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ADMINISTRATIVE REGULATION
NUMBER

626

OPR: HEALTH SERVICES

MENTAL HEALTH CONSULTATION TO THE DISCIPLINARY PROCESS

I. GENERAL

This Alabama Department of Corrections (ADOC) Administrative Regulation (AR) establishes the policies, procedures, and responsibilities for the mental health consultation to the disciplinary process for inmates within ADOC custody.

II. POLICY

It is the policy of the ADOC to ensure that mental health consultations are available for inmates within ADOC custody who are subject to the disciplinary process to help ensure that inmate is not disciplined for either behaviors that are the direct result of a mental illness or engaging in suicidal or self-injurious behavior.

III. DEFINITION(S) AND ACRONYM(S)

- A. **Constant Observation**: A procedure that ensures that a designated observer not only maintains continuous and direct line-of-sight visual contact of an inmate at all times but also documents that visual contact at staggered (i.e., irregular and unpredictable) intervals no greater than fifteen (15) minutes apart. An observer may observe more than one inmate on Constant Observation placement as long as the physical design allows for continuous and direct line-of-sight visual contact of each inmate.
- B. **Exceptional Circumstance (for Restrictive Housing Unit Placement)**: An “exceptional circumstance” exists where: (a) a safety or security issue prevents placement of the inmate in an alternative housing (such as a SU, RTU, or SLU); or (b) a non-safety or non-security issue exists and transfer or transportation to alternative housing is temporarily unavailable. Examples of safety and security issues include an inmate’s known or unknown enemies alternative housing or the inmate’s creation of a dangerous environment (to the inmate other inmates, and/or staff) by his or her presence in alternative housing.

- C. **Mental Health Caseload**: The database that identifies all inmates within ADOC custody who are in need of mental health services.
- D. **Mental Health (MH) Code**: A letter code assigned to each inmate that indicates whether the inmate is on the mental health caseload and the level of treatment required. There are five possible MH codes:
1. **MH-A**: Assigned to inmates not currently receiving mental health services and not on the mental health caseload.
 2. **MH-B**: Assigned to inmates who require outpatient mental health services, have demonstrated stable coping skills for at least six months, and can be housed in facilities that do not provide daily mental health services by mental health staff.
 3. **MH-C**: Assigned to inmates who require outpatient mental health services at a major facility and have any diagnosed mental disorder associated with a functional impairment that interferes with their ability to meet the ordinary demands of living.
 4. **MH-D**: Assigned to inmates receiving chronic or acute mental health services requiring placement in a specialized housing unit (e.g., Residential Treatment Unit (RTU) or Stabilization Unit (SU)).
 5. **MH-H**: A temporary mental health code reserved for use only by the ADOC Office of Health Services (OHS) indicating that an inmate with any other mental health code designations will not be moved from the current housing unit or facility.
- E. **Mental Health Observation (MHO)**: Short-term placement of an inmate in a crisis cell to provide increased observation and structure and decreased stimulation to aid the inmate in gaining behavioral control and decreasing his or her stress level. MHO is not to be used as part of the suicide watch process or as an alternative to suicide watch.
- F. **Qualified Mental Health Professional (QMHP)**: A psychiatrist, psychologist, licensed professional counselor, mental health nurse practitioner, mental health social worker, mental health nurse, or other clinician who, by virtue of their education, credentials, and experiences, are permitted by law to evaluate and care for the mental health needs of patients.
- G. **Residential Treatment Unit (RTU)**: A specialized housing placement for treating inmates with serious mental illness who are at risk for psychiatric deterioration in a less-restrictive setting. This may be either a short-term

placement for inmates to resolve crises or a long-term placement for inmates who experience persistent difficulty functioning in an outpatient setting.

- H. **Suicide Watch**: An emergency procedure for monitoring an inmate in suicide-resistant housing for that inmate's protection because of demonstrated or threatened warning signs of suicide or self-harm. Suicide Watch is specified by a qualified mental health professional as either Acute Suicide Watch (ASW) or Non-Acute Suicide Watch (NASW).

IV. **RESPONSIBILITIES**

- A. The ADOC Director of Mental Health Services is responsible for ensuring oversight of the development of this AR.
- B. The ADOC Regional Psychologists are responsible for oversight and monitoring of the implementation of this AR.
- C. The Warden (or designee) at each facility is responsible for ensuring that ADOC security staff at that facility receiving training on the implementation of this AR.
- E. The Vendor Mental Health Program Director is responsible for ensuring that all Vendor staff receives training on the implementation of this AR.
- F. The Vendor Health Services Administrator and the Vendor Mental Health Site Administrator at each facility are jointly responsible for ensuring that all Vendor staff at that facility receive training on the implementation of this AR.

V. **PROCEDURES**

- A. Training:

All ADOC security staff and Vendor staff involved with the disciplinary process will complete all required and applicable trainings, which include units and specialized training on mental health consultations to the disciplinary process, in accordance with AR 608, *Staff Training in Mental Health*.

- B. Initiating a Request for Mental Health Consultation to the Disciplinary Process:

1. ADOC security staff shall initiate a request for a mental health consultation on ADOC Form MH-041, *Mental Health Consultation to the Disciplinary Process*, for an inmate who:
 - a. Is on the Mental Health Caseload and has an MH Code of either MH-B, MH-C, or MH-D.

- b. Is on the Mental Health Caseload and has an SMI designation, regardless of the inmate's MH Code.
 - c. Has a diagnosed intellectual disability or developmental disability, regardless of whether that inmate is on the Mental Health Caseload.
 - d. Demonstrated signs of psychological distress or mental impairment at the time of the alleged rule violations giving rise to the disciplinary process.
 - e. Demonstrates signs of psychological distress or mental impairment at any time prior to or during the disciplinary process.
2. ADOC security staff may initiate a request for a mental health consultation on ADOC Form MH-041, *Mental Health Consultation to the Disciplinary Process*, for an inmate, regardless of whether that inmate is on the Mental Health Caseload, either:
 - a. At the time of the alleged rule violations giving rise to the disciplinary process.
 - b. After review of a Disciplinary Report (i.e., ADOC Form 403-A, *Disciplinary Report*, and any ADOC Form 403-B, *Disciplinary Report (Continued)*).
 3. Both ADOC Form MH-041, *Mental Health Consultation to the Disciplinary Process*, and the Disciplinary Report (i.e., ADOC Form 403-A, *Disciplinary Report*, and any ADOC Form 403-B, *Disciplinary Report (Continued)*), are generated through the ADOC Disciplinary Report Module in accordance with AR 403, *Procedures for Inmate Rule Violations*.

C. Conducting the Mental Health Consultation to the Disciplinary Process:

1. The Vendor QMHP will conduct the mental health consultation to the disciplinary process for an inmate to determine that inmate's competency.

The Vendor QMHP conducting the mental health consultation to the disciplinary process for an inmate on the Mental Health Caseload should not be a member of that inmate's Treatment Team.

2. The Vendor QMHP conducting the mental health consultation to the disciplinary process for an inmate will document on the appropriate Progress Note (i.e., either ADOC Form MH-025, *Psychiatrist/CRNP Progress Note*, or ADOC Form MH-040, *Progress Notes*) the following information about that inmate:

- a. That inmate's mental state at the time of the alleged rule violations giving rise to the disciplinary process.
 - b. That inmate's current mental state, including that inmate's competency to safely and effectively participate in a disciplinary hearing.
 - c. That inmate's mental health diagnoses, if that inmate is currently on the Mental Health Caseload.
 - d. That inmate's presence of a mental health diagnosis, if that inmate is not currently on the Mental Health Caseload.
 - e. That inmate's mental health services, including treatments, medications, and compliance, received over the preceding six (6) months.
 - f. That inmate's Crisis Cell placements (i.e., MHO, Constant Observation, or Suicide Watch) over the preceding six (6) months
 - g. Whether that inmate's behavior that resulted in the alleged rule violations was either the direct result of or related to a mental illness or suicidal or self-injurious behaviors.
 - h. The likely impact that transferring that inmate to the RHU will have on that inmate's mental health (e.g., emotional state, behavioral stability, risk of suicide or self-harm, etc.).
 - i. Whether, based on the likely impact that transferring that inmate to the RHU will have on that inmate's mental health, such transfer to the RHU is clinically contraindicated.
 - j. The potential impact that other disciplinary sanctions may have on that inmate's mental health.
 - k. Whether, based on the potential impact that other disciplinary sanctions may have on that inmate's mental health, any specific disciplinary sanctions are clinically contraindicated.
 - l. If any specific disciplinary sanctions are clinically contraindicated, then what alternative disciplinary sanctions are not clinically contraindicated.
 - m. The need for a Vendor QMHP to attend the disciplinary hearing.
3. The Vendor QMHP conducting the mental health consultation to the disciplinary process on an inmate will document that inmate's refusal to participate in the mental health consultation on the appropriate progress note (i.e., either ADOC Form MH-025, *Psychiatrist/CRNP Progress Note*, or

ADOC Form MH-040, *Progress Notes*) and will notify the Warden (or designee) at the facility where that inmate is housed of that refusal.

4. The Vendor QMHP conducting the mental health consultation to the disciplinary process on an inmate currently in a Crisis Cell placement will notify the Warden (or designee) at the facility where that inmate is housed and will only conduct the mental health consultation after that inmate's discharge from that Crisis Cell placement:
 - a. Within ten (10) days from that inmate's discharge from that Crisis Cell placement if that inmate is charged with an alleged Low-Level Rule violation. (Refer to Rule Violation Table in AR 403).
 - b. Within thirty (30) days from that inmate's discharge from that Crisis Cell placement if that inmate is charged with an alleged Medium-Level Rule violation. (Refer to Rule Violation Table in AR 403).
 - c. Within sixty (60) days from that inmate's discharge from that Crisis Cell placement if that inmate is charged with an alleged High-Level Rule violation. (Refer to Rule Violation Table in AR 403).
 - d. Within ninety (90) days from that inmate's discharge from that Crisis Cell placement if that inmate is charged with an alleged Severe-Level Rule violation. (Refer to Rule Violation Table in AR 403).
5. The Vendor QMHP will document the results of the mental health consultation to the disciplinary process in the ADOC Disciplinary Report Module within seventy-two (72) hours from the ADOC security staff initiating the request.
6. A copy of ADOC Form MH-041, *Mental Health Consultation to the Disciplinary Process*, will be:
 - a. Provided to the ADOC staff serving as the Hearing Officer.
 - b. Filed in the mental health section of the inmate's medical record.
 - c. Tracked on ADOC Form MH-041(A), *Mental Health Consult to the Disciplinary Hearing Log*.

D. Inmate Lacking Competency or Capacity to Participate in the Disciplinary Hearing:

1. If the Vendor QMHP performing the mental health consultation to the disciplinary process is only a licensed counselor and finds the inmate to lack the competency or capacity to safely and effectively participate in a

disciplinary hearing, then that Vendor QMHP will refer that inmate to a vendor psychiatrist or psychologist for further evaluation.

2. The ADOC staff serving as the Hearing Officer will not continue the disciplinary hearing of an inmate who demonstrates behavior that indicates the lack of competency or capacity to participate in the disciplinary hearing until that inmate gains the competency or capacity to safely and effectively participate in the disciplinary hearing.
3. The ADOC staff serving as the Hearing Officer will ensure that ADOC Form 403-D, *Notice of Postponement of Disciplinary Hearing*, is completed and provided to an inmate.
4. The Vendor QMHP conducting the mental health consultation to the disciplinary process on an inmate who fails to gain the competency or capacity to safely and effectively participate in the disciplinary hearing after thirty (30) days of receiving mental health services from the date of the initial mental health consultation to the disciplinary process will notify the Warden (or designee) at the facility where that inmate is housed.

E. Vendor QMHP Attendance of the Disciplinary Hearing:

If a member of the inmate's Treatment Team determines it necessary for a Vendor QMHP to be present to assist that inmate during that inmate's disciplinary hearing, then the ADOC staff serving as the Hearing Officer will coordinate scheduling the disciplinary hearing with the Vendor QMHP to ensure that Vendor QMHP is present at the disciplinary hearing.

F. Consideration of Mental Health Consultation by ADOC Hearing Officer:

1. The ADOC staff serving as Hearing Officer must document how that Hearing Officer considered the mental health consultation:
 - a. During the disciplinary hearing.
 - b. Before adjudicating the disciplinary action.
 - c. In the adjudication of the disciplinary action.
 - d. In the imposition of the disciplinary sanctions.
2. The ADOC staff serving as Hearing Officer must present any questions about information documented in the mental health consultation to the Vendor QMHP who conducted the mental health consultation.

3. The ADOC staff serving as Hearing Officer will adjudicate an inmate who the Vendor QMHP determines from the mental health consultation that the alleged rule violations were the direct result of that inmate's mental illness not guilty of those alleged rule violations.
4. The ADOC staff serving as Hearing Officer will consider the mental health evaluation of an inmate who the Vendor QMHP determines that the alleged rule violations were related to, but not the direct result of, that inmate's mental illness in imposing any disciplinary sanctions on that inmate.
5. The ADOC staff serving as Hearing Officer will not impose any disciplinary sanctions on an inmate that the Vendor QMHP determines from the mental health consultation are clinically contraindicated for that inmate (e.g., transferring that inmate to the RHU), absent documentation of exceptional circumstances.
6. If an Exceptional Circumstance (for RHU placement) is documented and requested, then the ADOC staff serving as the Hearing Officer will review and consider all clinical and security recommendations, including any evaluations and comments, in making the final decision.
7. If the ADOC staff serving as Hearing Officer finds an inmate guilty of rule violations, and the Vendor QMHP determines from the mental health consultation that any specific disciplinary sanctions are clinically contraindicated, then the ADOC staff serving as Hearing Officer may impose other authorized disciplinary sanctions in accordance with AR 403, *Procedures for Inmate Rule Violations*.

G. Results of the Disciplinary Hearing:

1. The ADOC security staff will not provide an inmate currently on Suicide Watch placement or Mental Health Observation placement with the Disciplinary Report (i.e., ADOC Form 403-A, *Disciplinary Report*, and any ADOC Form 403-B, *Disciplinary Report (Continued)*) without first coordinating with and receiving approval from the Vendor QMHP.
2. The Vendor QMHP may assist ADOC security staff in delivering and explaining the Disciplinary Report and any disciplinary sanctions imposed to an inmate.

The Vendor QMHP shall assist ADOC security staff in delivering and explaining the Disciplinary Report and any disciplinary sanctions imposed to an inmate who is currently housed in the RTU, SU, or SLU.

3. If the ADOC staff serving as Hearing Officer determines that transferring the inmate to the RHU is an appropriate disciplinary sanction, and the Vendor

QMHP determines from the mental health consultation that such disciplinary sanction is not clinically contraindicated, then that inmate will be transferred to the RHU in accordance with AR 625, *Mental Health Services in Restrictive Housing Units*.

4. The Vendor mental health staff will file a copy of the Disciplinary Report (i.e., ADOC Form 403-A, *Disciplinary Report*, and any ADOC Form 403-B, *Disciplinary Report (Continued)*) in the mental health section of an inmate's medical record.

H. No Additional Protections:

This AR and its contents shall not be construed to create or recognize any protected liberty interest or protected property interest for an inmate in:

- a. A mental health consultation to the disciplinary process.
- b. Any other terms, condition, or provisions in this AR.

VI. DISPOSITION

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

VII. FORMS

- A. ADOC Form MH-025, *Psychiatrist/CRNP Progress Note*.
- B. ADOC Form MH-040, *Progress Notes*.
- C. ADOC Form MH-041, *Mental Health Consultation to the Disciplinary Process*.
- D. ADOC Form MH-041-A, *Mental Health Consult to the Disciplinary Hearing Log*.

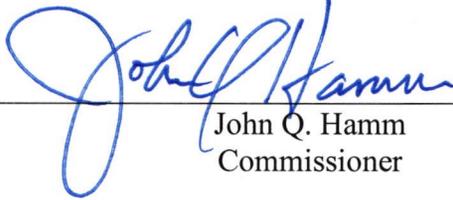
VIII. SUPERSEDES

This Administrative Regulation supersedes AR 626, *Mental Health Consultation to the Disciplinary Process*, dated August 20, 2020, and any related changes.

IX. PERFORMANCE

- A. Code of Alabama 1975 § 14-1-1.1 *et seq.*
- B. *Braggs v. Hamm*, No. 2:14-cv-00601-MHT-JTA (M.D. Ala. filed June 17, 2014).

- C. NATIONAL COMMISSION OF CORRECTIONAL HEALTH CARE, STANDARDS FOR MENTAL HEALTH SERVICES IN CORRECTIONAL FACILITIES (2015).
- D. NATIONAL COMMISSION OF CORRECTIONAL HEALTH CARE, STANDARDS FOR HEALTH SERVICES IN PRISONS (2018).



John Q. Hamm
Commissioner

**Alabama Department of Corrections
Psychiatric Provider Progress Note**



Last Name	First Name:	AIS:
DOB: / / Age:	<input type="checkbox"/> Routine <input type="checkbox"/> Urgent <input type="checkbox"/> Emergent	<input type="checkbox"/> In-Person <input type="checkbox"/> Tele-Health
Facility:	Housing: <input type="checkbox"/> GP <input type="checkbox"/> Crisis <input type="checkbox"/> RTU <input type="checkbox"/> SU <input type="checkbox"/> SLU <input type="checkbox"/> RHU <input type="checkbox"/> PHRU <input type="checkbox"/> WR	
MH Code: <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D Last change: / /	SMI: <input type="checkbox"/> Y <input type="checkbox"/> N Last change: / /	

Target Problems and Symptoms:

Current Medications (MAR Reviewed Y N)

Adherence: Adverse Drug Reactions / Allergies:

Weight / BMI:	Date: / /	Last AIMS: (Date)	Consents: (Date)
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S/ (narrative)

O/ Mental Status Examination (Describe pertinent details.)

Consciousness / Cognition	<input type="checkbox"/> Alert <input type="checkbox"/> OX3 <input type="checkbox"/> Attentive
Appearance	<input type="checkbox"/> Good hygiene
Behavior/ Attitude	<input type="checkbox"/> Cooperative <input type="checkbox"/> Calm <input type="checkbox"/> Agitated
Speech:	<input type="checkbox"/> Coherent <input type="checkbox"/> NI Rate <input type="checkbox"/> Pressured <input type="checkbox"/> Rapid <input type="checkbox"/> Slow
Mood/affect:	<input type="checkbox"/> Euthymic <input type="checkbox"/> Sad/down <input type="checkbox"/> Elevated <input type="checkbox"/> Irritable <input type="checkbox"/> Angry <input type="checkbox"/> Blunted/flat <input type="checkbox"/> Affect appropriate
Thought Content	<input type="checkbox"/> Appropriate <input type="checkbox"/> Over-valued ideas <input type="checkbox"/> Delusions <input type="checkbox"/> Obsessions <input type="checkbox"/> Impoverished