

SETTLEMENT AGREEMENT

I. INTRODUCTION

- A.** This Agreement has been reached by Disability Rights Washington (DRW) (Plaintiff) and the Washington Department of Corrections with Cheryl Strange in her official capacity as the Secretary of the Washington Department of Corrections (the Department) (Defendants) (collectively the Parties). The purpose of this Settlement Agreement (Agreement) is to resolve matters identified in the Complaint filed by DRW in the United States District Court, Western District of Washington, on behalf of DRW's constituents who are people with disabilities who identify as transgender, intersex, non-binary, and gender non-conforming (transgender) and are incarcerated in prisons operated and administered by the Department.
- B.** The Parties agree that resolving this matter with this Agreement is in the best interests of the Department, DRW, and its constituents. The Parties further stipulate and agree that this Agreement complies in all respects with the requirements for prospective relief under the Prison Litigation Reform Act, 18 U.S.C. § 3626.
- C.** This Agreement shall be filed in the United States District Court, Western District of Washington. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343. Venue is proper in this district pursuant to 28 U.S.C. § 1391. The terms of this Agreement shall not take effect unless and until the Court issues an Order adopting the Agreement. This case will remain on the Court's inactive docket during the term of this Agreement. The Parties may request status conferences to assist in informally resolving disputes, if needed. The Court will retain jurisdiction only to enforce the terms of this Agreement and to resolve disputes between the Parties. The Parties agree to jointly recommend to the Court that it approve the terms of the Agreement.
- D.** The Agreement shall be effective and binding on the date on which the Court issues an order adopting the terms of this Agreement (the "Effective Date"). If the Court declines to issue an order adopting the terms of the Agreement, then the Agreement shall terminate and become null and void. If an Appellate Court reverses an order adopting the Agreement, then, provided that no appeal is pending from such a ruling, this Agreement shall terminate and become null and void on the 31st day after issuance of the order referenced in this section. If an appeal is pending of an order declining

to adopt the Agreement, this Agreement shall not be terminated until final resolution of any such appeal, except by written agreement of the Parties.

- E. This Agreement is binding upon DRW, the Department, and the state of Washington, by and through their officials, agents, employees, assigns, and successors. This Agreement is enforceable only by the Parties. The Parties agree to take all steps and efforts contemplated by the Agreement. This Agreement embodies a compromise and settlement of disputed claims, and nothing herein shall be deemed to constitute an admission of any wrongdoing by or liability on the part of the Defendants. Plaintiffs further understand and agree that by entering into this Settlement Agreement, they are stipulating to the dismissal of all claims asserted in their Complaint with prejudice upon completion of the term of settlement as provided herein. Upon such dismissal, Plaintiffs agree and covenant not to sue the State of Washington or its agencies, employees and officials over the claims concluded by this Settlement Agreement.
- F. Nothing in this Agreement will affect the rights of DRW regarding any legal claim arising after the Effective Date or regarding claims other than those asserted in the complaint by DRW. DRW brings this action on behalf of itself as Plaintiff and nothing in this Agreement affects the rights or claims of any DRW constituent or client, including constituent-exemplars referenced in the complaint.

II. DEFINITIONS

- A. **Agreement** means this Final Settlement Agreement to settle claims between named Plaintiff and named Defendants.
- B. **Day(s)** means calendar day(s) unless otherwise specified.
- C. **Defendants** means the Washington State Department of Corrections and Cheryl Strange in her official capacity as Secretary of the Washington State Department of Corrections.
- D. **Department** means the Washington State Department of Corrections.
- E. **Disability** means the presence of a sensory, mental, or physical impairment that: (i) Is medically cognizable or diagnosable; or (ii) Exists as a record or history; or (iii) Is perceived to exist whether or not it exists in fact. A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability

to work generally or work at a particular job or whether or not it limits any other activity.

- F. **DRW** means Plaintiff Disability Rights Washington.
- G. **Effective Date** means the date on which the Court issues its order adopting the terms of this Agreement.
- H. **Exigent Circumstances** means any set of temporary and unforeseen circumstances that require immediate action in order to resolve a threat to the security or institutional order of a Department facility.
- I. **Gender** means the socially constructed roles, behaviors, expressions and identities of girls, women, boys, men, and gender diverse people. Gender identity is not binary (i.e., either man or woman) nor static; it exists along a continuum and can change over time. Gender includes a person's gender identity and gender expression.
- J. **Gender Dysphoria** means Gender Dysphoria under the *Diagnostic and Statistical Manual for Mental Disorders*, Gender Incongruence under the *International Classification of Diseases*, or other diagnoses associated with transgender status including any Gender Identity Disorder (such as dual-role transvestism or transsexualism) or Unspecified Endocrine Disorder.
- K. **HCA Transhealth Program** means the Washington State Health Care Authority Apple Health Transhealth Program, including any implementing WACs or provider services billing guides.
- L. **Health Status Report (HSR)** means the Department document that notes a person's medical, visual, mental health, and/or dental accommodations.
- M. **Implement** means a policy has been drafted and disseminated to all staff responsible for following or applying the policy; all relevant staff have been trained on the policy; compliance with the policy is monitored and tracked through compliance tools including quality assurance measurements as appropriate; the policy is consistently applied and followed as demonstrated by the compliance tools and interviews with staff and people in custody; and the Department takes documented corrective action measures to address lapses in application of the policy.
- N. **Include, Includes, or Including** means "include, but not be limited to," "includes, but shall not be limited to," and "including, but not limited to."

- O. Material Compliance** requires that, for each provision, the Department has developed and implemented a policy incorporating each requirement of the provision, trained relevant personnel on the policy, and relevant personnel are complying with each provision requirement in actual practice. Episodic or isolated instances shall not prevent a finding that Defendants are in material compliance with a provision, provided that Defendants demonstrate that they have instituted policies, training, and practices that are reasonably calculated to materially comply with the provision and that quality assurance data or other information demonstrate that the changes have been carried out in actual practice.
- P. Parties** means the Plaintiff and Defendants.
- Q. Plaintiff** means Disability Rights Washington.
- R. Restrictive Housing** means a housing assignment for individuals whose presence in general population is deemed to present a danger to self, others, or facility security. Restrictive housing uses enhanced security buildings with single-occupancy cells to separate those individuals from the general population. Restrictive housing includes stand-alone Administrative Segregation units (Ad-Seg); Intensive Management Units (IMU); Close Observation Areas (COA); Unit A and Unit B in the Special Offender Unit at Monroe Correctional Complex (SOU A and B Tier); and Treatment & Evaluation Center Acute Unit at the Washington Corrections Center for Women (TEC Acute).
- S. SOTAP** means the Department's Sex Offense Treatment and Assessment Program.
- T. Staff** means Department staff, contractors, volunteers, and agents.
- U. Substantial Compliance** means that the Department has achieved material compliance with each Agreement provision. Substantial compliance shall govern all provisions and requirements for the Agreement.
- V. Transgender** describes people whose gender identity is different from their sex assigned at birth. For the purposes of this Agreement, transgender is an umbrella term that refers to transgender, intersex, non-binary, and gender non-conforming people unless explicitly stated otherwise (e.g., "transgender women").

III. SUBSTANTIVE TERMS

A. Policies and Procedures

1. The Department shall develop, submit to DRW for review consistent with this Agreement, and implement written policies that enact the terms of this Agreement. The Department shall continue to work with DRW as necessary to draft and implement policies and procedures or revise existing policies and procedures pursuant to this Agreement.
2. The Department shall revise and/or develop and implement, as necessary, any other policies or documents necessary to enact the terms of this Agreement. The Department will develop a Statewide Toolkit for Transgender People in Custody and an Employee Manual, with the effect of policy, that explains how people in custody may exercise their rights under this Agreement.
3. The Department will train all staff, as necessary, to implement the requirements of this Agreement. The Department will train all staff on new or revised policies, guidance, or procedures established to meet the requirements of this Agreement. Training shall be specific to the role and job duty as necessary to implement this Agreement.

B. Staffing

4. The Department will ensure that staffing is sufficient to meet the requirements of this Agreement.
5. Within 28 days of the Effective Date, the Department will designate an Agreement Coordinator to coordinate compliance with this Agreement and to serve as a point of contact for DRW.
6. Within 28 days of the Effective Date, the Department will designate a Gender-Affirming Mental Health Specialist at each major prison.
7. Within 28 days of the Effective Date, the Department will designate a contracted Gender-Affirming Mental Health Community Consultant. The Gender-Affirming Mental Health Community Consultant must be a community expert in gender-affirming mental health care. Gender-Affirming Mental Health Community Consultants will be selected by the Department from a pool of candidates that are jointly agreed upon by the Department and DRW.

8. Within 28 days of the Effective Date, the Department will designate a Gender-Affirming Medical Specialist. The Gender-Affirming Medical Specialist will be available to patients at any Department facility in person or via telehealth services. The Gender-Affirming Medical Specialist will be selected by the Department from a pool of candidates that are jointly agreed upon by the Department and DRW. The Gender-Affirming Medical Specialist will be WPATH Certified or will become WPATH certified within 3 years of the date of designation.
9. Within 28 days of the Effective Date, the Department will designate at least one back-up Gender-Affirming Medical Specialist who will fulfill the responsibilities of the Gender-Affirming Medical Specialist during periods of unavailability lasting longer than 10 business days. Any back-up Gender-Affirming Medical Specialist will be WPATH Certified within 3 years of the date of designation. Prior to WPATH certification, a back-up Gender-Affirming Medical Specialist will not change or develop a course of treatment without documenting a consultation with Transline, a Rubicon transgender health specialist, or a community expert in transgender healthcare jointly agreed upon by the Department and DRW.
10. The Department will retain the services of external providers as necessary to fulfill the requirements of this Agreement, including to perform gender-affirming treatments and services that are covered as a gender-affirming treatment under the HCA Transhealth Program.

C. Provision of Gender-Affirming Treatments and Services

11. The Department will deliver gender-affirming medical and mental health care according to the Guidelines for Healthcare of Transgender Individuals attached as Exhibit 1 and this Agreement. DOC will ensure that it maintains adequate processes to implement the guidelines to avoid any unreasonable delays to gender-affirming care. This includes timely reviews, approvals, and scheduling of necessary appointments.
12. The Department will offer LGBTQ “study hall” for lesbian, gay, bisexual, transgender, and queer participants in the Sex Offense Treatment and Assessment Programs (SOTAP) in both Men’s and Women’s Division Prisons. Participation in an LGBTQ “study hall”

will be completely voluntary. Transgender individuals who express safety concerns about sharing a particular clinical assignment during a regular SOTAP therapeutic group session may make a request to confidentially share the assignment with program staff in a private session; such requests will be permitted on a case-by-case basis based on professional clinical judgment. The Department will communicate these options to transgender SOTAP participants.

13. During the intake medical and mental health screening, the Department will ask individuals who have disclosed that they are transgender if they require additional razors and opportunities to shave for treatment of their Gender Dysphoria. The Department will communicate these concerns to the Gender-Affirming Medical Specialist or Gender-Affirming Program Administrator within one business day.
14. Transgender individuals will not be deprived of gender-affirming clothing, hair removal tools, or any item for which an HSR has been issued, unless denied according to individualized reasons and documented per Conditions of Confinement Modifications or a Security Enhancement Plan per DOC Policy. The Department will provide access to electric shavers to any transgender person whose access to razors is restricted by Conditions of Confinement Modifications or a Security Enhancement Plan per DOC Policy. The Department will ensure that transgender individuals placed in Restrictive Housing retain uninterrupted access to gender-affirming medical and mental health care.
15. The Department will provide state-issued gender-affirming clothing upon request to transgender people. State-issued gender-affirming clothing means state-issued clothing that corresponds to a transgender person's gender identity and includes underwear (women's briefs, men's boxers), sports bras, fitted support bras, chest binders, pajamas, and shoes. Transgender individuals will be permitted to possess and wear both women's and men's clothing, including undergarments, up to the total amount of clothing items allowable under DOC Policy.
16. The Department will provide transgender people bras that fit to size. The Department will replace bras according to Department rules for women's facilities, except as provided here. Transgender women in the first two (2) years of hormone replacement therapy or within two

(2) years of top surgery will have bras, including sports bras and support bras, replaced every three (3) months or more frequently on an as-needed basis due to breast growth, weight change, pain or discomfort, standard wear, or other reasons. After two (2) years of hormone replacement therapy or top surgery, sports bras and support bras will be replaced according to the Department's rules for women's facilities.

17. The Department shall develop, document, and implement a plan to allow the Offender Management Network Information (OMNI) system to recognize incarcerated peoples' self-identified gender (male, female, or non-binary), and establish a process for incarcerated people to request that the Department change their gender identity in OMNI.
18. Consistent with DOC policy, the Department will not share the transgender status, gender history, genital anatomy, or sexual orientation of any incarcerated person with community housing and employment providers without the individual's specific written consent.

D. Privacy and Searches

19. The Department shall develop and implement policies that enable transgender people to shower and change clothing separately and out of view from other individuals.
20. Searches of transgender individuals will be conducted by an officer of the gender formally requested in documentation by the individual and in such circumstances will not be considered a cross-gender search. Strip searches will not be conducted for the purpose of examining an individual's genitals. The Superintendent, Community Corrections Supervisor, or Duty Officer will approve or deny a cross-gender search and consider appropriate alternatives. The Department's inability to make available women correctional officers who are trained to perform strip or pat-down searches of transgender people is not an exigent circumstance justifying a cross-gender search.
21. The Department will train all correctional officers, regardless of gender, on the strip and pat-down searching of transgender people as part of the CORE curriculum and semi-annual in-service training.

Training will include issues related to searching people with gender-affirming clothing and property items covered in this Agreement.

22. The Department will staff any facility housing transgender people with a sufficient number of women correctional officers trained on the strip and pat-down searching of people to meet the requirements of this Agreement.

E. Agreement Timeframes

23. The Department will deliver gender-affirming services, treatments, and property according to timeframes specified in this Agreement, the Guidelines for Healthcare of Transgender Individuals attached as Exhibit 1 and, where not specified, according to average community timeframes.
24. The Gender-Affirming Care Review Committee (GA-CRC) will meet and make a final decision within 60 days of a denial of care or lack of consensus. A GA-CRC decision to deny care shall be communicated to the patient in writing with a complete explanation of the reasons for denial within 28 days of the GA-CRC meeting.
25. The Department will provide gender-affirming property as follows:
 - a. The Department will order gender-affirming property for which an HSR is required within 14 days from when it is approved and provide the item within three (3) days of receipt.
 - b. The Department will order gender-affirming property that must be ordered from an external vendor and for which an HSR is not required, such as chest binders, within five (5) business days from the date of request and provide the item within five (5) days of receipt.
 - c. The Department will provide state-issued gender-affirming clothing items that do not need to be ordered from an external vendor within three (3) days of request.

F. Quality Assurance and Data Collection

26. The Department shall implement quality assurance procedures to produce and examine key data indicators. Beginning six (6) months after the Effective Date, the Department will present its quality assurance data and implementation progress at least quarterly at a meeting that will include a representative from DRW. The data will be shared with DRW at least two (2) weeks prior to the meeting.
27. The Department's quality assurance data indicators shall include:
 - a. The number of individuals in the Department identified as transgender including their names, location, date of intake, and date of diagnosis with Gender Dysphoria;
 - b. Training attendance, frequency, and any evaluation measures;
 - c. Gender-Affirming mental health services consultation group attendance and frequency, as provided in Exhibit 1;
 - d. Data relating to cross-gender strip searches of transgender people, including: the names of all parties involved; the date, time, and location of the search; the name of the approving supervisor and the time of approval; the specific reason(s) for the search; steps taken to locate a person of the requested gender to perform the search and the specific reason(s) why no person of the requested gender was available to perform the search; facts giving rise to exigent circumstances used to justify a cross-gender search; and what, if anything, was recovered as a result of the search;
 - e. Data relating to the provision of gender-affirming property and accommodations including the name of the requestor; the request; whether the request was approved; whether and when the Department requested or scheduled with a third-party provider or vendor; whether and when the requested property or accommodation was provided;
 - f. Data relating to any leave exceeding seven consecutive business days, vacancy, or appointment of a Gender-Affirming Medical Specialist, Gender-Affirming Mental Health Specialist, or

Gender-Affirming Program Administrator and whether a back-up or on-call replacement was used;

- g. Data relating to any vacancy or new contract of a Gender-Affirming Mental Health Community Consultant or Gender-Affirming Medical Community Consultant;
- h. Data relating to the provision of gender-affirming medical and mental health treatments and services including the name of the patient; the treatment or service comprehended; the date of approval or denial; whether and when the Department requested or scheduled with a third-party provider; when any assessment was provided; whether and when the service was provided; the date of any appeal; the date of any decision on the appeal; and the decision of any appeal; and
- i. Data relating to LGBTQ SOTAP “study hall” groups by facility, including number of participants and dates of operation.

IV. MONITORING

- A.** DRW as monitor of this Agreement shall have full and complete access to all areas of Department facilities that are used by or accessible to incarcerated individuals. DRW shall also have access to Department officials, agents, employees, and people in custody. DRW may speak with any incarcerated person privately and without the presence of the Department, their counsel, and their officers or employees. Agents and employees shall not be retaliated against for speaking with DRW.
- B.** The Department shall also provide, within 14 days of request, records in possession of the Department, including protected or otherwise confidential records such as medical or mental health records pursuant to the protective order entered in this case, but excluding privileged attorney-client communications, which shall be noted in a privilege log. The parties shall meet and confer to identify potential sources of records and the format of production of records. Records shall be available in native format upon DRW’s request.

- C. A Gender-Affirming Medical Community Consultant and Gender-Affirming Mental Health Community Consultant shall review records and provide opinions about gender-affirming care for transgender patients in Department custody at the request of DRW. The Department shall bear the cost of any such consultation.
- D. Subject to individualized security concerns, DRW may conduct in-person or video meetings with groups of transgender people in Department custody.

V. ENFORCEMENT, TERMINATION, AND CONSTRUCTION

- A. The Parties agree to request that the United States District Court for the Western District of Washington enter an order adopting the terms of this Agreement. The Court will retain jurisdiction over this matter for the purposes of enforcing this Agreement. Violations of the terms of this Agreement may be brought to the Court for enforcement and such further relief the Court determines appropriate.
- B. For thirty-six (36) months following the Effective Date, the Court shall have jurisdiction to enforce the terms of this Agreement. At the end of thirty-six (36) months, absent an order extending or shortening the term of the Agreement, this Agreement will automatically terminate, the Court's jurisdiction will end, and the Court shall dismiss the case with prejudice. During this thirty-six (36) month period, the Department shall not seek termination of all or part of an order adopting this Agreement except as provided in this Agreement.
- C. Violations of the terms of this Agreement may be brought to the Court for an extension of the Court's jurisdiction, specific enforcement of any provision, and such further relief the Court determines appropriate. The Court may terminate the Agreement and dismiss the case before the thirty-six (36) months if the Court finds, based on a stipulation of the Parties or following fact-finding proceedings, that Defendants have substantially complied with the requirements of this Agreement for one (1) year.
- D. The provisions of this Agreement are severable. If any court holds any provisions of this Agreement invalid, that invalidity shall not affect the other provisions of this Agreement.

- E.** By mutual agreement, the parties may change the terms of this Agreement, including the timetables for taking specific actions, provided that such mutual agreement is memorialized in writing, signed by the Parties, and approved by the Court. Any provision of this Agreement may be waived only by an instrument in writing executed by the waiving Party. Failure by any Party to enforce this Agreement or any provision thereof will not be construed as a waiver.
- F.** This Agreement shall be governed by the laws of the State of Washington without regard to conflict of law principles. None of the Parties hereto shall be considered to be the drafter of this Agreement or to any provision thereof for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause the provision to be construed against the drafter thereof.
- G.** Nothing in this Agreement shall limit the authority of DRW as the Protection and Advocacy system for the State of Washington.
- H.** Principles of Interpretation. The following principles of interpretation apply to this Agreement:
1. The headings herein are for reference purposes only and do not affect in any way the meaning or interpretation of this Agreement.
 2. Definitions apply to the singular and plural forms of each term defined.
 3. References to a person include references to an entity, and include successors and assigns.
 4. All representations, warranties, and covenants set forth herein shall be deemed continuing and shall survive the execution of this Agreement.
 5. This Agreement binds and inures to the benefit of the Parties and their successors.
 6. Each of the Parties agree, without further consideration, and as part of finalizing the Agreement hereunder, that they will in good faith promptly execute and deliver such other documents and take such

other actions as may be necessary to consummate the subject matter and purpose of the Agreement.

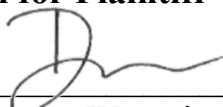
VI. FEES AND COSTS

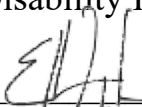
- A.** Within thirty (30) days of Court approval of this Agreement, Defendants will pay Plaintiff \$1,500,000.00 (one million, five hundred thousand dollars, and zero cents) for fees and costs incurred in pursuing the claims resolved through the Agreement.
- B.** As compensation for monitoring progress towards substantial compliance with this Agreement, Defendants shall pay Plaintiff the sum of \$300,000.00 (three hundred thousand dollars and zero cents) annually while this Agreement remains in effect. This amount shall be due and payable on the anniversary of the Effective Date of this Agreement for monitoring occurring during the preceding year. For periods of time where the Agreement is not in effect for an entire year, the Parties agree that the amount for that year will be prorated based on the number of months during the year that this Agreement was in effect. In exchange for this annual payment, Plaintiff's counsel waives any future claim for any and all attorneys' fees or costs they may incur related to monitoring this Agreement as long as this Agreement remains in effect.
- C.** Plaintiff shall be entitled to recover reasonable costs and attorneys' fees if it successfully moves the Court to enforce this Agreement, including to extend the term of the Agreement, to oppose early termination of the Agreement, or to otherwise enforce substantial compliance under Section V of this Agreement.

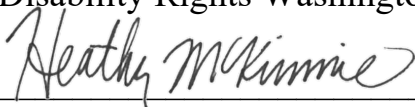
For the Plaintiff

By:  Date: 10/10/2023
Carrie Basas, WSBA No. 47292
Executive Director, Disability Rights Washington

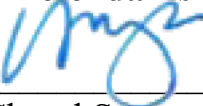
Counsel for Plaintiff

By:  Date: 10/10/2023
Danny Waxwing, WSBA No. 54225
Disability Rights Washington


By:  Date: 10/10/2023
Ethan Frenchman, WSBA No. 54255
Disability Rights Washington

By:  Date: 10/10/2023
Heather McKimmie, WSBA No. 36730
Disability Rights Washington

For the Defendants

By:  Date: 10/10/2023
Cheryl Strange
Secretary, Washington State Dept. of Corrections

Counsel for Defendants

By:  Date: 10/10/2023
Candie Dibble, WSBA No. 42279
Washington State Office of the Attorney General

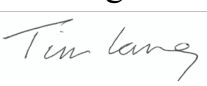

By:  Date: 10/10/2023
Tim Lang, WSBA No. 21314
Washington State Office of the Attorney General

Exhibit 1

 Health Services Guideline	APPLICABILITY HEALTH SERVICES	AUTHOR/OWNER CHIEF MEDICAL OFFICER
	EFFECTIVE DATE 10/2/2023	NUMBER <i>For future use</i>
	TITLE Guidelines for Healthcare of Transgender Individuals	

REVIEW / REVISION HISTORY

Review or Revision?	By Whom:	Title:	Date:
Revised	Karie Rainer	Director of Behavioral Health	6/13/2023
Revised	Karie Rainer	Director of Behavioral Health	9/6/2023

SUMMARY OF REVIEW / REVISION

Updated to new format.

APPROVED

Signature on file

MARYANN CURL, MD MS
Chief Medical Officer

10/2/2023

Date Signed

Signature on file

KARIE RAINER, PhD
Director of Behavioral Health

10/2/2023

Date Signed

DESCRIPTION:

Guidelines for Healthcare of Transgender Individuals.

PURPOSE / RATIONALE:

The WA Department of Corrections Guidelines for Healthcare of Transgender Individual provides direction for the medical management and treatment of transgender incarcerated individuals. WADOC will deliver individualized gender-affirming medical and mental health care consistent with the HCA Transhealth Program. Medical necessity of any gender-affirming treatment or service will be determined according to the HCA Transhealth program standards.

PROTOCOL/PROCEDURE:

I. Definitions:

Gender means the socially constructed roles, behaviors, expressions and identities of girls, women, boys, men, and gender diverse people. Gender identity is not binary (i.e., either man or woman) nor static; it exists along a continuum and can change over time. Gender includes a person's gender identity and gender expression.

GA-CRC: The Gender-Affirming Care Review Committee (GA-CRC) is comprised the Chief Medical Officer, the Director of Mental Health and the Chief of Psychiatry or their designees. They are available for consultation regarding transgender healthcare as requested by facility healthcare teams. They will also make the determination of the medical necessity of a person's request for gender affirming surgery if there is a lack of consensus at a lower level as well as review appeals if there is a denial of care. In making its decision, the GA-CRC will review any consultation with a GAMCC or GAMHCC.

Gender-Affirming surgery is the surgery to change primary and/or secondary sex characteristics to affirm a person's gender identity.

Gender Dysphoria means diagnoses under the ICD or the Diagnostic and Statistical Manual for Mental Disorders that are associated with transgender status including any Gender Identity Disorder (such as dual-role transvestism or transsexualism), Gender Incongruence or Unspecified Endocrine Disorder.

Gender Expression refers to the ways in which a person manifests the gender-related traits of masculinity, femininity, both, or neither through appearance, behavior, dress, speech patterns, pronouns, name, preferences, and more.

Gender Identity means an individual's sense of being either male, female, both; and neither. This may be different from what is traditionally associated with an individual's assigned sex at birth.

HCA Transhealth Program is the Washington Health Care Authority Apple Health Transhealth Program. <https://www.hca.wa.gov/health-care-services-and-supports/apple-health-medicaid-coverage/transhealth-program>

Hormone Replacement Therapy (HRT) are medications that allow for the acquisition of secondary sex characteristics more aligned with an individual's gender identity.

Intersex is an umbrella term for variations in sex traits or reproductive anatomy that are not classified as typically male or female. Some intersex traits may never be identified, while others are identified at birth, during puberty, or later in life.

IPL Device is a handheld cosmetic device that emits a broad-spectrum, intense pulsed light (“IPL”) that is used for hair removal. These devices are available for use through Health Services clinics and can be used for hair removal not associated with surgical preparation.

Non-Binary describes people who do not identify exclusively as a man or woman. Non-Binary is an umbrella term that describes a range of people who may identify as being without gender, having a fluctuating gender, and/or a having gender that is between or outside the categories of man and woman. People with non-binary gender identities may or may not use more specific terms to describe their genders, such as agender, genderqueer, gender fluid, two spirit, bi-gender, pan-gender, gender non-conforming, or gender variant.

Sex Assigned at Birth means the sex (male, female, intersex) assigned to a person at birth, generally based on biological attributes such as anatomy, chromosomes, and hormones.

Sexual Orientation means a person's identity in relation to the gender or genders to which they are sexually attracted.

Transgender (TG) describes people whose gender identity is different from their sex assigned at birth. For the purposes of this policy, TG is an umbrella term that refers to transgender, intersex, and non-binary people unless explicitly stated otherwise.

Transition refers to the period during which TG individuals may change their physical, psycho-social and/or legal characteristics to the gender with which they identify.

TransTape is an elastic, therapeutic tape that is an alternative to a chest binder.

II. Multidisciplinary Approach and Management:

Healthcare for TG individuals requires a multidisciplinary approach. These teams, comprised of staff described below, will ensure a person's care needs are identified and addressed comprehensively. They will develop a collaborative treatment plan to address the healthcare needs of the individual, across all disciplines. The plans will include the all aspects of gender-affirming care available through WADOC, such as mental health care, medical care, HSR's and social transitioning support.

If a patient is not approved for a gender-affirming medical treatment or service, a case coordination meeting will occur among the patient's mental health provider, the GAMS, the GAPA, and any GAMHCC who has evaluated the patient's recent request for care. The patient will have the opportunity to attend and address the case coordination meeting. The case coordination meeting will occur within one month of the decision by the GA-CRC to deny care. The meeting will result in a treatment plan and, if applicable, will establish criteria and/or timelines for when the patient may be eligible for re-evaluation for the denied gender-affirming medical treatment or service.

Respect and trust are essential to a clinician-client (physician-patient) relationship. Respectful language and terms should always be used when discussing or referring to individuals, regardless of gender. Once an individual has identified as TG, use of pronouns or salutations preferred by the TG individual is expected. If a person's pronoun preference is unknown, the individual should be asked. This practice is more likely to facilitate cooperative relationships between the TG individual and others, and generally reduces the stress of gender transition and other healthcare services.

The people comprising the multidisciplinary team include:

GENDER-AFFIRMING PROGRAM ADMINISTRATOR (GAPA)

The GAPA oversees the delivery of care services for transgender individuals. They will ensure that Patient Care Navigators (PCN) are available in a timely manner to engage transgender individuals in care and facilitate access to all other services to include the Gender Affirming Medical Specialist. The GAPA will meet with all PCNs monthly to provide education and training to ensure cultural competency in their work. The GAPA may be involved in providing direct support and education services for those individuals with more complex needs and as people may be considering surgical interventions.

GENDER-AFFIRMING MEDICAL SPECIALIST (GAMS)

The GAMS will be responsible for all gender-affirming medical treatments and services in WADOC unless stated otherwise. WADOC will provide treatments and services that the GAMS determines are medically necessary according to the current HCA Transhealth Program standards, to include providing documentation to support requests for surgical intervention, when indicated. The GAMS is available for consultation regarding transgender healthcare as requested by facility healthcare teams. A back-up GAMS will be available for consultation and coverage during extended (greater than 10 business days) absences of the GAMS.

GENDER-AFFIRMING MEDICAL COMMUNITY CONSULTANT (GAMCC)

WADOC will consult as necessary with a GAMCC who is a community expert in gender is-affirming medical care. The GAMHCC may be a provider through Transline, a transgender healthcare specialist on Rubicon, or a community expert in transgender healthcare.

GENDER-AFFIRMING MENTAL HEALTH COMMUNITY CONSULTANT (GAMHCC)

A GAMHCCs is a community expert in gender-affirming mental health care. They will provide case consultation and training to staff on gender-affirming mental health care through monthly clinical

consultation groups and evaluate patients for surgeries as required by the HCA Transhealth Program and according to these Guidelines.

GENDER-AFFIRMING MENTAL HEALTH SPECIALIST (GAMHS)

GAMHSs will provide mental health services for transgender patients, as well as consultation and referrals for medical treatments and services as necessary. They will perform the second of two psychosocial evaluations for surgeries when required by the HCA Transhealth Program. Assessment and treatment services will be provided per the DOC Health Plan. Any referrals to include psychological evaluation will be made in consultation with the GAMHCC. The GAMHS will participate in monthly Case Consultation meetings co-facilitated by a GAMHCC and GAMHS, which will include training and consultation regarding mental health care for transgender patients. The Department will use telehealth as necessary to ensure that the delivery of mental health treatment by Gender-Affirming Mental Health Specialists is uninterrupted by a vacancy lasting longer than 10 business days.

PATIENT CARE NAVIGATOR (PCN)

The PCN will assist treatment providers with case management, and case tracking. They will provide patient education materials, to include the Transgender Toolkit for Incarcerated Persons, about gender-affirming medical treatments and services in WADOC. This will be the first point of contact for each patient when they identify as TG, provided that TG individuals will not be required to meet with the PCN prior to receiving gender-affirming medical or mental health care. The GAPA will be available to meet TG people at any WADOC facility either in person or via telehealth services and will provide back-up services when PCN positions are vacant for more than 10 business days. The GAPA will meet with all PCNs monthly to provide education and training to ensure cultural competency in their work.

PRIMARY CARE TEAM

The Primary Care Team will provide for a patient's primary care as described in the DOC Health Plan. They will monitor and screen patients who receive gender-affirming healthcare in coordination with or at the direction of the Gender-Affirming Medical Specialist and the PCN. Such services may include performing blood draws and other tests, cancer screening, and post-operative care following discharge from inpatient settings.

III. Care Services

All treatments and services that are covered as a gender-affirming treatment under the current HCA Transhealth Program will be accessible to TG individuals in WADOC custody. Medical necessity determinations will be made upon individualized assessment and according to these guidelines. Such treatments and services include, but are not limited to, Hormone Replacement Therapy (HRT), gender-affirming surgery, mental health therapy, permanent hair removal, voice therapy, and support with social transition. No person will be required to participate in any gender-affirming medical or mental health process, service, or treatment. However, to obtain treatments or services outlined below, patients must participate in the processes detailed in these guidelines and as determined medically necessary by the relevant providers as described.

A. Navigation Services:

A PCN will be available to meet with TG individuals in custody at all Department facilities either in person or by telehealth. A PCN's responsibilities will include but may not be limited to the following:

1. provide patient education materials (i.e., WA DOC Toolkit for Transgender Individuals) about gender-affirming medical treatments and services, and the process for accessing such treatments and services in WADOC.
2. will meet with a TG person within 10 business days of identification of TG identity to WADOC.
3. Individuals can also request an appointment with the PCN via kite without a requirement that they have previously been identified as TG by WADOC.

B. Gender Affirming Mental Health Care:

Mental Health services will be available to all individuals per the DOC Health Plan. For those people interested in mental health services an assessment will be conducted and an individualized treatment plan developed to address their needs. These treatment needs may be associated with gender transition or may not. Everyone will have the opportunity to work with a routinely assigned therapist or they may request, through the routinely assigned therapist, to work with a DOC Gender-Affirming Mental Health Specialist. No one will be required to participate in mental health services though some other gender affirming care may be dependent on participating in a mental health assessment. A person may request to meet with a mental health therapist by kiting or other Health Services staff and will be seen within 28 days of the receipt of the request. Referral for some gender affirming specialty care may be dependent on participation in a mental health assessment.

The GAMHS is one of the disciplines responsible for providing an assessment of and determination of a diagnosis of Gender Dysphoria for individuals identifying as transgender. If, in the opinion of the GAMS or GAMHS, a patient presents with serious co-occurring mental health issues that are not reasonably well-controlled and, in the provider's opinion, requires the differential diagnosis of a mental health professional, the patient shall be assessed for a differential diagnosis within 42 days of referral to a GAMHS or GAMHCC. If a GAMHS does not diagnosis a patient with Gender Dysphoria, then the patient may appeal the decision to a GAMHCC. Any appeal of the decision of the GAMHCC will be reviewed by the GA-CRC.

Personality testing shall not be used for the assessment or diagnosis of gender dysphoria or as a tool for determining access to gender-affirming treatments or services. If a transgender patient's treating mental health provider believes that personality testing of a patient is indicated for some other reason, the provider shall document a consultation with the GAMHCC. The GAMHCC will opine on whether personality testing is indicated and what assessment shall be used. Following testing by a GAMHS or the patient's provider, the GAMHCC will opine on what conclusions and recommendations may be drawn from such testing.

C. Gender Affirming Medical Care:

HRT will be medically indicated upon a determination by the GAMS that a patient identifies as transgender; has provided informed consent; and has no major medical contraindications. A diagnosis of Gender Dysphoria is not required for prescription of HRT.

1. Any person with an active HRT prescription when they enter DOC custody will have their prescription continued, for at least 30 days, by a Primary Care Practitioner (PCP) until they can meet with the GAMS and have initial HRT labs drawn. There will be an automatic referral to the GAMS placed when the bridge prescription is written.
2. A TG patient will kite the GAMS to schedule an appointment. The patient will not be required to meet with the PCN to have an appointment with the GAMS. The patient will be seen by the GAMS within 28 days from the receipt of the request.
3. The GAMS will coordinate with the PCP if additional labs or work up is needed prior to start of HRT.
4. The GAMS will be responsible for determining appropriate dosing and administration methods (i.e., injection, patches, or pills).
5. The GAMS will be responsible for directing, ordering, and reviewing screening and lab work in coordination with PCPs.
6. If the GAMS finds that the patient is not fit for HRT, the patient will be entitled to a second opinion as follows:
 - a. If the GAMS denies the patient access to HRT due to medical contraindications, the GAMS will automatically consult with a GAMCC. They will review the case together and develop a plan of care which will be implemented by the GAMS.
 - b. If the GAMS finds that the patient is not fit for HRT due to mental health contraindications, the patient will be entitled to a consultation by a GAMHCC without need for an appeal. The GAMS will initiate an internal referral through OMNI-HS to the GAMHCC. Within 14 days of the denial, the PSR will schedule the appointment with the GAMHCC for the second opinion. Following the assessment by the GAMHCC, they will meet with the GAMS to jointly develop a plan of care which will be implemented by the GAMS.

D. Primary Care Services:

PCPs will perform services related to gender-affirming medical care in coordination with or at the direction of the GAMS and other specialists. Such services may include performing blood draws and other tests to monitor hormone levels, cancer screening, preoperative evaluation (for surgical clearance) and post-operative care following discharge from inpatient settings. PCPS complete general care such as prolactin evaluation, liver work up etc., if needed prior to surgery or start of HRT. PCPs will perform such services on timeframes identified by the GAMS or other specialists and consistent with current community standards of

care.

PCPs may only alter gender-affirming treatment with the approval of the GAMS or the back-up GAMS. In rare instances of medical crisis where the GAMS and back-up GAMS are unavailable, the PCP must have the approval of the Facility Medical Director (FMD) to alter a gender-affirming treatment, then consult with the GAMS as soon as practicable. If both the GAMS and back-up GAMS will be unavailable for a period longer than 10 business days, then the PCP will initiate a consultation with a transgender health specialist on Rubicon or TransLine ([TransLine: Transgender Medical Consultation Service \(zendesk.com\)](https://zendesk.com)) and alter or initiate treatment with the approval of the FMD.

E. Gender Affirming Surgery:

The same gender-affirming surgeries as those covered by the current HCA Transhealth Program will be provided to transgender individuals in DOC. A patient may request, be evaluated, and scheduled for more than one type of surgery at the same time. A patient's eligibility for surgery will not include consideration of the patient's remaining sentence unless the surgeon determines there is insufficient time for an individual to convalesce prior to release. A patient's eligibility for surgery will not include consideration of an indeterminate sentence, Immigration and Customs Enforcement detainer, or being in the Department pursuant to the Interstate Compact. The determination of a specific surgical intervention will be made between the patient and the surgeon.

Gender-affirming surgeries will be provided as follows:

1. The GAMS will evaluate all patients' requests for gender-affirming surgery and determine medical fitness for the requested surgery with consultation from the patient's PCP and evaluate for medical necessity criteria. If there are no unresolvable medical contraindications to surgery, the GAMS will refer the patient for surgery, unless a psychosocial evaluation is required under the HCA Transhealth Program criteria, in which case the patient will be referred to a GAMHCC for psychosocial evaluation. Either of these referrals will be made by the GAMS by submitting a medical consult in OMNI. The Consult to refer for surgery will be submitted by the GAMS after all documents required for authorization have been gathered and all other presurgical criteria have been met, such as completion of 12 months of HRT when indicated. The consult will be approved at Level 1 by the FMD, and the scheduling process will be initiated by the PSR (i.e., contact made with the surgeon's office) within 14 days.
2. If the GAMS determines there may be unresolvable medical contraindications to surgery, the GAMS will automatically consult with a GAMCC. The GAMS and GAMCC shall review the case and develop a plan of care which will be implemented by the GAMS. If the GAMS denies the patient a referral for surgery after consultation with the GAMCC, the patient will be entitled to appeal the second opinion to the GA-CRC for decision. They will do this by submitting a Patient Appeal of Care Review Committee form (13-578) to the Health Services Manager at their location. The GA-CRC will return a decision within 28 days.

3. For surgeries requiring one psychosocial evaluation, the Department will evaluate and schedule patients according to the following process:
 - a. A GAMHCC will perform the psychosocial evaluation via telehealth or in person if necessary. The GAMS will submit a consult in OMNI to schedule this appointment. The FMD will approve at Level 1 and the scheduling process will be initiated by the PSR (i.e., contact made with the GAMHCC's office) within 14 days.
 - b. The PSR will schedule the psychosocial evaluation for the first available appointment prior to a patient's Max Release Date.
 - c. The GAMHCC will evaluate medical necessity and patient fitness under the HCA Transhealth Program requirements and document their findings and recommendations in a letter that meets the HCA Transhealth Program requirements. A copy of the letter will be included in the patient's medical records.
 - d. If both the Gender-Affirming Mental Health Community Consultant and GAMS approve the patient for surgery, the FMD will approve the Consult for surgery and within 14 days the PSR will initiate scheduling (i.e., contact made with the surgeon's office) the soonest available consultation with a surgeon.
 - e. Upon a determination by the Gender-Affirming Mental Health Community Consultant that the patient is not eligible for surgery, the case will be automatically referred to the GA-CRC for review. The GAMS will submit a GA-CRC Consult with a referral to GA-CRC (not Level 1 or Level 3) completed by the FMD or Psych 4. The GA-CRC will decide whether to authorize a second evaluation by a different Gender-Affirming Mental Health Community Specialist or deny the requested surgery. This decision will be communicated to the patient in writing within 28 days.
4. For surgeries requiring two psychosocial evaluations, per the HCA Transhealth Program, the GAMHS at the facility will provide the second evaluation after receipt of the first evaluation (per the process above) and schedule patients according to the following process:
 - a. The GAMS will submit an internal referral to the GAMHS to complete an evaluation and letter documenting their assessment for the purposes of informing the surgeon of their evaluation.
 - b. The PSR will schedule the psychosocial evaluation for the first available appointment prior to a patient's Max Release Date.
 - c. For the second psychosocial evaluation, the GAMHS will evaluate medical necessity and patient fitness under the HCA Transhealth Program requirements and document their findings and recommendations in a letter that meets the HCA Transhealth Program requirements. The GAMHS will make an evaluation decision and complete any letter within

42 days of referral.

- d. The outcome of the evaluation will be documented and provided to the surgeon.
 - e. This second psychosocial evaluation will be completed only after receipt of the completed first psychosocial evaluation approving the person for surgery.
 - f. If this second evaluation does not approve the person for surgery the GAMS will automatically refer the person for a second opinion with a GAMHCC by submitting a Medical Consult and following the process outlined above.
 - i. If the second evaluation of a GAMHCC approves a patient for surgery after a positive referral by the first evaluator, the FMD will approve the Consult for surgery and within 14 days the PSR will initiate scheduling (i.e., contact made with the surgeon's office) the soonest available consultation with a surgeon.
 - ii. If the second evaluation of a GAMHCC does not approve a patient for surgery after a positive referral by the first evaluator, the case will be reviewed by the Department's GA-CRC for a decision. When this occurs, the GAMS will submit a GA-CRC Consult and the FMD or Psych 4 will refer for GA-CRC (not Level 1 or Level 3).
 - iii. The patient will be notified of these outcomes in writing.
5. The GAMS will receive a copy of the letters documenting the second evaluator's findings and recommendations, and copies will be included in the patient's medical records.
6. The FMD will approve patients for surgery consultations according to the determination of the GAMS and any required psychosocial evaluation.
- a. A PSR will schedule patients who have been approved for a surgery consultation by the FMD for the soonest available consultation with a surgeon, regardless of whether the appointment is after a patient's Max Release Date. The scheduling process will be initiated by the PSR (i.e., contact made with the surgeon's office) within 14 days.
7. Surgery will be scheduled for the soonest available date unless the surgeon determines there is insufficient time for an individual to convalesce prior to release. In such circumstances, there will be an attempt to schedule the surgery for a date post-release in consultation with the surgeon.
8. If a surgeon does not approve a patient for surgery, the case will be automatically referred to the GA-CRC for review, who will decide whether to authorize a second consultation with another surgeon or deny the patient's requested surgery. The GA-CRC Consult will be completed by the GAMS and referred for GA-CRC by the FMD or Psych 4.

9. Patients approved for gender-affirming surgery will be provided all pre- and post-operative care or services recommended by the surgeon, including pre-surgical prosthetics and permanent hair removal (not IPL or other non-permanent hair removal methods). The GAMS will issue HSRs for pre- and post-surgical items as recommended by the surgeon.
10. For those patients needing pre-operative permanent hair removal, the PSR will schedule electrologist services as indicated by the surgeon. These appointments will be scheduled (i.e., contact made with the provider's office) within 14 days of direction from the surgeon.
11. Post-operative care will be planned through an MDT process to include the GAMS, PCP, Nurses and any other relevant providers. This will occur at least one month prior to surgery and include review of information provided by the surgeon regarding post-operative care needs.
12. Patients will recover from gender-affirming surgery in the least-restrictive setting where they can receive appropriate care according to a patient's post-operative care plan as determined by the patient's surgeon. The GAMS, in coordination with the FMD, will issue HSRs for single cells as necessary for post-operative care.
 - a. When vaginal dilation is medically necessary for a TG individual, WADOC will ensure the individual has access to dilation tools and a semi-private setting for a duration and frequency as needed to meet the dilation schedule recommended by the individual's surgeon or GAMS. A semi-private setting means a space in which an individual will have waist to ankle privacy and where the individual cannot be viewed by custodial staff or other people in custody, except due to exigent circumstances. Individuals who require the use of dilation tools will not lose access to privileges, including programs and jobs, due to their use of dilation tools. WADOC will provide such individuals with accommodations to ensure that they retain uninterrupted access to privileges, including programs and jobs.
13. If a patient's surgical procedures and follow-up care are not complete at the time of their release from incarceration, the HS Reentry staff will assist with continuity of care planning.

F. Other Treatments and Services:

1. WADOC will provide any other gender-affirming treatments and services (e.g. voice therapy, permanent facial hair removal) when determined medically necessary by the GAMS and an external provider, as appropriate. The medical necessity determination will be made according to the requirements of the current HCA Transhealth Program. All appointments with external providers will be scheduled within 14 days of a PSR receiving the referral (i.e., contact made with the provider's office). Denials of a requested treatment or service by the GAMS or an external provider will be automatically referred to the GA-CRC for review.
2. The GAMS, in consultation with the GAPA, will evaluate and issue HSRs for gender-affirming items

and accommodations as medically necessary as treatment for Gender Dysphoria, including pre- and post-operative property (e.g., prosthetics, dilators, and lubricant), TransTape, and other items. A person will not be housed in restrictive housing due to their use of these items. Gender-affirming property for which an HSR is required will be ordered within 14 days from when it is approved and provided to the individual within 3 days of receipt at the local facility. Special rules for issuing items are as follows:

- a. The GAMS will issue an HSR for TransTape following an evaluation that determines TG identification, informed consent, chest binders are not medically appropriate, and no major medical contraindications exist. Prior to issuing an HSR for TransTape at any facility other than WCCW, the GAMS will consult with the facility Superintendent to ensure there are no security interests which would preclude an HSR for that patient's current classification status.
 - b. The GAMS will issue an HSR for an electric shaver to indigent transgender individuals with sensitive skin who cannot tolerate a safety razor when necessary, as treatment for Gender Dysphoria.
 - c. The GAMS will issue an HSR to individuals in intake or restrictive housing for additional state-issued razors, electric shavers, and additional opportunities to shave, when necessary, as treatment for Gender Dysphoria.
3. WADOC will not charge individuals for medical visits to use an IPL device; for fitting, receiving, or replacing gender-affirming property; or otherwise for care related to the possession, maintenance, and use of gender-affirming property for which an HSR is required, including TransTape, prostheses, and dilation tools.
 - a. Eye protection provided with the IPL device or acquired for use with the IPL device will be maintained by unit staff when not in use. Individuals will be permitted to access eye protection on a "check out" basis when using the IPL.
 - b. WADOC will draft a "user agreement" that sets out the criteria for IPL use expectations.
 4. The GAMHS, GAMHCC and/or GAMS, who are directly familiar with the patient in question, will provide information about an individual's transition, mental health, safety and medical needs to the HQ MDT (Housing Committee).
 5. Upon request, the GAMS will provide letters that certify appropriate clinical treatment for gender transition if necessary to satisfy the Social Security Administration, and/or State Department rules for a change of gender marker. Gender-affirming surgery is not necessary to certify appropriate clinical treatment for gender transition. The GAMS will certify appropriate clinical treatment for gender transition if an individual has had gender-affirming surgery, is receiving HRT, has lived in a gender role that is congruent with their gender identity for at least 6 months, has received individual

psychotherapy for gender dysphoria or gender incongruence, or has otherwise received appropriate clinical treatment for gender transition.

G. Release Planning:

Release planning and continuity of gender-affirming care will be provided as follows:

1. The PSWs and Reentry Nurses will assist patients with continuity of care planning, including post-operative care and follow-up care.
2. The PSWs and Reentry Nurses will assist with referrals for patients for treatment or services that were not completed at the time of release from incarceration.
3. Patients on HRT will release with at least a one-month supply of prescriptions for HRT and injection supplies, as relevant. These will be ordered by PCP with other release medications.
4. Patients should release with any gender-affirming property issued to them (for example prostheses, dilators, chest binders, and underwear) and at least a one-month supply of non-durable gender-affirming items (for example TransTape or lubricant).
5. Patients should be provided a copy of any treatment authorization referral letters, the contact information for any psychosocial evaluator or surgeon whom they have seen or are scheduled to see, and after-care instructions, as relevant.

CORRELATES WITH DOC POLICY / FORM:

REFERENCES