STATE OF ALASKA DEPARTMENT OF CORRECTIONS POLICIES & PROCEDURES	SECTION: Health and Rehabilitation Services		PAGE: Page 1 of 15
	CHAPTER: 807	NUMBER: 807.16	P&P TYPE: Public
	TITLE: Involuntary Treatment		
	APPROVED BY: Jennifer Winkelman, Acting Commissioner		DATE: 7/22/22
ATTACHMENTS / FORMS: A. Emergency Psychotropic Medication Log B. Involuntary Medication Hearing Request C. Third-Party Psychiatric Involuntary Medications Evaluation D. Involuntary Medication Hearing Notice E. Involuntary Medication Hearing Minutes F. Involuntary Medication Hearing Summary G. Notice to Appeal Involuntary Medication Status H. MAC Appeal Decision I. Notification of Psychotropic Medication Refusal	AUTHORITY / REFERENCES: 22 AAC 05.045 22 AAC 05.120 22 AAC 05.122 22 AAC 05.253 AS11.81.430 AS 47.30.839 AS 47.30.837 AS 47.30.838 NCCHC MH-1-02 Washington v. Harper, 494 U.S. 210 (1990) Cleary Final Order, 3AN 81-5274 CIV (Sept. 1990) Loftner vs State of Colorado		

POLICY:

I. It is the policy of the Department of Corrections (DOC) to have procedures in place that provide guidance and direction to staff who are responsible for assessing, administering, and monitoring the use involuntary psychotropic medications.

II. It is the policy of the Department to only use involuntary psychotropic medications with prisoners to prevent imminent harm to self and others and for those prisoners presenting as gravely disabled.

A. Behavioral health services, including involuntary psychotropic medications, shall be provided to prisoners using the least restrictive methods practical and consistent with accepted standards.

B. Informed consent for treatment (DOC Policy 807.08, Informed Consent) shall be obtained whenever practical.

C. Staff shall make every effort to decrease the use of involuntary medications by:

1. Respecting the dignity and ensuring the safety and well-being of all prisoners.

2. Making a good faith attempt to obtain consent before proceeding with proposed treatment for those prisoners capable of giving informed consent.

3. Having the prisoner participate as much as possible in the decision-making process regarding their mental health treatment, including medications.

4. Ensuring current ethical practices are utilized in situations requiring the administration of involuntary psychotropic medications.

5. Making good faith efforts to reduce the level of risk through the least restrictive alternatives possible while providing for the safety of the prisoner and others.

6. Limiting the use of involuntary medications to situations that require emergent mental health care, in which there is an imminent danger to self or others that cannot be otherwise safely avoided or when the prisoner meets criteria for grave disability.

7. Acknowledging that the prisoner has the right to refuse medication.

D. A clinically approved protocol as outlined in this policy shall be utilized for emergency situations when a prisoner is dangerous to self or to others due to a mental illness and when emergency psychotropic medication shall be used to prevent harm, based on a psychiatric provider's order.

E. Medications shall not to be used as a means of coercion or punishment; for the convenience of staff; or when less restrictive alternatives to manage behaviors are available and appropriate. Medications shall not be administered solely for the purpose of cooperation during prisoner movement.

III. If involuntary medications cannot be administered on site, the prisoner shall be immediately transferred to a facility capable of administering medications and providing the appropriate level of mental health services to meet the needs of the prisoner.

APPLICATION:

This policy and procedure shall apply to all Department employees and prisoners.

DEFINITIONS:

As used in this policy, the following definitions shall apply:

Chief Mental Health Officer (CMHO):
Position responsible for the oversight of behavioral health services to include mental health, substance abuse and sex offender treatment services.

Emergency Mental Health Care:
Care for acute mental health symptom(s) that cannot be deferred until the next scheduled mental health clinic or routine appointment.

Emergency Psychotropic Medication:
An order for medications not to exceed 72 hours that is given without the prisoner's consent and for the specific purpose of preventing immediate harm to self or others. Emergency medications are distinguishable from involuntary psychotropic medications by not requiring a hearing and expiring after 72 hours.

Grave Disability:
A condition in which a person, as a result of mental illness:

A. Is in danger of physical harm arising from such complete neglect of basic needs for food, clothing, shelter, or personal safety as to render serious accident, illness, or death highly probable if care by another is not taken; or

B. Will, if not treated, suffer, or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior causing a substantial deterioration of the person's previous ability to function independently.

Imminent Risk of Harm:
Based on clinical judgment, there is a risk that the prisoner shall harm self and/or others without immediate intervention.

Independent Third-Party Psychiatrist:
A physician licensed to practice medicine in the jurisdiction in which services are provided and who has successfully completed a residency in psychiatry and who is contracted to provide an independent, unbiased evaluation of a prisoner's need for involuntary psychotropic medication.

Informed Consent:
Informed consent is an agreement by a prisoner to a treatment, examination, or procedure after the prisoner receives facts about the nature, consequences, risks of the proposed treatment, examination or procedure and the alternatives to it. For invasive procedures, if there is some risk to the prisoner, informed consent is documented on a form containing the prisoner's signature. The right to refuse treatment is inherent in this concept.

Involuntary Medication Committee:
A three-person committee comprised of a chair who is a licensed mental health professional, a non-treating psychiatrist and non-treating mental health clinician or psychiatric Advanced Practice Registered Nurse who convene to determine whether medication may be involuntarily administered to a prisoner.

Involuntary Medication Hearing:
A hearing to determine whether medication may be administered to a prisoner where a licensed psychiatric provider believes that the prisoner is in imminent risk of harming self or others without immediate intervention and that imminent risk is a result of mental illness; is gravely disabled and due to the failure to care for self, risk of harm is imminent; has refused to make an informed consent for treatment; and less restrictive alternatives for treatment have been used without satisfactory therapeutic result.

Less Restrictive Alternatives:
Treatment and placement options that have been identified to be the least restrictive or least intrusive. This shall include, but is not limited to, non-physical and physical methods used to deescalate a prisoner.

Medical Advisory Committee (MAC):
The MAC is a Health and Rehabilitation Services (HARS) Division Director appointed panel comprised of health care personnel to include at a minimum, the HARS Director, HARS Deputy Director, Chief Medical Officer, Chief Nursing Officer, Chief Mental Health Officer, Health Practitioner II(s), Medical Social Worker, Quality Assurance and Utilization Review Nurse and selected collaborating and consulting physicians, psychiatrists, or nurses. The MAC shall authorize all non-emergency hospitalizations and surgeries, some specialty referrals, complex cases, special studies or treatments; review Departmental decisions that deny a prisoner treatment recommended by a consulting physician; investigate and respond to prisoner health care grievance appeals (DOC P&P 808.03, Prisoner Grievances); respond to prisoner's appeals to the use of involuntary medication; and review and approve health care policies and procedures, clinical guidelines, medical operating procedures and protocols.

Non-Treating :
A mental health clinician or psychiatric Advanced Practice Registered Nurse who has not provided any service to the prisoner beyond routine coverage for another provider within the last month.

Psychiatric Provider:
A physician licensed to practice medicine in the jurisdiction in which services are provided and who has completed a fully qualified residency in psychiatry or an Advanced Practice Registered Nurse (APRN) with specialized training in the provision of psychiatric care.

Psychotropic Medication:
Medications used to treat mental illness.

PRN:
Abbreviation meaning "when necessary" (from the Latin "**pro re nata**", for an occasion that has arisen, as circumstances require, as needed).

Serious Mental Illness (SMI):
A substantial disorder of thought, mood, perception orientation or memory, any of which grossly impairs judgment, behavior, capacity to recognize reality, or impairs an individual's ability to function on a daily basis.

PROCEDURES:

I. Emergency Treatment
Where a prisoner lacks the capacity to consent to emergency treatment, health care staff shall provide medical treatment that is intended to preserve life or limb. Emergency treatment under this section includes, but is not limited to wound care, administration of antibiotics, drawing of blood and protective splinting.

II. Emergency Psychotropic Medications

A. A licensed psychiatric provider may order emergency psychotropic medications for up to seventy-two (72) hours, excluding weekends and holidays, without an involuntary medication hearing if the provider determines the prisoner:

1. Is in imminent risk of harming self or others without immediate intervention and that imminent risk is as a result of mental illness,

2. The prisoner has refused to make informed consent for treatment, and

3. Less restrictive alternatives for treatment have been used without satisfactory therapeutic result.

B. The ordering psychiatric provider shall use Emergency Psychotropic Medication Order (Attachment A) and provide the following information:

1. The prisoner's diagnosis;

2. The imminent risk of harm posed;

3. The reason for ordering the emergency psychotropic medication;

4. Less restrictive alternatives considered or attempted;

5. A treatment plan goal for less restrictive alternatives as soon as practical; and

6. Specify when, where and how the psychotropic medication is to be administered, including any medically necessary lab work and blood-draws that may be required.

a. Emergency psychotropic medication shall initially be offered orally when available.

b. If the prisoner refuses oral medication, security staff shall be notified for assistance in administering intramuscular medication.

c. Only the amount of force reasonably necessary to administer the medication shall be used per DOC P&P 807.03, Therapeutic Seclusion & Restraint.

C. The ordering psychiatric provider or designee shall notify the CMHO and the facility Superintendent that emergency psychotropic medication has been ordered.

D. If a facility does not have an onsite psychiatric provider or if the emergency psychotropic medication is needed after normal business hours, the on-call psychiatric provider shall be contacted. The psychiatric provider may order the use of emergency psychotropic medications telephonically and is responsible for reviewing the orders in the electronic health record at the beginning of the next business day.

E. If the prisoner presents an imminent risk of harm to self, he or she shall be placed on suicide precautions per DOC P&P 807.20, Suicide Prevention and Intervention.

F. Follow up care for emergency psychotropic medication shall be documented using the Emergency Psychotropic Medication Log (attachment B). Follow up shall occur within the first hour of administration and every four (4) hours thereafter until transfer to an inpatient setting or the prisoner no longer requires monitoring. Follow up care consists of:

1. Health care staff shall take vital signs including blood pressure, pulse, temperature, and respiration;

2. Health care staff shall monitor for adverse reactions and side effects; and

3. A mental health clinician or psychiatric provider shall assess mental status and observe behavior.

G. A prisoner shall be administered emergency psychotropic medications as clinically indicated for up to three (3) 72-hour periods before a referral is made for an involuntary medication hearing. The three (3) 72-hour periods shall be consecutive or shall be discrete and separate episodes. At any point, the psychiatric provider has the discretion to request an involuntary medication hearing.

H. Staff shall offer the prisoner the opportunity to take the emergency psychotropic medication voluntarily. The prisoner's answer shall be documented on the Emergency Psychotropic Medication Order (attachment B).

I. The psychiatric provider shall review the administration of emergency psychotropic medications on a daily basis.

III. Involuntary Medication Hearing

A. The following criteria shall apply for an involuntary medication hearing:

1. The prisoner poses and imminent risk of harming self or others without immediate intervention and that imminent risk is a result of mental illness; or

2. The prisoner is gravely disabled and due to the inability to care for self, risk of harm is imminent; and

3. The prisoner has refused to make an informed consent for treatment; and

4. Less restrictive alternatives for treatment have been used without satisfactory therapeutic result.

B. The treating psychiatric provider shall:

1. Request an Involuntary Medication Hearing from the CMHO or designee,

2. Document the request and justification for the Involuntary Medication Hearing using the Involuntary Medication Hearing Request (attachment C). This shall include:

a. The reason for the request to include current behavior; signs and symptoms of serious mental illness;

b. Mental health history, current mental status, suicide/homicide risk, and diagnosis;

c. Impairments in activities of daily living;

d. Imminent risk of harm to self and/or others and/or grave disability;

e. Ability to give informed consent;

f. Methods used to encourage voluntary adherence and less restrictive alternatives considered and/or attempted;

g. History and dates of involuntary and voluntary medication; and

h. Recommended psychotropic medication including the risks and benefits.

3. Notify the independent third-party psychiatrist to evaluate the prisoner.

4. The CMHO or designee shall appoint the Involuntary Medication Committee. The committee shall include:

a. Committee Chair, who is a licensed mental health professional;

b. Non-treating psychiatrist; and

c. Non-treating mental health clinician or psychiatric provider.

5. The independent third-party psychiatrist shall:

a. Complete a face-to-face evaluation with the prisoner to determine the use of involuntary medication and document their assessment on the Third-Party Psychiatrist Involuntary Medication Evaluation (attachment D). A copy shall be provided to the CMHO upon completion.

b. Make themselves available for any clarification of the evaluation and recommendation if required.

C. Staff Advisor

The Committee Chair or designee shall ensure that the prisoner is assigned a Staff Advisor to assist him or her during the involuntary medication hearing and throughout the appeal process. See Section 5 below.

D. Hearing Notice

The Committee Chair or designee shall ensure that the prisoner receives the Involuntary Medication Hearing Notice (attachment E) at least 24 hours before the hearing when practical. The Involuntary Medication Hearing Notice shall include the following information:

1. Brief summary of the prisoner's rights;

2. The date and time of the hearing;

3. The date and time prisoner was served;

4. Whether the prisoner is attending the hearing,

5. Current diagnosis;

6. The reason for referral; and

7. An opportunity for the prisoner to list witnesses.

E. Prisoner Rights at Hearing
A prisoner has the following rights at an involuntary medication hearing:

1. The right to refuse involuntary medication and/or psychiatric care twenty-four (24) hours before the hearing and until the hearing adjourns unless emergency mental health care is required.

2. An opportunity to attend, speak and to present written evidence on his or her behalf unless the prisoner's attendance poses a substantial risk of harm to self and/or others.

3. The right to refuse to participate in the hearing process.

   a. If the prisoner refuses to attend the hearing, the Committee Chair or designee shall make a reasonable effort to encourage the prisoner to participate. This shall include asking the advisor to consult with the prisoner.

   b. Refusal to participate shall be documented on the Involuntary Medication Hearing Notice (attachment E) and Involuntary Medication Hearing Minutes (attachment F).

4. The right to remain silent during the hearing.

5. The right to have a trained and competent Staff Advisor assist him or her during the hearing process. The advisor shall normally attend Department approved training and shall understand the psychiatric issues involved. The advisor shall:

   a. Meet with the prisoner before the hearing to discuss the prisoner's needs, concerns, and issues related to psychotropic medications.

b. Assist the prisoner in identifying potential witnesses and communicate the name and any available contact information to the Committee Chair or designee at least four hours prior to the scheduled hearing or in a timely manner sufficient to participate.

c. Be present at the hearing, even if the prisoner chooses not to participate or is unable to participate due to a substantial risk of harm to self and/or others.

d. Function during the hearing with the same rights as the prisoner and represent the prisoner's needs, concerns, and issues related to psychotropic medications to the extent they are known.

i. If the prisoner attends the hearing, he or she is not obligated to use the services of the advisor during the hearing, or

ii. If the prisoner is not present at the hearing, the prisoner shall not limit the participation of the advisor during the hearing.

6. The right to be informed of the evidence relied on for the proposed involuntary treatment. Information shall be withheld from the prisoner if it is considered harmful to his or her mental health as determined by the treating psychiatric provider and approved by the CMHO or designee. If information is withheld, the following shall occur and be documented on the Involuntary Medication Hearing Minutes (Attachment F):

a. The prisoner shall be informed that additional evidence was relied upon and not shared because it was considered harmful to the prisoner's health; and

b. The information was shared with the advisor, if appropriate.

7. A right to present relevant testimony including statements, written documents and the prisoner's own witnesses and the right to cross-examine witnesses called by the Committee.

8. The prisoner's rights shall be limited only when there is a good cause finding by the Chair for not permitting participation, presentations, or cross examination. The Chair shall document the Committee's reasons for excluding a prisoner, witness, evidence, testimony, or cross-examination. The prisoner shall be notified of exclusion criteria during the hearing. Exclusion shall occur, but is not limited to:

a. Safety or security reasons;

b. The prisoner is so disruptive that it is not possible to proceed with the hearing;

c. Irrelevance or redundancy;

d. Possible reprisals; or

e. Other reasons related to institutional security and order.

F. Hearing Postponement

The Committee Chair or designee may request a hearing postponement of up to seven (7) days for good cause using the DOC P&P Form 807.16E, Involuntary Medication Hearing Notice. The HARS Director or designee shall approve or deny the request within two (2) business days and document the reason on the form. The prisoner shall be served with the continuance and the decision shall be presented at the hearing.

G. Hearing Procedure and Decision

1. Appropriate security staff shall be present based on security and safety needs.

2. The Committee Chair shall ensure that the involuntary medication hearing is be recorded, excluding the committee's deliberations. The recording shall be maintained at a central location. Based on need, the hearing shall be transcribed and the prisoner shall be provided access to the transcription upon request.

3. The Chair shall ensure that minutes are taken of the hearing, excluding the Committee's deliberations. The minutes shall be documented using the Involuntary Medication Hearing Minutes (attachment F). A copy shall be filed in the health care record. The minutes shall include:

   a. A summary of the evidence relied upon, including a summary of each witness's testimony and documentation of any imposed limitations;

   b. Whether a mental illness is present and its nature;

   c. If mental illness is present, whether it is related to danger to self and/or others, or if gravely disabled, the failure to care for self-resulting in imminent risk of harm.

4. Employee or contract staff witnesses shall make every effort to be present to testify at the hearing. Witnesses shall be allowed to testify telephonically at the discretion of the Chair or designee. A written witness statement shall be considered in a witness's absence upon showing good cause.

5. After the presentation of evidence, the prisoner, the advisor, nurse, probation officer treating mental health professionals, and any other participants and witnesses shall be dismissed.

6. The Committee shall make a decision based upon:

   a. The information provided during the hearing by treating mental health providers, including the Involuntary Medication Hearing Request (attachment C);

   b. The Third-Party Psychiatrist Involuntary Medication Evaluation (attachment D);

   c. A review of the prisoner's health records;

   d. Prisoner's presentation during in the hearing;

   e. Consideration of the evidence presented by the prisoner;

   f. The prisoner's preferences regarding medication options;

   g. What medications are recommended and indicated for the prisoner; and

   h. Any other relevant evidence presented at the hearing.

7. The Committee's decision shall be made by majority vote. However, the non-treating psychiatrist must vote in favor of the involuntary medication administration for it to be approved. Any committee member's vote that is not in the majority shall be documented in the meeting minutes.

8. Under advisement of the non-treating psychiatrist, the Committee shall modify the treating psychiatrist's recommendation of the involuntary medication dosage, administration, and time based on the knowledge of what medications are therapeutically indicated.

9. A written summary of the evidence, hearing findings, and conclusion shall be documented by the Chair or designee on the Involuntary Medication Hearing Summary (attachment G). It shall also include a statement about the appeal process. This form shall:

   a. Be signed by the Chair and each member of the Involuntary Medication Committee.
   b. Be filed in the prisoner's health care record

   c. After the Committee has made its decision, copies of the Summary shall be provided to:

i. The prisoner;

ii. The Staff Advisor;

iii. The facility's Nurse Manager;

iv. The facility Mental Health Clinician III; and

v. The Chief Mental Health Officer.

10. If the Committee authorizes administration of involuntary medication, and medically appropriate testing (i.e., lab work):

    a. The decision shall be documented in the health care record;

    b. The treating psychiatrist shall initiate the involuntary medication order; and

    c. The prisoner shall be informed of the right to appeal the decision.

H. Appeal Process

1. The prisoner may appeal within forty-eight (48) hours of receipt of the Committee's written decision to the Medical Advisory Committee using Notice to Appeal Involuntary Medication (Attachment H).

2. The prisoner may have the advisor assist him or her with writing the appeal.

3. The prisoner may request to listen to the recoding of the involuntary medication hearing to assist in their appeal.

4. The MAC shall meet within five (5) working days and review the decision of the Involuntary Medication Committee. If the required procedures were followed, the MAC can either uphold or reject the committee's decision. If the required procedures were not followed, the MAC shall convene a new Committee using the procedures and time frames outlined in this policy. The MAC's decision shall be final and be documented using the MAC Appeal Decision Form (Attachment I).

5. The original written appeal decision shall be filed in the prisoner's health care record and copies shall be distributed to the following:

a. The prisoner;

b. The facility Mental Health Clinician III; and

c. The Chair of the Involuntary Medication Committee.

I. Administration of Involuntary Psychotropic Medication

1. Once the Committee authorizes involuntary psychotropic medication, the treating psychiatric provider shall order medication according to the accepted medical standard of care.

   a. Blood may be drawn, involuntarily if necessary, to monitor therapeutic medication levels and side effects per DOC P&P 807.03, Therapeutic Seclusion & Restraint.

2. Prior to medication administration, the prisoner shall be asked if he or she will take the medication voluntarily. If the prisoner refuses, this policy shall be followed and Notification of Psychotropic Medication Refusal (attachment J) shall be completed.

3. Only the treating psychiatric provider shall write an order to discontinue involuntary medications. An order to discontinue involuntary medications by any other provider must be approved by the CMHO.

4. The reasons for discontinuation shall be documented in the health care record and include reasons such as:

   a. The prisoner no longer meets criteria for involuntary medication and is unlikely to deteriorate to a condition that would necessitate involuntary medications being administered again;

   b. The prisoner is willing, in good faith, to take the medication voluntarily and has been consistently taking the medication voluntarily; or

   c. The prisoner is responsive and cooperative to less restrictive alternatives.

J. Monitoring and Periodic Review

1. Once initiated, the involuntary administration of psychotropic medication must be reviewed by the prescribing psychiatric provider within seven (7) calendar days.

2. Administration of involuntary mediation shall continue for a period not to exceed 180 days from the date of the Involuntary Medication Hearing without an additional hearing:

    a. If the prisoner is on an acute mental health unit, the psychiatric provider shall review the involuntary medication on a weekly basis.

    b. If the prisoner is not on an acute mental health unit, the psychiatric provider shall review the involuntary medication at least monthly.

3. An involuntary medication hearing shall occur every 180 days to determine continuation of involuntary psychotropic medications.

4. The 180-day Involuntary Medication Hearing and any subsequent hearings shall follow the same process as the Involuntary Medication Hearing procedure, appeal and Committee decision as outlined in this policy.

5. Repeated 180-day involuntary medication hearings may continue indefinitely as long as the prisoner remains resistant to medication and meets criteria for involuntary medications as outlined in this policy.

6. A prisoner's involuntary medication order remains in effect as long as the prisoner is in custody unless discontinued by the medical provider, Hearing Committee or MAC. A prisoner's involuntary medication order expires at the time of release from incarceration.

7. For prisoners who transfer to API from DOC, the involuntary medication order will remain in effect upon return to DOC.

8. When conditions dictate a shorter time frame, a hearing shall be scheduled prior to the 180 days or when the prisoner petitions.

IV. Court Ordered Administration of Medications

When a prisoner returns from a psychiatric hospital on court ordered medications, DOC shall review the order. Orders that are not location specific may be continued in DOC.