

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
ENFORCEMENT AND REMOVAL OPERATIONS
ICE HEALTH SERVICE CORPS**

TRANSGENDER CARE AND MANAGEMENT

**IHSC Directive: 03-25
ERO Directive Number: 11759.3
Federal Enterprise Architecture Number: 306-112-002b
Effective Date: March 23, 2023**

**By Order of the Assistant Director
Stewart D. Smith, DHSc, FACHE**

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Date: 2023.03.23 09:18:21 -04'00'

1. **PURPOSE:** The purpose of this directive is to set forth ICE Health Service Corps (IHSC) policies and procedures for the provision of medical care for transgender noncitizens in U.S. Immigration and Customs Enforcement (ICE) custody.
2. **APPLICABILITY:** This directive applies to all U.S. Immigration and Customs Enforcement (ICE) Health Service Corps (IHSC) personnel, including but not limited to, U.S. Public Health Service (PHS) officers, civil service employees, and contract personnel. It applies to IHSC personnel supporting health care operations in ICE-owned and contracted detention facilities (CDFs) and to IHSC headquarters (HQ) staff. This directive applies to contract personnel when supporting IHSC in detention facilities and at HQ. Federal contractors are responsible for the management and discipline of their employees supporting IHSC.
3. **AUTHORITIES AND REFERENCES:**
 - 3-1. ICE Enforcement Removal Operation (ERO). (2015). ERO Memorandum, *Further guidance Regarding the Care of the Transgender Detainees.* (Transgender Care Memorandum).
 - 3-2. IHSC. (2020). *IHSC Clinical Guidelines for the Management of Transgender Individuals*, which is located in the *IHSC Clinical Guidelines Library.*
 - 3-3. IHSC Directive 03-03 *Care of Patients with Chronic Health Conditions and Special Needs.*
4. **POLICY:** IHSC is responsible for the medical and mental health evaluation, monitoring, and treatment of transgender individuals (hereinafter known as patients) in ICE custody.

IHSC staff document patients who self-identify and/or have medical documentation that supports a transgender status and provides special accommodations as appropriate. As such, the multidisciplinary team providing care for transgender patients in ICE custody must include, at a minimum, a medical provider (MP) and behavioral health provider (BHP).

5. RESPONSIBILITIES:

- 5-1. Clinical Director.** Assists MPs with clinical management of self-identified transgender patients, as necessary.
- 5-2. Medical Providers (MP).** Provide routine care and management of transgender patients as clinically indicated by the IHSC Clinical Guidelines for the Management of Transgender Individuals, and request assistance from clinical consultants, as needed.
- 5-3. Behavioral Health Provider (BHP).** Provides assessment and management of self-identified transgender patients for any active behavioral health conditions including, but not limited to, gender dysphoria.
- 5-4. Nursing Staff.** Refer self-identified transgender patients to a medical provider and a behavioral health provider for evaluation.
- 5-5. Clinical Consultants.** A subset of clinical consultants who may assist MPs with clinical management or referral of self-identified transgender patients to other specialized clinical consultants.
- 5-6. Infectious Disease Program.**
 - 5-6.1 Medical providers from the Infectious Disease Program (IDP) review and update this policy annually, in addition to providing at least biannual updates to IHSC Clinical Guidelines for the Management of Transgender Individuals and any accompanying electronic health record tools.
 - 5-6.2 IDP staff provide transgender care training to staff at least biannually.

6. PROCEDURES:

- 6-1. Identification during Intake Screening.** Health services staff may identify a patient as transgender by one of three methods:
 - 6-1.1 The patient self-identifies as being transgender to ICE Enforcement and Removal Operations (ERO) staff, as communicated to health services by ERO verbally, via email or on the ERO Form Record of Deportable/Inadmissible Alien I-213 provided to health services staff upon patient arrival at the facility.

- 6-1.2 The patient self-identifies as being transgender to medical staff.
- 6-1.3 The patient has health or transfer records that indicate a diagnosis of gender dysphoria (GD), formerly referred to as “gender identity disorder” (GID) or transsexualism.
- 6-2. Identification after Intake Screening.** A patient may disclose their transgender status at any time during their detention stays. In this case, health services staff must schedule appointments with an MP and a BHP within 72 hours of self-identification.
- 6-3. Health Assessment.** Health services staff must schedule the transgender patient for a health assessment with an MP, and the MP must complete the health assessment within 72 hours of intake or transgender status identification. The MP must document the examination in the patient’s health record, including pertinent past medical and surgical treatment.
- 6-4. Behavioral Health Assessment.** Health services staff must refer transgender patients to a BHP for an assessment of general mental health and to apply Diagnostic Statistical Manual (DSM) criteria to assess a possible diagnosis of GD. This mental health assessment must occur within 72 hours of intake or transgender status identification.
- 6-5. Medical Provider-Guided Treatment.** An MP must screen, counsel (including informed consent document), and order laboratory-guided hormone treatment(s) for requesting transgender patients and for whom the MP deems it appropriate **to proceed** with or continue treatment in accordance with *IHSC Clinical Guidelines for the Management of Transgender Individuals*.
- 6-5.1 The MP must authorize the issuance of undergarments consistent with the patient’s stated gender expression. Note, health services staff may initiate some of these actions during 6-2.1 Health Assessment.
- 6-5.2 The MP advises correctional staff of patients’ special health needs that may affect housing, work assignments, program assignments or selection, disciplinary measures, transport to and from outside appointments, admissions to and from transfer facilities, clothing or appearance, and activities of daily living. The MP documents communication of health needs in the health record.
- 6-6. Chaperones.** Health services staff must coordinate access to a chaperone of the patient’s gender preference whenever practicable during examination of the patient’s genitalia, breasts, and/or perineum/rectal area.

The MP must document the presence of the chaperone in the patient's health record.

6-7. Housing Determination. Health services staff and custody staff should, whenever practicable, place the transgender patient in housing that complies with facility requirements and promotes the health and safety of the patient. Placement should align with the patient's gender expression and provide equitable programming access. Refer to IHSC Directive 03-06 *Evaluation of Detainees in Segregation*.

7. HISTORICAL NOTES: This directive underwent a technical update and replaces IHSC Directive 03-25, *Transgender Care and Management* dated April 19, 2021.

7-1. Summary of Changes.

7-1.1 Language for "detainee" changed to "patient" where appropriate.

7-1.2 The method for ERO to communicate a patient's self-identified transgender status may also include verbal or emailed communication or on the ERO Form Record of Deportable/Inadmissible Alien I-213.

7-1.3 Changed health care staff requirement to ensure patients who disclose their self-identified transgender status are scheduled within 72 hours for medical and behavioral health assessments by the respective providers.

7-1.4 Changed the requirement for medical providers to perform health assessments from two business days to within 72 hours of transgender status self-identification.

7-1.5 Changed the requirement for BHP to perform mental health assessments from two business days to within 72 hours of transgender status self-identification.

7-1.6 Added the definition of "gender expression" for clarification.

8. DEFINITIONS: See definitions for this policy in the *IHSC Glossary* located on SharePoint. The following definitions apply for purposes of this directive only:

8-1. Gender Expression: An individual's external expression of their gender identity through behavior, dress, and appearance.

8-2. Gender Identity: An individual's internal sense of being a man, woman, or another gender.

8-3. Specialty Clinical Consultant: Clinician with training and/or experience in a specific area of patient management who can assist a medical provider with specialty care.

Clinical consultants may be on-site, off-site, or via telehealth.

8-4. Transgender: A person whose gender identity or expression is different from their assigned sex at birth (PBNDS 2011).

9. APPLICABLE STANDARDS:

9-1. Performance Based National Detention Standards (PBNDS) 2011, revised 2016:

9-1.1 Part 4: Care; 4.3 Medical Care; J. Medical and Mental Health Screening of New Arrivals; W. Special Needs and Close Medical Supervision.

9-2. Family Residential Standards 2020:

9-2.1 Part 4: Care; 4.3 Health Care; J. Medical and Mental Health Screening of New Arrivals; X. Special Needs and Close Medical Supervision.

9-3. National Commission on Correctional Health Care (NCCHC):Standards for Health Services in Jails, 2018:

9-3.1 J-B-07 Communication on Patient's Health Needs.

10. PRIVACY AND RECORDKEEPING. IHSC maintains patient health records in accordance with the Privacy Act and as provided in the Alien Health Records System of Records Notice, 80 Federal Register 239 (January 5, 2015). The records in the eHR/eClinicalWorks (eCW) are destroyed 10 years from the date the patient leaves ICE custody. Retention periods for records of minors may differ. Paper records are scanned into eHR and are destroyed after upload is complete.

Protection of Health records and Sensitive Personally Identifiable Information (PII).

10-1. Staff must keep all health records, whether electronic or paper, secure with access limited only to those with a need to know. Staff must lock paper records in a secure cabinet or room when not in use or not otherwise under the control of a person with a need to know.

10-2. IHSC trains staff during orientation and annually on the protection of patient medical information and sensitive PII. Only authorized individuals with a need to know are permitted to access health records and sensitive PII.

10-3. Staff should reference the Department of Homeland Security *Handbook for Safeguarding Sensitive Personally Identifiable Information* (March 2014) at:

(b)(7)(E)

(b)(7)(E) when additional information is needed concerning safeguarding sensitive PII.

11. NO PRIVATE RIGHT STATEMENT: This directive is an internal directive statement of IHSC. It is not intended to, and does not create any rights, privileges, or benefits, substantive or procedural, enforceable against the United States; its departments, agencies, or other entities; its officers or employees; or any other person.

12. POINT OF CONTACT: Chief, Clinical Services Support Unit.