

4.4 Medical Care (Women)

I. Purpose and Scope

This detention standard ensures that female detainees in U.S. Immigration Customs and Enforcement (ICE) custody have access to appropriate and necessary medical and mental health care.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities. Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

For all types of facilities, procedures that appear in italics with a marked (**) on the page indicate optimum levels of compliance for this standard.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Female detainees shall receive routine, age appropriate gynecological and obstetrical health care, consistent with recognized community guidelines for women’s health services.

***The facility’s provision of gynecological and obstetrical health care shall be in compliance with standards set by the National Commission on Correctional Health Care (NCCHC).*

2. As part of every detainee’s intake health assessment, female detainees shall also receive age-appropriate assessments and preventive women’s health services, as medically appropriate.
3. A pregnant detainee in custody shall have access to pregnancy services including routine or specialized prenatal care, pregnancy testing, comprehensive counseling and assistance, postpartum follow up, lactation services and abortion services.
4. At no time shall a pregnant detainee be restrained, absent truly extraordinary circumstances that render restraints absolutely necessary.
5. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

6. Medical and mental health interviews, screenings, appraisals, examinations, procedures, and administration of medication shall be

conducted in settings that respect detainees' privacy in accordance with safe and/orderly operations of the facility.

7. A detainee's request to see a health care provider of the same gender should be considered; when not feasible, a same-gender chaperone shall be provided. When care is provided by a health care provider of the opposite gender, a detainee shall be provided a same-gender chaperone upon the detainee's request.

III. Standards Affected

Not applicable.

IV. References

American College of Obstetrics and Gynecology, *Guidelines for Women's Health Care* (3rd edition, 2007).

National Commission on Correctional Health Care, *Standards for Health Services in Jails* (2014)

National Commission on Correctional Health Care: *Position Statement on Women's Health Care in Correctional Settings* (2005)

"Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities," 79 Fed. Reg. 13100 (Mar. 7, 2014).

V. Expected Practices

A. Overview

In addition to the medical, mental health and dental services provided to every detainee as required by standard "4.3 Medical Care," every facility shall directly or contractually provide its female detainees with access to:

1. pregnancy services, including pregnancy testing, routine or specialized prenatal care, postpartum follow up, lactation services and abortion services as outlined herein;

2. counseling and assistance for pregnant women in keeping with their express desires in planning for their pregnancy, whether they desire abortion, adoptive services or to keep the child; and
3. routine, age-appropriate, gynecological health care services, including offering women's specific preventive care.

B. Initial Health Intake Screening and Health Assessment

1. Initial Screening

Within 12 hours of arrival, during their initial medical screening, all female detainees shall receive information on services related to women's health care as provided for in this standard and standard "4.3 Medical Care."

2. Initial Health Assessment

If the initial medical intake screening indicates that a detainee has experienced prior sexual victimization or perpetrated sexual abuse, staff shall, as appropriate, ensure that the detainee is immediately referred to a qualified medical or mental health practitioner for medical and/or mental health follow-up as appropriate. Consistent with Standard "4.3 Medical Care," when a referral for medical follow-up is initiated, the detainee shall receive a health evaluation no later than two working days from the date of assessment, and when a referral for mental health follow-up is initiated, the detainee shall receive a mental health evaluation no later than 72 hours after the referral.

If the initial medical intake screening indicates the possibility of pregnancy, referral shall be initiated and the detainee shall receive a health assessment as soon as appropriate or within two working days.

If the initial medical intake screening indicates any history of domestic abuse or violence, the detainee shall be referred for and receive a mental health evaluation by a qualified mental health provider within 72 hours, or sooner if appropriate, consistent

with Standard “4.3 Medical Care.”

All initial health assessments of female detainees shall be conducted by a trained and qualified health provider. In addition to the criteria listed on the health assessment form, the evaluation shall inquire about the following:

- a. pregnancy testing for detainees aged 18-56 and documented results;
- b. if the detainee is currently nursing (breastfeeding);
- c. use of contraception;
- d. reproductive history (number of pregnancies, number of live births, number of spontaneous/elective abortions, pregnancy complications, etc.);
- e. menstrual cycle;
- f. history of breast and gynecological problems;
- g. family history of breast and gynecological problems; and
- h. any history of physical or sexual victimization and when the incident occurred.

A pelvic and breast examination, pap test, baseline mammography and sexually transmitted disease (STD) testing shall be offered and provided as deemed appropriate or necessary by the medical provider.

C. Same-Gender Providers or Chaperones

Consistent with the provisions in Standard 4.3 “Medical Care,” a detainee’s request to see a health care provider of the same gender should be considered; when not feasible, a same-gender chaperone shall be provided.

When care is provided by a health care provider of the opposite gender, a detainee shall be provided a same-gender chaperone upon the detainee’s request.

A same-gender chaperone shall be provided, even in the absence of a request by the detainee, when a

medical encounter involves a physical examination of sensitive body parts, to include breast, genital, or rectal examinations, by a provider of the opposite gender. Only medical personnel may serve as chaperones during medical encounters and examinations.

D. Preventive Services

Preventative services specific to women shall be offered for routine age appropriate screenings, to include breast examinations, pap smear, STD testing and mammograms. These services shall not interfere with detainee’s deportation or release from custody date.

1. Contraception

Upon request, appropriately trained medical personnel within their scope of practice shall provide detainees with non-directive (impartial) advice and consultation about family planning and contraception, and where medically appropriate, prescribe and dispense medical contraception.

E. Pregnancy

Upon confirmation by medical personnel that a female detainee is pregnant, she shall be given close medical supervision. Pregnant detainees shall have access to prenatal and specialized care, and comprehensive counseling inclusive of, but not limited to: nutrition, exercise, complications of pregnancy, prenatal vitamins, labor and delivery, postpartum care, lactation, family planning, abortion services and parental skills education.

The facility administrator shall ensure that the FOD is notified as soon as practicable of any female detainee determined to be pregnant, but no later than 72 hours after such determination, consistent with the notification requirements in Standard “4.3 Medical Care.”

The medical provider will identify any special needs (e.g. diet, housing, or other accommodations such as the provision of additional pillows) and inform all

necessary custody staff and facility authorities. If a pregnant detainee has been identified as high risk, the detainee shall be referred, as appropriate, to a physician specializing in high risk pregnancies.

All chemically dependent pregnant detainees (psychological dependence includes alcohol, sedatives/hypnotics, anxiolytics and opioids) are considered high risk and referred to an obstetrician or another provider capable of addressing their needs immediately.

Pregnancy management and outcomes shall be monitored, quarterly, through a continuous quality improvement process.

1. Non-Use of Restraints

Restraints on Pregnant Women: A pregnant woman or women in post-delivery recuperation shall not be restrained absent truly extraordinary circumstances that render restraints absolutely necessary as documented by a supervisor or directed by the on-site medical authority. This general prohibition on restraints applies to all pregnant women in the custody of ICE, whether during transport, in a detention facility, or at an outside medical facility. Restraints are never permitted on women who are in active labor or delivery.

Restraints shall not be considered as an option, unless one or more of the following applies:

- a. a medical officer has directed the use of restraints for medical reasons;
- b. credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff or others; or
- c. reasonable grounds exist to believe the detainee presents an immediate and credible risk of escape that cannot be reasonably minimized through any other method.

In the rare event that one of the above situations applies, medical staff shall determine the safest method and duration for the use of restraints and the

least restrictive restraints necessary shall be used.

Even in the extraordinary circumstance when restraints are deemed necessary, no detainee known to be pregnant shall be restrained in a face-down position with four-point restraints, on her back, or in a restraint belt that constricts the area of the pregnancy. All attempts shall be made to ensure that the detainee is placed on her left side if she is immobilized.

The use of restraints requires documented approval and guidance from the on-site medical authority. Record-keeping and reporting requirements regarding the medical approval to use restraints shall be consistent with other provisions within these standards, including documentation in the detainee's A-file, detention and medical files.

2. Abortion Access

In the event continued detention is necessary and appropriate, and consistent with the practice of our federal partners, if the life of the mother would be endangered by carrying a fetus to term, or in the case of rape or incest, ICE will assume the costs associated with a female detainee's decision to terminate a pregnancy.

- a. In this instance, or in a situation where a female detainee opts to fund the termination of her pregnancy, ICE shall arrange for transportation at no cost to the detainee for the medical appointment and, if requested by the detainee, for access to religious counseling, and non-directive (impartial) medical resources and social counseling, to include outside social services or women's community resources groups.
- b. If a detainee requests to terminate her pregnancy, ICE will document the request in the detainee's medical records. The detainee's statement should be signed personally by the detainee and include clear language of the detainee's intent.

F. Mental Health Services

In addition to mental health services offered to all detainees, mental health assessments shall be offered to any detainee who has given birth, miscarried or terminated a pregnancy in the past 45 days.