

POLICY E-14 TREATMENT OF TRANSGENDER PERSONS

POLICY OF STATE OF DELAWARE DEPARTMENT OF CORRECTION	POLICY NUMBER E-14	TOTAL PAGES 6 plus attachment
	RELATED NCCHC / ACA STANDARDS: NCCHC: P-E-02 (essential), J-E-02 (essential) ACA: 5-ACI-5B-11, 5-ACI-6A-07, 5-ACI-6C-06, 5-ACI-6C-12, 5-ACI-7B-10 PREA: 115.15, 115.41, 115.42, 115.86	
CHAPTER: 11 BUREAU OF HEALTHCARE, SUBSTANCE ABUSE, AND MENTAL HEALTH SERVICES	SUBJECT: Treatment of Transgender Persons	
APPROVED BY THE BUREAU CHIEF: Deputy Chief, Michael Records (signature on file with BHSAMH)		
APPROVED BY THE COMMISSIONER AND EFFECTIVE THIS DATE: Commissioner Terra Taylor March 31, 2024 (signature on file with BHSAMH)		
APPROVED FOR PUBLIC RELEASE		

- I. **AUTHORITY:** 11 *Del. C.* §6536 Medical Care

- II. **PURPOSE:** To provide guidance for housing, medical and behavioral health treatment for offenders who identify as transgender while they are in the custody of the Delaware Department of Correction (DDOC). The DDOC recognizes the intent of the Delaware Code in avoiding any discriminatory actions against persons identifying with a gender other than the one assigned at birth. Considering the Delaware legislative intent and that of the Federal Prison Rape Elimination Act of 2003 (PREA) this policy outlines specific procedures to determine the optimum housing situation to protect the offender, the overall DOC offender population and security staff in the DDOC facilities.

- III. **APPLICABILITY:** All Delaware Department of Correction (DDOC) employees and Contract Provider staff, offenders, and any outside healthcare provider servicing DDOC offenders.

- IV. **DEFINITIONS:** See Glossary

- V. **SUMMARY OF CHANGES:** This policy was updated to include a new requirement for the behavioral health provider to review and complete Parts 1-5 of Attachment B: *Preference Form from DOC 8.60A Treatment of Transgender and Intersex Individuals* with the transgender or intersex offender and complete Part 6 of the form during the urgent behavioral health evaluation. This must be completed by a QMHP.

- VI. **POLICY:**
 - A. It is the policy of the DDOC to respect the gender identity of a transgender person housed in any DDOC facility and under correctional supervision in the community. It is also the policy of DDOC to maximize the protection offered to offenders under the PREA statutes.
 - B. The DDOC shall provide each offender with an individualized assessment of their physical and emotional characteristics, their medical care needs and behavioral health

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- needs. The individualized assessment may assist with housing assignments to provide the safest environment for the offender, the DDOC offender population, and the security staff.
- C. When an offender self-identifies a gender other than one that was assigned at birth, and the offender's genital status is unknown, the status shall be determined during the Intake Screening process by reviewing available medical records or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner during the initial medical examination or sick call appointment.
 - D. Transgender persons shall be addressed using their preferred pronouns, i.e., Mr., Ms., he/him, she/her, etc.
 - E. This policy does not include those offenders with a medical diagnosis of ambiguous gender (a rare genetic abnormality at birth in which the genitalia cannot be readily differentiated). These offenders shall be designated according to how they have identified during their lifetime or how they self-identify.
 - F. In collaboration with the Bureau of Healthcare, Substance Abuse, and Mental Health Services (BHSAMH), the Behavioral Healthcare Contract Provider will convene a consultation group to provide support, education, and recommendations to treatment teams at the facility level. A procedure for monitoring the treatment of transgender persons, and reviewing requests for consultation, will be developed by the contracted provider of healthcare services.

VII. PROCEDURES:

A. Receiving and Booking

1. The Intake Screening Process shall be conducted in accordance with BHSAMH Policy *E-02 Intake Screening*.
 - a. The offender who self-identifies as a transgender person shall have an urgent behavioral health evaluation within twenty-four (24) hours of the Intake Screening consistent with all offenders considered to be at elevated risk for suicide or victimization.
 - b. The offender who self-identifies as a transgender person shall also have an urgent medical appointment within twenty-four (24) hours of the Intake Screening for the individualized assessment by a Provider.
 - 1) If the offender's genital status is unknown, it may be determined during conversations with the offender, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
 - c. Attachment A, Transgender Evaluation Recommendation Form shall be used to document the individualized assessment by the Behavioral Health and Medical providers and convey this information to the security Shift Commander, facility Warden, appropriate Chiefs of the Bureau of Prisons (BOP) or Community Correction (BCC) and BHSAMH Chief.

B. Urgent Behavioral Health evaluation

1. The purpose of the Urgent Behavioral Health evaluation is to assess the offender's suicide risk, the risk of becoming a victim of rape or "bullying", the offenders presenting emotional status, and the identification of the offender's

statements about his/her gender as different from that assigned at birth. The Qualified Mental Health Professional (QMHP) shall document all statements and information, including the offender's actual statements that they identify their gender as different from that assigned at birth. For purposes of this determination, the DSM-5 diagnosis of Gender Dysphoria shall not be used by the QMHP in the recommendation, as this determination requires a more comprehensive evaluation, unless the diagnosis has been made previously by an outside provider and verified by the QMHP.

2. This evaluation will include an assessment of the offender's treatment and life experiences prior to incarceration as well as experiences during previous incarceration (including hormone therapy, completed or in-progress surgical interventions, real life experiences consistent with an offender's gender identity, private expressions that conform to the preferred gender and counseling). If the diagnosis of Gender Dysphoria is considered, the offender will be referred for a Comprehensive Behavioral Health Evaluation (CMHE) by an independently licensed behavioral health professional with experience in the evaluation and treatment of Gender Dysphoria.
3. During the Urgent Behavioral Health Evaluation, the behavioral health provider will review and complete Parts 1-5 of Attachment B: *Preference Form from DOC 8.60A Treatment of Transgender and Intersex Individuals* with the transgender or intersex offender and complete Part 6 of the form. The behavioral health provider will provide the form to the facility PREA Compliance Manager.
4. For tracking purposes, the offender shall be added to the Behavioral Health Roster and to the Special Needs roster for regular review by the facility interdisciplinary team.

C. Urgent Medical evaluation

1. The purpose of the urgent medical evaluation is to determine the presence or absence of characteristics that would increase risk of victimization of the transgender person in either a female or male facility.
2. In the case that the individual was receiving hormones prior to incarceration, enrollment in the Chronic Care Clinic and prescribing continuing hormone treatments should occur at this time to avoid the potential of any adverse effects of abruptly discontinuing the hormone treatments.

D. Upon completion of Attachment A, Transgender Evaluation Recommendation Form, the recommendations of the Behavioral Health and Medical providers shall be forwarded to the Shift Commander, Warden, BOP Chief, BCC Chief, and BHSAMH Chief and the facility PREA manager to determine whether the offender could be safely housed in the current male or female facility, or whether discussion with a Warden of another facility is indicated.

E. Enrollment into the Behavioral Health Roster and Chronic Care Clinic

1. Current, accepted standards of care shall be referenced for developing the treatment plan. All appropriate treatment options prescribed for offenders with Gender Dysphoria will be considered by the appropriate medical and behavioral health staff.
2. If the offender has had hormone therapy prescribed by a physician prior to incarceration, the contracted medical provider shall contact that prescriber and verify the hormone therapy with drug and dosage, any adverse effects the

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prescriber was aware of prior to the offender's incarceration and their acknowledgement that continuation of the hormone therapy is indicated. Because of the common adverse reactions experienced with hormone therapy, it may be necessary to obtain a consultation with an outside Endocrinologist. If there are questions or significant adverse effects from the hormone therapy/depletion, an Endocrinology Consultation shall be obtained via face-to-face consultation or electronic consult.

- a. If the hormonal treatments cannot be verified or were not prescribed by a medical provider, the medical provider shall order appropriate laboratory studies and shall request an Endocrinology consultation if deemed appropriate. The medical provider will use their clinical judgment in prescribing continuing hormonal therapy until the laboratory studies and potential consultation can be obtained.
3. Medical conditions that can be exacerbated by hormone treatment shall be evaluated and addressed.
 4. Informed Consent obtained in writing prior to initiation or continuation of hormone treatment.
 5. If initiating hormone therapy while incarcerated is under consideration an Endocrinology consultation shall be obtained prior to initiating hormone treatment. This may be done via face-to-face consultation or via telehealth consultation.
 6. Regular clinical and laboratory monitoring shall be performed at the discretion of the treating provider.
 7. Offenders receiving treatment related to gender dysphoria in the community prior to incarceration shall have that treatment reviewed and continued, discontinued, or modified as clinically appropriate in accordance with BHSAMH Policy *E-09 Continuity, Coordination, and Quality of Care During Incarceration*.
 8. Testing for sexually transmitted diseases is offered confidentially to all offenders in private, and all offenders have the option to decline this testing.
 9. Gynecological care is available to all transgender and female offenders through the Medical Services contract.
 10. Gender Affirming Surgery, electrolysis and voice training decisions are based on the individualized treatment plan and considered on a case-by-case basis as a component of the individualized treatment plan.
- F. Clothing for Male-to-Female Transgender Persons who are Housed at Male Institutions
1. There is a potential of housing a male-to-female offender at a male institution following the individualized assessment. As part of the medical classification process, transgender person's status shall be documented in the electronic health record (EHR) and Delaware Automated Correctional System (DACs). If necessary and based upon the individualized assessment, male-to-female transgender persons shall be provided female undergarments, if necessary, as part of their standard clothing issue as is provided for the female offender population.
- G. Clothing for Female-to-Male Transgender Person who are Housed at Female Institutions
1. There is a potential of housing a female-to-male offender at a female institution following the individualized assessment. As part of the medical classification

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- process, a transgender person's status shall be documented in the EHR and DACS. These patients shall be provided male undergarments, if necessary, as part of their standard clothing issue as is provided for male offender population.
- H. Access to Commissary Products Consistent with Expressed Gender-Identity
 - 1. Offenders who identify as transgender shall have access to basic commissary products consistent with their experienced/expressed gender.
 - I. New Self-identifications of Transgender
 - 1. If an offender self-identifies as transgender while incarcerated, an urgent behavioral health and urgent sick call appointment shall be scheduled.
 - a. A QMHP shall complete Attachment A: Transgender Evaluation Recommendation Form to make a recommendation to Security staff in accordance with section VI.B. above.
 - b. During the Urgent Behavioral Health Evaluation, the behavioral health provider will also review and complete Parts 1-5 of Attachment B: *Preference Form from DOC 8.60A Treatment of Transgender and Intersex Individuals* with the transgender or intersex offender and complete Part 6 of the form. The behavioral health provider will provide the form to the facility PREA Compliance Manager.
 - J. The WPATH Standard of Care Guidelines
 - 1. WPATH Standards of Care should be used as clinical guidelines for the treatment of transsexual, transgender and gender-nonconforming offenders with such considerations as may be necessary or appropriate considering safety and/or security concerns.
 - K. Training
 - 1. Correctional Staff shall receive initial and annual refresher training on the treatment of transgender persons in accordance with the DDOC Annual Training Plan.
 - 2. The Contracted Medical and Behavioral Health Providers shall develop orientation and annual refresher training plans for their employee's concerning treatment of the transgender person and coordinate the lesson plans with BHSAMH.
 - L. The Contracted Medical Provider shall develop within 30 days of the effective date of this policy, a facility-specific procedure for each Level 4 and Level 5 facility implementing this policy and coordinating the procedure with the BHSAMH.

References:

Prisons and Jail Standards. (n.d.). Retrieved January 14, 2019, from

<https://www.prearesourcecenter.org/training-technical-assistance/prea-101/prisons-and-jail-standards>

The World Professional Association for Transgender Health (WPATH). (2012). Retrieved April 3, 2019, from

https://www.wpath.org/media/cms/Documents/SOC%20v7/Standards%20of%20Care_V7%20Full%20Book_English.pdf

The National Commission on Correctional Health Care. (2015). Retrieved April 3, 2019, from

<https://www.ncchc.org/transgender-transsexual-and-gender-nonconforming-health-care>

Transgender Evaluation Recommendation Form

Offender Name _____ SBI#: _____

Delaware Department of Correction Facility _____

Date _____ Birth Assigned Gender _____ Self-Identified Gender _____

Behavioral Health Evaluation

Is there evidence of a strong and persistent cross-gender identification, which is the desire to be, or the insistence that one is, of the other gender? This cross-gender identification must not merely be a desire for any perceived cultural advantages of being the other gender.

Is there evidence of persistent discomfort about one’s assigned gender or a sense of inappropriateness in the gender role of that gender?

In the opinion of the behavioral health provider, are there any characteristics, mannerisms, gestures, verbal cues that possibly would identify this offender as transgender and at risk for victimization?

Medical Evaluation (Physical examination must be performed with a chaperone)

Does the offender verbalize their identification as different from their birth-assigned gender?

Does the offender provide a history of taking gender altering hormones or having undergone any surgeries specific to gender identity? If so, provide the name of the treating prescribers and/or surgeons?

Are there tattoos or body markings suggesting gender identification other than the birth-assigned gender?

Transgender Evaluation Documentation, page 2

Offender Name _____ SBI _____

In the opinion of the medical provider, are there any characteristics, mannerisms, gestures, verbal cues that possibly would identify this offender as transgender and at risk for victimization?

Is there any suggestion of an adverse reaction to gender altering hormone treatments such as ascites, edema, hirsutism, breast, or testicular atrophy?

A Suicide Risk Assessment shall be completed on a separate form and placed in the offender's health record.

Recommendation to the Warden and Security Shift Commander

Based upon the Behavioral Health and Medical assessments conducted on _____, we recommend this offender be housed in a _____ male facility or a _____ female facility.

Signature Behavioral Health Provider Date

Signature Medical Provider Date

Printed name

Printed name.