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Record of Variance Action for November 12, 2019 Public Meeting

This variance allows the Department to house people in Separation Status.

Type of Variance: Limited

Date on which variance will commence: November 12, 2019

Time period, if any: Three months, ending February 12, 2020

Minimum Standard for which Variance is Granted: 1-03(c-d, j) (Personal Hygiene); 1-04(b)(2-3) (Single Occupancy, including storage and desk space); 1-05(a-c) (Lock-In); 1-06 (Recreation); 1-07(c) (Religion) 1-08(f)(4) (Law Library Access); 1-08(g)(2-4) (Legal Documents and Supplies Access); 1-09 (c-d, f) (Visiting); 1-11(c-d) (Correspondence); 1-12(d) (Incoming Packages); 1-13(a-c) (Publications); and 1-14(a-b) (Access to Media)

Date on which Board of Correction first approved variance (for renewals only):

Requirements imposed as conditions on variance:

1. All newly admitted people in custody shall receive a medical and mental health intake, per Minimum Standard § 3-04, prior to body scan.
2. The Department shall place a person in Separation Status only if the person: (i) has a positive body scan; or (ii) refuses a body scan.
3. The Department shall:
 - (a) House people in Separation Status within four (4) hours of a positive scan or refusal to scan, absent extenuating circumstances, which shall be documented and communicated to the Board in each instance;
 - (b) Notify CHS of each person placed into and/or released from Separation Status upon the conclusion of each tour. Each notification is to include a notification to Pharmacy and individual-specific information (i.e., Name and Book and Case

- number). For people released from Separation Status, DOC shall provide CHS with the person's new housing location;
- (c) CHS shall provide daily medical rounds to people housed in Separation Status and shall have the authority to determine if any person should be removed for clinical evaluation or treatment.
 - (d) Institute one (1) Correction Officer-to-one (1) person in custody observation of each person throughout placement in Separation Status and fully document such observation.
 - (e) By the next business day, notify the Board in writing of any instances in which an individual is denied the opportunity to receive a daily scan and provide the reasons for such denial.
 - (f) Provide opportunities for regular visiting and attorney visiting by a secure video conferencing system that the Department shall have in place starting December 1, 2019
 - (g) The Department shall consult with the Office of Court Administration on producing people in Separation Status to court and shall produce any person the Court orders to be present. If the Court requests that the person not be produced, the Department shall, to the extent possible, enable the person to participate in his court proceeding through a secure video-conferencing system.
4. When a person remains in Separation Status for 72 hours, the Chief of Department, the Bureau Chief of Security, and the GRVC Warden ("Committee") shall meet to develop a plan for moving the person out of Separation Status. The Committee shall meet and develop a plan every 72 hours until the person is moved out of Separation Status. The Department shall provide each written plan to the Board within one business day of the Committee's meeting.
 5. Upon request, loose-leaf legal materials shall be provided to people in Separation Status. This shall include legal mail and Law Library requests. The Department may institute limits on the number of loose-leaf pages a person may have in the person's cell at any given time.
 6. When a person remains in Separation Status for 48 hours, the Department shall begin to afford one hour per day of indoor recreation. Recreation will be provided on the housing unit in a closed space but outside of the person's assigned cell. Recreation space shall include appropriate recreation equipment.
 7. The Department shall not limit the number or duration of confidential calls to attorneys, the Board of Correction, the Department of Investigation, or any other monitoring body.
 8. Signs shall be posted at intake to advise individuals in custody that they can (i) make complaints about body scanners/body scanning to DOC's Office of Constituent and Grievance Service (OCGS) or 311; and (ii) upon release from DOC custody, request the total accumulated radiation exposure from all body scans of that person conducted during the incarceration.

9. By the next business day of a person's placement in and release from Separation Status, the Department shall provide the Board access to all supporting documentation related to the person's placement and release. The Department shall provide the Board with a monthly public report on the implementation of Separation Status. The requirements for the notification and report are outlined in Appendix A hereto.
10. The Department shall offer a daily opportunity to body scan to each person in Separation Status.
11. The Department shall provide access to newspapers. The Department may limit the number of newspapers that a person may have in cell at any one time.

APPENDIX A
Reporting Requirements

1. The Department shall notify the Board in writing of the specific location(s) of any units designated for Separation Status, including opening and closing dates of each unit.
2. The Department's notification to the Board regarding placement in Separation Status shall include:
 - (a) Date and time of positive scan or refusal to scan
 - (b) Facility of scan
 - (c) Reason for scan, including COD number, if applicable
 - (d) Date and time of arrival to Separation Status
 - (e) Reason for placement (positive scan or refusal)
 - (f) Date and time CHS notified of placement in Separation Status
 - (g) A high-quality printout of the scan image, if applicable
 - (h) Form SEP-1
3. The Department's notification to the Board regarding removal of an individual from Separation Status shall include:
 - (a) Date and Time of negative rescan
 - (b) Dates and Times of positive rescans (in Separation Status) and refusals to rescan, if applicable
 - (c) Date and Time of removal from Separation Status
 - (d) Reason for removal (e.g., cleared scanner, removed for clinical evaluation and/or treatment, discharged from custody, etc.)
 - (e) Description of contraband recovered (if any)
 - (f) Form SEP-2
4. The Department shall produce monthly public reports with the following metrics reported in total since body scanners were implemented and by reporting month:
 - (a) Number and percent of placements in Separation Status by reason for placement (positive scan, refusal to scan)
 - (b) Number of unique individuals placed in Separation Status
 - (c) Number of unique individuals with multiple placements in Separation Status disaggregated by number of placements
 - (d) Number and percent of placements with contraband recovered disaggregated by type of contraband recovered
 - (e) Number of people removed from Separation Status during the reporting period, in total and disaggregated by removal reason (cleared scanner, removed for clinical evaluation and/or treatment, discharged from custody, etc.)
 - (f) The Mean, Median, Min, Max length of stay in Separation Status (in hours), overall since start of the Department's use of Separation Status and by month
 - (g) Number of people currently in Separation Status as of the last day of the reporting period
 - (h) The Mean, Median, Min, Max, time in Separation Status for those still in Separation Status as of last day of the reporting period.

- (i) The number of people in Separation Status who missed a scheduled court appearance.