

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

[BOP-1020-F]

RIN 1120-AA26

**Plastic Surgery**

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

**SUMMARY:** In this document, the Bureau of Prisons is revising its regulations concerning the circumstances and procedures under which the Bureau approves plastic surgery for inmates. Criteria under which plastic surgery may be approved are as follows: 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. This revision is intended to provide for the continued efficient and orderly operation of the Bureau and its institutions.

**EFFECTIVE DATE:** April 25, 1996.

**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 revising its regulations on plastic surgery (28 CFR part 549, subpart D). A proposed rule on this subject was published in the Federal Register on October 20, 1995 (60 FR 54288).

The proposed regulations stipulated in the statement of purpose (28 CFR 549.50) 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. Approval procedures for requests, whether for medical

reasons or special circumstances, are contained in § 549.51. "Informed consent" requirements were redesignated as a separate section (§ 549.52) for the sake of emphasis. Procedures relating to staff processing of inmate identification records were removed because these administrative details are better addressed in internal instructions to staff.

The Bureau received one comment on the proposed rule. This comment supported the adoption of the proposed rule. The Bureau is therefore adopting the proposed rule as a final rule without change.

Members of the public may submit comments concerning this rule by writing to the address cited above. These comments will be considered but will receive no response in the Federal Register.

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.

**List of Subjects in 28 CFR Part 549**

Prisoners.

Kathleen M. Hawk,

*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), part 549 in subchapter C of 28 CFR, chapter V is amended 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.

[FR Doc. 96-7157 Filed 3-25-96; 8:45 am]

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