Department Directive

Title: Inmate Refusal to Participate in Infectious Disease Screening, Testing, and Prevention	Directive Number: OPS.105.0002
Related MD Statute/Regulations: Health-General Article, §§18-208, 19-307, 19-308, 19-320, and 19-323, Annotated Code of Maryland COMAR 10.07.12.07F; 12.03.01.04E.4	**Supersedes: N/A** **Authorized By:**
Related ACA and MCCS Standards: 5-ACI-3C-01, 02; 5-ACI-6A-12	**Sharon Baucom, M.D.** Chief Medical Officer
Related Directives/Manuals: DPSCS.055.0012-Personal Protective Equipment DPSCS.130 – Office of Clinical Services and Inmate Health – Infection Control Manual	**Issued Date: August 24, 2020** **Effective Date: August 31, 2020**
Variance: Each shall issue a facility directive necessary to implement and comply with this directive.	**Number of Pages: 5**

Wayne Hill
Commissioner of Correction

Michael R. Resnick
Commissioner of Pretrial Detention and Services

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Secretary

.01 Purpose.

The purpose of this directive is to establish and maintain Department of Public Safety and Correctional Services (Department) policy that requires an inmate to: comply with screening and testing for infectious diseases; engage in disease prevention efforts by using personal protective equipment; and be subject to disciplinary procedures for non-compliant behavior that endangers the health and safety of other inmates, employees, and visitors.

.02 Scope.

This directive applies to all units of the Department responsible for the custody and control of inmates.

.03 Policy.

A. It is the Department's policy to:

(1) Protect the physical health and safety of all inmates and employees by providing:

(a) Comprehensive screening and clinical testing for infectious diseases; and

(b) Preventive medical care, personal protective equipment (PPE), and other types of equipment deemed necessary to prevent the spread of disease;

(2) Require each inmate to comply with screening, clinical testing, and prevention of infectious diseases in order to reduce the likelihood of actual and potential exposure to a disease; and

(3) Initiate administrative charges for a rule violation under COMAR 12.03.01 when an inmate refuses to comply with clinical testing for an infectious disease or prevention measures.

B. An inmate may not sign a medical waiver in order to refuse clinical testing, examination, or assessment for an infectious disease, when it is determined by a healthcare professional that the refusal endangers the health and safety of other inmates, employees, and visitors.

.04 Definitions.

A. In this directive, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Facemask" means a surgical mask, cloth mask, or sneeze guard as stated in DPSCS.055.0012—Utilization of Protective Equipment and Additional Levels of Protection.

(2) Infectious Disease.

(a) "Infectious disease" means a virus, bacteria, microorganism, fungi, or parasite that is capable of being transmitted by an individual in a manner that reproduces the virus, bacteria, microorganism, fungi, or parasite in another individual.

(b) "Infectious disease" includes, but is not limited to:

(i) Chickenpox;

(ii) COVID-19 (SARS-CoV-2);

(iii) Hepatitis A, B, and C;

(iv) Human Immunodeficiency Virus (HIV);

(v) Influenza (flu);

(vi) Lice infestations;

(vii) Measles;

(viii) Meningitis;

(ix) Methicillin Resistant Staphylococcus Aureus (MRSA);

(x) Mumps;

(xi) Tuberculosis;

(xii) Scabies infestations;

(xiii) Syphilis; and

(xiv) Whooping Cough.

(3) "Inmate" has the meaning stated in Correctional Services Article, § 1-101, Annotated Code of Maryland: "an individual who is actually or constructively detained or confined in a correctional facility."

(4) "Managing official" has the meaning stated in Correctional Services Article, §1-101, Annotated Code of Maryland.

.05 Responsibilities.

A. Managing Official.

(1) The managing official shall direct employees to:

(a) Ensure that each inmate is presented to a licensed healthcare provider in order to be properly screened and tested for infectious diseases;

(b) Communicate with and impress upon each inmate the need for testing and prevention measures in order to reduce the likelihood of transmission and exposure to an infectious disease; and

(c) Establish internal procedures for the establishment of isolation and quarantine areas to be used in the event that an inmate refuses testing or tests positive for an infectious disease that could endanger the health and safety of inmates, employees, and visitors within the facility.

(2) The managing official shall direct an inmate to wear a face mask, cloth mask, or sneeze guard in accordance with the guidelines established in DPSCS.055.0012—Utilization of Protective Equipment and Additional Levels of Protection when the inmate is:

(a) In a cell with another inmate or inmates;

(b) Participating in movement, programming, visits, appointments, searches, and transportation;

(c) In a quarantine or isolation area;

(d) Working in a food service area;

(e) Working as a barber and performing related activities; and

(f) Working in an isolation or quarantine area.

(3) The managing official, or designee, shall establish an internal facility directive that states that an inmate's refusal to wear a face mask at the required times, or to be clinically examined or

tested for an infectious disease, may result in an administrative charge for a violation of rule 203 under COMAR 12.03.01.04.

B. Correctional Staff and Healthcare Providers.

(1) A healthcare provider who receives an inmate's refusal to be clinically tested for an infectious disease shall provide counseling to the inmate to explain that early and accurate diagnosis of an infectious disease is:

(a) Critically important in improving the effectiveness of treatments and in helping to avoid the long-term health complications for the patient; and

(b) Essential in helping to prevent or stop the transmission of the infectious disease throughout the facility population.

(2) If an inmate continues to refuse testing for an infectious disease, the healthcare provider shall, in accordance with the procedures set forth in the Clinical Services and Inmate Health - Infection Control Manual:

(a) Document the refusal in the inmate's medical record;

(b) Notify the Infection Control Nurse; and

(c) Order the inmate to be placed on administrative segregation in medical isolation or quarantine for public health reasons, as appropriate until the inmate:

(i) Is determined not to be infectious;

(ii) Agrees to be tested, and is determined not to be infectious; or

(iii) Agrees to abide by the clinical restrictions assigned to the inmate by a clinical provider based upon the nature of the infection (e.g. dressing changes, hygiene measures, and chemical application).

(3) The healthcare provider shall alert correctional staff that an inmate has refused to be clinically tested for an infectious disease or refused to abide by the clinical restrictions necessary to prevent the spread of the infection and that the inmate should be placed in administrative segregation or medical isolation or quarantine, as appropriate.

.06 Procedures.

A. A correctional officer shall refer an inmate suspected of committing a rule violation for administrative charges consistent with COMAR 12.03.01.04.E(4)—203 (Disobey a specifically cited facility Category II rule) and any other applicable rule violations, if the officer has:

(1) Been advised by a healthcare provider that an inmate has refused a clinical examination for an infectious disease;

(2) Been informed by an inmate that he or she refuses to be clinically tested for an infectious disease; or

(3) Witnessed an inmate's refusal to put on or wear a facemask as instructed; and

(4) Determined that the inmate has been counseled by a healthcare provider in accordance with § B(1) of this directive.

B. A correctional officer shall, following a referral for administrative charges:

(1) Initiate and complete an investigation;

(2) Based on the results of the investigation, determine if an alleged rule violation was committed; and

(3) Use a *Notice of Inmate Rule Violation* form to report an alleged infraction to the shift supervisor.

C. A shift supervisor, upon receipt of a *Notice of Inmate Rule Violation* form shall act pursuant to COMAR 12.03.01.05C.

.07 Appendix.

None

.08 History.

This directive supersedes provisions of any other prior existing communication with which it may be in conflict.

.09 Distribution.

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