

DEPARTMENT OF JUSTICE**Bureau of Prisons****28 CFR Part 549**

[BOP-1020-P]

RIN 1120-AA26

Plastic Surgery**AGENCY:** Bureau of Prisons, Justice.**ACTION:** Proposed rule.

SUMMARY: In this document, the Bureau of Prisons is proposing revised regulations concerning the circumstances and procedures under which the Bureau approves plastic surgery for inmates. The proposed regulations establish criteria under which plastic surgery may be approved: as a component of standard medical/surgical treatment, when necessary for the good order and security of the institution, and in other special situations as determined by the Medical Director. Additionally, these regulations have been reorganized to emphasize "informed consent" and to remove unnecessary provisions.

DATES: Comments due by December 19, 1995.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514-6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is proposing to amend its regulations on plastic surgery (28 CFR part 549, subpart D). A final rule on this subject was published in the Federal Register on June 29, 1979 (44 FR 38236).

Under its current regulations on plastic surgery, the Bureau provides, within available resources, corrective and reconstructive surgery for an inmate to correct obvious disfigurement. Approval for such surgery follows when the surgery is indicated for medical reasons or when it is believed that such surgery will assist the inmate's institutional or post-release adjustment.

The proposed regulations stipulate in the statement of purpose that the Bureau ordinarily does not perform plastic surgery on inmates to correct preexisting disfigurements (including tattoos) on any part of the body. Plastic surgery may be performed when it is a component of the presently medically necessary standard of treatment. Plastic surgery may also be approved under special circumstances: Namely, for the

good order and security of the institution, or when some question exists as to whether the surgery qualifies as a component of presently medically necessary standard of treatment. Further revisions to the regulations include simplification and reorganization of the procedures for approval and "informed consent." Procedures relating to staff processing of inmate identification records have been removed and have been made part of internal instructions to staff.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, 320 First Street NW., HOLC Room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

List of Subjects in 28 CFR Part 549

Prisoners.

Wallace H. Cheney,
Acting Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), it is proposed to amend part 549 in subchapter C of 28 CFR, chapter V as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT**PART 549—MEDICAL SERVICES**

1. The authority citation for 28 CFR part 549 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4005, 4042, 4045, 4081, 4082, (Repealed in part as to offenses committed on or after November 1, 1987), 4241-4247, 5006-5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039: 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

2. Subpart D, consisting of §§ 549.50 and 549.51, is revised to consist of §§ 549.50 through 549.52 as follows:

Subpart D—Plastic Surgery

Sec.

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

Subpart D—Plastic Surgery**§ 549.50 Purpose and scope.**

The Bureau of Prisons does not ordinarily perform plastic surgery on inmates to correct preexisting disfigurements (including tattoos) on any part of the body. In circumstances where plastic surgery is a component of a presently medically necessary standard of treatment (for example, part of the treatment for facial lacerations or for mastectomies due to cancer) or it is necessary for the good order and security of the institution, the necessary surgery may be performed.

§ 549.51 Approval procedures.

The Clinical Director shall consider individually any request from an inmate or a BOP medical consultant.

(a) In circumstances where plastic surgery is a component of the presently medically necessary standard of treatment, the Clinical Director shall forward the surgery request to the Office of Medical Designations and Transportation for approval.

(b) If the Clinical Director recommends plastic surgery for the good order and security of the institution, the request for plastic surgery authorization will be forwarded to the Warden for initial approval. The Warden will forward the request through the Regional Director to the Medical Director. The Medical Director shall have the final authority to approve or deny this type of plastic surgery request.

(c) If the Clinical Director is unable to determine whether the plastic surgery qualifies as a component of presently medically-necessary standard of treatment, the Clinical Director may forward the request to the Medical Director for a final determination in accordance with the provisions of paragraph (b) of this section.

§ 549.52 Informed consent.

Approved plastic surgery procedures may not be performed without the informed consent of the inmate involved.

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