

Bureau of Prisons, Justice

§ 549.12

as identified by the religious preference reflected in the inmate's file. An inmate may attend one religious ceremonial meal in a calendar year.

[60 FR 46486, Sept. 6, 1995, as amended at 62 FR 44836, Aug. 22, 1997; 68 FR 74860, Dec. 29, 2003]

PART 549—MEDICAL SERVICES

Subpart A—Infectious Disease Management

Sec.

- 549.10 Purpose and scope.
- 549.11 Program responsibility.
- 549.12 Testing.
- 549.13 Programming, duty, and housing restrictions.
- 549.14 Confidentiality of information.
- 549.15 Infectious disease training and preventive measures.

Subpart B—Over-The-Counter (OTC) Medications

- 549.30 Purpose and scope.
- 549.31 Inmates without funds.

Subpart C—Administrative Safeguards for Psychiatric Treatment and Medication

- 549.40 Use of psychotropic medications.
- 549.41 Voluntary admission and psychotropic medication.
- 549.42 Involuntary admission.
- 549.43 Involuntary psychiatric treatment and medication.

Subpart D—Plastic Surgery

- 549.50 Purpose and scope.
- 549.51 Approval procedures.
- 549.52 Informed consent.

Subpart E—Hunger Strikes, Inmate

- 549.60 Purpose and scope.
- 549.61 Definition.
- 549.62 Initial referral.
- 549.63 Initial medical evaluation and management.
- 549.64 Food/liquid intake/output.
- 549.65 Refusal to accept treatment.
- 549.66 Release from treatment.

Subpart F—Fees for Health Care Services

- 549.70 Purpose and scope.
- 549.71 Inmates affected.
- 549.72 Services provided without fees.
- 549.73 Appealing the fee.
- 549.74 Inmates without funds.

Subpart G—Authority To Conduct Autopsies

- 549.80 Authority to conduct autopsies.

Subpart H—Civil Commitment of a Sexually Dangerous Person

- 549.90 Purpose and application.
- 549.91 Definition of “sexually dangerous person.”
- 549.92 Definition of “sexually violent conduct.”
- 549.93 Definition of “child molestation.”
- 549.94 Definition of “sexually dangerous to others.”
- 549.95 Determining “serious difficulty in refraining from sexually violent conduct or child molestation if released.”

AUTHORITY: 5 U.S.C. 301; 10 U.S.C. 876b; 18 U.S.C. 3621, 3622, 3524, 4001, 4005, 4042, 4045, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4241–4248, 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

Subpart A—Infectious Disease Management

SOURCE: 70 FR 29193, May 20, 2005, unless otherwise noted.

§ 549.10 Purpose and scope.

The Bureau will manage infectious diseases in the confined environment of a correctional setting through a comprehensive approach which includes testing, appropriate treatment, prevention, education, and infection control measures.

§ 549.11 Program responsibility.

Each institution's Health Services Administrator (HSA) and Clinical Director (CD) are responsible for the operation of the institution's infectious disease program in accordance with applicable laws and regulations.

§ 549.12 Testing.

(a) *Human Immunodeficiency Virus (HIV)*—(1) *Clinically indicated*. The Bureau tests inmates who have sentences of six months or more if health services staff determine, taking into consideration the risk as defined by the Centers for Disease Control guidelines, that the inmate is at risk for HIV infection. If the inmate refuses testing, staff may

§ 549.13

initiate an incident report for refusing to obey an order.

(2) *Exposure incidents.* The Bureau tests an inmate, regardless of the length of sentence or pretrial status, when there is a well-founded reason to believe that the inmate may have transmitted the HIV infection, whether intentionally or unintentionally, to Bureau employees or other non-inmates who are lawfully present in a Bureau institution. Exposure incident testing does not require the inmate's consent.

(3) *Surveillance Testing.* The Bureau conducts HIV testing for surveillance purposes as needed. If the inmate refuses testing, staff may initiate an incident report for refusing to obey an order.

(4) *Inmate request.* An inmate may request to be tested. The Bureau limits such testing to no more than one per 12-month period unless the Bureau determines that additional testing is warranted.

(5) *Counseling.* Inmates being tested for HIV will receive pre- and post-test counseling, regardless of the test results.

(b) *Tuberculosis (TB).* (1) The Bureau screens each inmate for TB within two calendar days of initial incarceration.

(2) The Bureau conducts screening for each inmate annually as medically indicated.

(3) The Bureau will screen an inmate for TB when health services staff determine that the inmate may be at risk for infection.

(4) An inmate who refuses TB screening may be subject to an incident report for refusing to obey an order. If an inmate refuses skin testing, and there is no contraindication to tuberculin skin testing, then, institution medical staff will test the inmate involuntarily.

(5) The Bureau conducts TB contact investigations following any incident in which inmates or staff may have been exposed to tuberculosis. Inmates will be tested according to paragraph (b)(4) of this section.

(c) *Diagnostics.* The Bureau tests an inmate for an infectious or communicable disease when the test is necessary to verify transmission following exposure to bloodborne pathogens or to

28 CFR Ch. V (7-1-11 Edition)

infectious body fluid. An inmate who refuses diagnostic testing is subject to an incident report for refusing to obey an order.

§ 549.13 Programming, duty, and housing restrictions.

(a) The CD will assess any inmate with an infectious disease for appropriateness for programming, duty, and housing. Inmates with infectious diseases that are transmitted through casual contact will be prohibited from work assignments in any area, until fully evaluated by a health care provider.

(b) Inmates may be limited in programming, duty, and housing when their infectious disease is transmitted through casual contact. The Warden, in consultation with the CD, may exclude inmates, on a case-by-case basis, from work assignments based upon the security and good order of the institution.

(c) If an inmate tests positive for an infectious disease, that test alone does not constitute sole grounds for disciplinary action. Disciplinary action may be considered when coupled with a secondary action that could lead to transmission of an infectious agent. Inmates testing positive for infectious disease are subject to the same disciplinary policy that applies to all inmates (see 28 CFR part 541, subpart B). Except as provided for in our disciplinary policy, no special or separate housing units may be established for HIV-positive inmates.

§ 549.14 Confidentiality of information.

Any disclosure of test results or medical information is made in accordance with:

(a) The Privacy Act of 1974, under which the Bureau publishes routine uses of such information in the Department of Justice Privacy Act System of Records Notice entitled "Inmate Physical and Mental Health Record System, JUSTICE/BOP-007"; and

(b) The Correction Officers Health and Safety Act of 1998 (codified at 18 U.S.C. 4014), which provides that test results must be communicated to a person requesting the test, the person