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May 5, 2017

**ADMINISTRATIVE REGULATION
NUMBER**

**OPR: OFFICE OF HEALTH SERVICES
621**

ADMINISTRATIVE REVIEW FOR INVOLUNTARY PSYCHOTROPIC MEDICATION(S)

I. GENERAL

This Alabama Department of Corrections (ADOC) Administrative Regulation (AR) establishes the responsibilities, policies and procedures for administrative review for involuntary psychotropic medication.

II. POLICY

The recommendation to involuntarily treat an inmate with psychotropic medication will be considered only after less restrictive/intrusive attempts have been exhausted and were unsuccessful. The Institutional Psychiatrist and other members of the inmate's treatment team will evaluate the inmate, and the Involuntary Medication Review Committee will review their recommendation. In no instance shall an inmate be threatened by any individual associated with ADOC, including its employees and/or independent contractors, with the use of force or a threat of disciplinary actions such as segregation, loss of privileges, or loss of good time, as a means to coerce the inmate to accept psychotropic medications; however, nothing herein shall restrict the authority of a person providing current mental health care from notifying an inmate regarding the events which might transpire in the event that he or she refuses psychotropic medication, including initiation of the involuntary psychotropic medication process.

III. DEFINITION(S) AND ACRONYM(S)

- A. Refer to AR 602 for definitions of the following terms used in this AR:
 - 1. Intensive Psychiatric Stabilization Unit (SU)
 - 2. Involuntary Medication Review Committee

3. Residential Treatment Unit (RTU)
4. Serious Mental Illness (Seriously Mentally Ill) (SMI)
5. Treatment Team

IV. RESPONSIBILITIES

- A. The Institutional Psychiatrist and other members of the inmate's treatment team are responsible for evaluation of the inmate and submitting their recommendation to the Involuntary Medication Review Committee.
- B. The Involuntary Medication Review Committee is responsible for reviewing the treatment team's recommendation, notifying the inmate of a hearing date, evaluating evidence/testimony, and making and documenting their decision.

V. PROCEDURES

- A. Prior to consideration of involuntary medication, the inmate must be transferred to an Intensive Psychiatric Stabilization Unit for aggressive and intensive mental health treatment. The lack of effectiveness of treatment measures that are less intrusive than involuntary medication must be documented.
- B. Before involuntary psychotropic medication(s) is authorized for an inmate, he/she must:
 1. Have been diagnosed with a serious mental illness, and
 2. Have been transferred to an Intensive Psychiatric Stabilization Unit (SU) for less intrusive treatment; and
 3. Have, as a result of the serious mental illness, a current high likelihood of serious harm to self, others or property, or be unable to successfully perform basic, life-sustaining activities of daily living such as eating or drinking, or manifest severe deterioration in routine functioning, such as repeated and escalating loss of cognitive or volitional control over personal actions; and
 4. Refuse voluntary treatment.
 5. In assessing the current risk of harm, the Committee may consider evidence of past serious harm to self, others and property. If the Committee considers such evidence of past conduct in determining current likelihood of harm, it must document the evidence considered in ADOC Form MH-028, and must document the basis for the determination that these past events support a finding of an ongoing, current serious risk of harm that could present in the current environment

6. The Committee must find that the administration of the contemplated psychotropic medication is in the inmate's best medical interest.
- C. After deciding to pursue the authorization for involuntary medication, the inmate's treatment team will complete an ADOC Form MH-029, Involuntary Medication Request form. The documentation will include:
1. Psychiatric evaluation of inmate's current mental health condition.
 2. Diagnosis in accordance with DSM 5 or the latest subsequent version thereof.
 3. Indication that the inmate presents a current substantial likelihood of serious physical harm towards self or others, a substantial likelihood of significant property damage or who is incapacitated to the extent that he/she is unable to perform basic, life sustaining functions such as eating and drinking or manifests severe deterioration in routine functioning by repeated and escalating loss of cognitive or volitional control over personal actions as a result of the serious mental illness. In assessing the current risk of harm, the Committee may consider evidence of past serious harm to self, others and property. If the Committee considers such evidence of past conduct in determining current likelihood of harm, it must document the evidence considered in ADOC Form MH-028, and must document the basis for the determination that these past events support a finding of an ongoing, current serious risk of harm that could present in the current environment.
 4. Description of the methods used to motivate the inmate to accept medication and the inmate's responses to these efforts.
 5. Consideration and rejection of less intrusive alternatives.
 6. Any recognized religious objection to the medication.
 7. Proposed type, dosage range, and route of administration of the psychotropic medication, including injectable and oral alternatives.
 8. Any history of side effects, including severity, from the proposed involuntary medication.
 9. Statement that the patient-specific goals anticipated from the proposed medication outweigh potential risks or side effects.
 10. Statement that the administration of the contemplated psychotropic medication is in the inmate's best medical interest.

- D. If less intrusive measures are unsuccessful, the Institutional Psychiatrist and the inmate's treatment team will document recommendations on ADOC Form MH-028, Involuntary Medication Request. After completion, the form is submitted to the Involuntary Medication Review Committee Chair. The review process will be conducted in accordance with the *Washington_v. Harper_decision*. The use of involuntary medication as a punitive measure is strictly prohibited.
- E. The Involuntary Medication Review Committee consists of one Psychiatrist (Chair), one licensed psychologist, and either a master's level in psychology, Social Worker, Nurse Practitioner or Registered Nurse. No member of the committee, no person assigned any appeal from the granting of an Involuntary Medication Order, can be currently assigned as the primary mental health provider or primary psychiatric provider for the inmate. "Primary mental health provider" is defined as a professional who, in the last six (6) months has provided treatment, group or individual counseling, medication or medication management, or regularly scheduled care or follow up care. It does not include isolated instances of medication for emergency purposes or consultation for purpose of suicidality or mental health or suicide watch status. This committee will:
1. Meet within one working day of receipt of the Involuntary Medication Request for a preliminary review.
 2. Provide the inmate with ADOC Form MH-029, Notice of Involuntary Medication Hearing, at least one working day prior to the hearing, during which time the inmate may not be medicated. Such Notice shall include:
 - a. The tentative diagnosis;
 - b. Diagnostic criteria currently met by the patient in support of the diagnosis listed;
 - c. The reasons why the staff believes medication is necessary;
 - d. The inmate's rights at the hearing, including the right to call, examine and cross-examine witnesses, the right to an advisor who has not been involved in the inmate's case and who understands the psychiatric issues involved, the right to receive a copy of the minutes of the hearing, the right to appeal the decision administratively and through judicial review, the name of the advisor, and a means to contact the advisor.
 3. Obtain the inmate's signature to acknowledge receipt, and maintain the signed notice with documentation of the hearing process. If the inmate refuses or is unable to sign or acknowledge receipt, then two mental

health staff members will sign the form and the inmate's refusal will be documented in a progress note.

4. Provide a copy of the signed notice to the inmate and to the Warden of the institution.
5. Assign an advisor not currently involved in the inmate's treatment to facilitate the inmate's understanding of the hearing process prior to and during the hearing. The person assigned as the inmate advisor must be independent and knowledgeable in the provision of mental health care based on education and/or training.

F. During the Involuntary Medication Hearing, the inmate:

1. Will be advised of his/her hearing process rights through review of ADOC Form MH-029.
2. May be permitted to be present, provide testimony, or have witnesses testify on their behalf, but the Chair may limit testimony from a witness or witnesses who are cumulative or redundant.
3. May choose of their own free will not to participate in the hearing, or may be removed from the hearing if, after repeated warnings, the inmate continues to interrupt the proceedings inappropriately.
4. Members of the treatment team and other relevant institutional staff will provide evidence relevant to the request for involuntary medication.
5. The inmate will be permitted to question witnesses supportive of involuntary medication.
6. The inmate may call as a witness any treating professional who is or has been active in their treatment, who presents an alternate therapy to involuntary medication.
7. The mental health professionals who initially sought or are currently pursuing an involuntary medication request shall be available in person, or via video, to testify and be questioned by the inmate at the hearing.
8. Minutes of the hearing will be documented.

G. The Chair of the Involuntary Medication Review Committee may limit the inmate's right to be present at the hearing or limit the inmate's right to present testimony and question witnesses at the hearing if, after repeated warnings, the inmate continues to interrupt the proceedings inappropriately, or there are

documented concerns related to institutional security and order.

1. If the inmate chooses not to participate in the hearing or is precluded from attendance by the Chair, the advisor will exercise the rights of the inmate on the inmate's behalf.
 2. If the inmate chooses not to be present at the hearing or is precluded from attending by the Chair, if testimony presented by the inmate or his/her witnesses is substantially limited or disallowed, the Chair will document reasons for the absence of the inmate or restrictions in testimony and questioning as part of the final decision.
- H. The decision to medicate the inmate requires a majority of the committee, with the Psychiatrist among the majority, and remains in effect for ninety days.
- I. Documentation of the decision made by the Involuntary Medication Review Committee will include:
1. Each member explaining his/her decision on ADOC Form MH-040, *Progress Notes*, and signing ADOC Form MH-030, *Record of Involuntary Medication Review* in the inmate's medical file.
 2. The Chair explaining the rationale for the Committee's decision on ADOC Form MH-028, *Involuntary Medication Request*.
 3. Copies of ADOC Form MH-030 will be sent to the Warden and the inmate within one working day of the committee's decision.
 4. Notification to the inmate, concerning his/her option to appeal the decision within one working day after receipt.
 5. Maintenance of the original documentation in the inmate's medical record, with copies forwarded to the Office of Health Services.
- J. The advisor will assist the inmate in submitting an appeal if the inmate desires to do so. An inmate's appeal will be reviewed and the decision rendered in writing by a designated psychiatrist within one working day of its receipt. The designated psychiatrist may not be a member of the inmate's Involuntary Medication Committee. The inmate shall be informed of the right to appeal any decision to a court of appropriate jurisdiction.
- K. An inmate may voluntarily accept medication without invalidating an existing involuntary medication order.

- L. If the treating psychiatrist recommends continuation of the involuntary medication for longer than ninety days, he/she will complete a new ADOC Form MH-028 and submit it to the Chair of the Involuntary Medication Review Committee at least two working days before the previous authorization expires.
- M. The same Involuntary Medication Review Committee, which considered the initial involuntary medication request, will consider the treating Psychiatrist's recommendation on or before the day the prior authorization expires, utilizing the procedures outlined in V.E. through J.
- N. If the second Involuntary Medication Hearing decides that involuntary medication should be continued, the authorization will be in effect for 180 days.
- O. Continuation of the authorization for involuntary medication will be re-evaluated after the initial 180-day order to continue to involuntarily medicate the inmate expires. An inmate will be given a thirty (30) day respite at the completion of the initial 180-day order to involuntarily medicate. The inmate's ability to be self-directed with medication compliance will be evaluated within this time period. Should an inmate choose to miss three consecutive doses at any time within the thirty (30) day respite or show signs of deterioration in his/her mental health, the treating psychiatrist may order a continuation of the authorization for involuntary medication for a second 180 day interval.
- P. The procedures outlined within Section V: subsections C through J are to be followed prior to any reauthorization of involuntary medication for an inmate who has had orders to involuntarily medicate for a total of 365 cumulative days within a consecutive sixteen (16) month period of time.
- Q. The psychiatrist's order for involuntary psychotropic medication will include a note of "Involuntary medication."
- R. The nurse transcribing the Psychiatrist's involuntary medication order for an inmate will note "Involuntary medication" within the medication administration record/system.
- S. If an inmate refuses involuntary medication or does not appear for a psychotropic medication noted on the medication administration record as "involuntary medication," the nurse administering the medication will immediately notify the facility supervising health authority.
- T. The Supervising Psychologist of the Intensive Psychiatric Stabilization Units (SU) and Residential Treatment Units (RTU) will complete and submit ADOC Form MH-031, Mental Health Unit (RTU/SU): Inmates Receiving Involuntary Medication, with monthly Mental Health Services reports.

VI. DISPOSITION

Any forms used will be disposed of and retained according to the Departmental Records Disposition Authority (RDA).

VII. FORMS

Refer to AR 601, Mental Health Forms and Disposition for:

- A. ADOC Form MH-028, *Involuntary Medication Request*.
- B. ADOC Form MH-029, *Notice of Involuntary Medication Hearing*
- C. ADOC Form MH-030, *Record of Involuntary Medication Review*
- D. ADOC Form MH-031, Mental Health Unit (RTU/SU): *Inmates Receiving Involuntary Medication*
- E. ADOC Form MH-040, *Progress Notes*

VIII. SUPERCEDES

- A. This Administrative Regulation supercedes AR 621, *Administrative Review for Involuntary Psychotropic Medications(s)* dated September 20, 2004.

IX. PERFORMANCE

- A. The Code of Alabama 1975, Section 22-50-11.
- B. National Commission on Correctional Health Care: *Standards for Health Services in Prisons*, 2014.


Jefferson S. Dunn
Commissioner