

## § 549.80

- (e) Prenatal care;
- (f) Diagnosis or treatment of chronic infectious diseases;
- (g) Mental health care; or
- (h) Substance abuse treatment.

### § 549.73 **Appealing the fee.**

You may seek review of issues related to health service fees through the Bureau's Administrative Remedy Program (see 28 CFR part 542).

### § 549.74 **Inmates without funds.**

You will not be charged a health care service fee if you are considered indigent and unable to pay the health care service fee. The Warden may establish procedures to prevent abuse of this provision.

## Subpart G—Authority To Conduct Autopsies

### § 549.80 **Authority to conduct autopsies.**

(a) The Warden may order an autopsy and related scientific or medical tests to be performed on the body of a deceased inmate of the facility in the event of homicide, suicide, fatal illness or accident, or unexplained death. The autopsy or tests may be ordered in one of these situations only when the Warden determines that the autopsy or test is necessary to detect a crime, maintain discipline, protect the health or safety of other inmates, remedy official misconduct, or defend the United States or its employees from civil liability arising from the administration of the facility.

(1) The authority of the Warden under this section may not be delegated below the level of Acting Warden.

(2) Where the Warden has the authority to order an autopsy under this provision, no non-Bureau of Prisons authorization (e.g., from either the coroner or from the inmate's next-of-kin) is required. A decision on whether to order an autopsy is ordinarily made after consultation with the attending physician, and a determination by the Warden that the autopsy is in accordance with the statutory provision. Once it is determined that an autopsy is appropriate, the Warden shall prepare a written statement authorizing

this procedure. The written statement is to include the basis for approval.

(b) In any situation other than as described in paragraph (a) of this section, the Warden may order an autopsy or post-mortem operation, including removal of tissue for transplanting, to be performed on the body of a deceased inmate of the facility with the written consent of a person (e.g., coroner, or next-of-kin, or the decedent's consent in the case of tissue removed for transplanting) authorized to permit the autopsy or post-mortem operation under the law of the State in which the facility is located.

(1) The authority of the Warden under this section may not be delegated below the level of Acting Warden.

(2) When the conducting of an autopsy requires permission of the family or next-of-kin, the following message is to be included in the telegram notifying the family or next-of-kin of the death: "Permission is requested to perform a complete autopsy". Also inform the family or next-of-kin that they may telegraph the institution *collect* with their response. Where permission is not received from the person (e.g., coroner or next-of-kin) authorized to permit the autopsy or post-mortem operation, an autopsy or post-mortem operation may not be performed under the conditions of this paragraph (b).

(c) In addition to the provisions of paragraphs (a) and (b) of this section, each institution also is expected to abide by the following procedures.

(1) Staff shall ensure that the state laws regarding the reporting of deaths are followed.

(2) Time is a critical factor in arranging for an autopsy, as this ordinarily must be performed within 48 hours. While a decision on an autopsy is pending, no action should be taken that will affect the validity of the autopsy results. Therefore, while the body may be released to a funeral home, this should be done only with the written understanding from the funeral home that no preparation for burial, including embalming, should be performed until a final decision is made on the need for an autopsy.

(3) Medical staff shall arrange for the approved autopsy to be performed.

**§ 549.90**

(4) To the extent consistent with the needs of the autopsy or of specific scientific or medical tests, provisions of state and local laws protecting religious beliefs with respect to such autopsies are to be observed.

[52 FR 48068, Dec. 17, 1987]

**Subpart H—Civil Commitment of a Sexually Dangerous Person**

SOURCE: 73 FR 70279, Nov. 20, 2008, unless otherwise noted.

**§ 549.90 Purpose and application.**

(a) This subpart provides definitions and standards for review of persons for certification to federal district courts as sexually dangerous persons, as authorized by title 18 U.S.C. Chapter 313, by Bureau of Prisons staff or contractors (collectively referred to in this Part as “the Bureau”).

(b) This subpart applies to persons in Bureau custody, including those:

- (1) Under a term of imprisonment;
- (2) For whom all criminal charges have been dismissed solely for reasons relating to the person’s mental condition; or

(3) In Bureau custody pursuant to 18 U.S.C. 4241(d).

(c) The Bureau may certify that a person in Bureau custody is a sexually dangerous person when review under this subpart provides reasonable cause to believe that the person is a sexually dangerous person. In determining whether a person is a sexually dangerous person and should be so certified, the Bureau will consider any available information in its possession and may transfer the person to a suitable facility for psychological examination in order to obtain information for this purpose.

**§ 549.91 Definition of “sexually dangerous person.”**

For purposes of this subpart, a “sexually dangerous person” is a person:

- (a) Who has engaged or attempted to engage in:
  - (1) Sexually violent conduct; or
  - (2) Child molestation; and
- (b) Has been assessed as sexually dangerous to others by a Bureau mental health professional.

**28 CFR Ch. V (7–1–10 Edition)**

**§ 549.92 Definition of “sexually violent conduct.”**

For purposes of this subpart, “sexually violent conduct” includes any unlawful conduct of a sexual nature with another person (“the victim”) that involves:

(a) The use or threatened use of force against the victim;

(b) Threatening or placing the victim in fear that the victim, or any other person, will be harmed;

(c) Rendering the victim unconscious and thereby engaging in conduct of a sexual nature with the victim;

(d) Administering to the victim, by force or threat of force, or without the knowledge or permission of the victim, a drug, intoxicant, or other similar substance, and thereby substantially impairing the ability of the victim to appraise or control conduct; or

(e) Engaging in such conduct with a victim who is incapable of appraising the nature of the conduct, or physically or mentally incapable of declining participation in, or communicating unwillingness to engage in, that conduct.

**§ 549.93 Definition of “child molestation.”**

For purposes of this subpart, “child molestation” includes any unlawful conduct of a sexual nature with, or sexual exploitation of, a person under the age of 18 years.

**§ 549.94 Definition of “sexually dangerous to others.”**

For purposes of this subpart, “sexually dangerous to others” means that a person suffers from a serious mental illness, abnormality, or disorder as a result of which he or she would have serious difficulty in refraining from sexually violent conduct or child molestation if released.

**§ 549.95 Determining “serious difficulty in refraining from sexually violent conduct or child molestation if released.”**

In determining whether a person will have “serious difficulty in refraining from sexually violent conduct or child molestation if released,” Bureau mental health professionals may consider, but are not limited to, evidence: