

<b>KENTUCKY CORRECTIONS</b> Policies and Procedures	Policy Number  13.7 Date Filed  October 14, 2005	Total Pages  6 Effective Date  February 3, 2006
References/Authority KRS 196.035, 197.020 Washington v. Harper, 494 U.S. 210 (1990) ACA 4-4401	Subject  <b>INVOLUNTARY PSYCHOTROPIC MEDICATION</b>	

## I. DEFINITIONS

"Mental disorder" means any organic, mental, or emotional impairment which has a substantial adverse effect on an individual's cognitive and volitional functioning.

"Likelihood of serious harm" means a risk that a patient may inflict physical harm upon himself as evidenced by verbal or written threats, gestures, past behaviors or attempts to inflict physical harm on one's self; upon another; or upon the property of others.

"Gravely disabled" means a condition resulting from a mental disorder which causes a person to be in danger of serious physical harm resulting from a failure to provide for his own essential human needs for health or safety or in which the person manifests severe deterioration in routine functioning as evidenced by repeated and escalating loss of cognitive and volitional control over his actions and is not receiving care as essential for personal health and safety.

## II. POLICY and PROCEDURES

Psychotropic medication shall be administered involuntarily only in emergencies or if special conditions exist and the due process procedures outlined below have been implemented. For involuntary medication to be administered, it shall be demonstrated that the patient suffers from a mental disorder and constitutes a likelihood of serious harm or is gravely disabled.

- A. A physician may order involuntary medication in an emergency situation.
1. An emergency exists if, in the judgment of a physician, a patient suffers from a mental disorder and presents an imminent likelihood of serious harm to self or others, or is gravely disabled.
  2. Emergency involuntary medication shall be administered only upon the order of a physician.
  3. Emergency involuntary medication may be administered initially, and under the order of a physician, repeated if necessary for up to twenty-four

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hours; however, if a physician orders, the period may be extended an additional forty-eight hours. The period during which emergency involuntary medication is administered shall not exceed seventy-two hours from the initial administration of medication.

4. If staff administers emergency involuntary medication, the patient shall be assessed and evaluated by medical personnel every hour for the initial four hours and every four hours during the designated time period.
  5. If staff administers emergency involuntary medication, the patient shall be continuously supervised until medical personnel determine he is stable. Then the patient shall be placed on an appropriate security watch.
  6. All actions regarding the administration of emergency involuntary medication shall be documented in the medical record and in an Extraordinary Occurrence Report.
  7. If the physician orders emergency involuntary medication, medical staff shall immediately notify the Shift Captain or Supervisor who shall immediately notify the Warden or Institutional Duty Officer.
- B. A psychiatrist may order non-emergency involuntary medication subject to the approval of the Involuntary Medication Hearing Committee if, in the judgment of a psychiatrist, a patient suffers from a mental disorder and poses a likelihood of serious harm to self, others or property, or may be gravely disabled.
1. The psychiatrist shall send written notification of the need to medicate to the institutional Warden.
  2. The notice shall include an evaluation of the patient's current mental condition, the psychiatrist's opinion regarding the risk of harm or grave disability, and a description of the efforts taken to achieve voluntary medication compliance that were unsuccessful.
  3. A staff person assigned by the Warden or designee to initiate procedures preparatory for convening an Involuntary Medication Hearing shall:
    - a. Appoint a staff representative who is at least a Unit Manager and has not been involved in the current diagnosis or treatment of the patient.
    - b. The patient and his staff representative, shall be given written, twenty-four hour advance notification of the intent to convene an Involuntary Medication Hearing. The notification shall include the following information:

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- 1) Date and time of the hearing;
  - 2) Diagnosis;
  - 3) Information that reflects the factual basis for the diagnosis;
  - 4) The basis for the determination that there is a medical necessity to involuntarily treat.
  - 5) Notice of the patient's right to be present at the hearing and to present documentary evidence and to call witnesses on his behalf unless security and order dictate otherwise.
  - 6) Notice of the patient's right to confront and cross-examine witnesses called by the institution unless security and order dictate otherwise.
- c. The Warden or his designee shall appoint an Involuntary Medication Hearing Committee composed of members who are impartial, who have not been involved in the current diagnosis or treatment of the patient, and who have had appropriate training on this policy. The committee shall include:
- 1) A psychiatrist
  - 2) A psychologist
  - 3) An institutional or Central Office staff member Grade 13 or above who shall serve as the chair of the committee.
- d. The hearing shall be recorded by an audio recording device.
- 1) A mental health professional shall present the case supporting the need for the administration of involuntary medication.
  - 2) The committee shall decide the case by majority vote based on the evidence, provided the psychiatrist votes in the majority.
  - 3) The decision of the committee shall be submitted in writing to the following:
    - a) The Warden;

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- b) The patient and his staff representative.
  - e. Approval by the committee to involuntarily medicate shall be granted initially for a period not to exceed fourteen (14) consecutive days from the date of the hearing.
- C. If the treating psychiatrist determines continued involuntary medication shall be necessary beyond the initially approved fourteen day period, the psychiatrist shall send the Warden an involuntary medication progress report documenting the patient's response to medication, any changes in medication, any side effects and the patient's current attitude towards the medication.
- 1. Upon receipt of the psychiatrist's involuntary medication progress report, the Warden or designee shall appoint a second committee to review the need for continued involuntary medication.
    - a. The committee, if possible, shall consist of the same persons who participated on the initial Involuntary Medication Hearing Committee.
    - b. If any of the initial members are unavailable, the new committee shall include a psychiatrist, a psychologist and an institutional or Central Office staff member in accordance with Section II.B.3.c of this policy.
    - c. The committee shall decide the case after a review of the patient's treatment record, health record and previous involuntary medication hearing records.
    - d. The committee shall decide the case by majority vote provided the psychiatrist votes in the majority.
    - e. The second committee may approve continued involuntary medication for a period not to exceed 180 consecutive days from the date of the second committee meeting.
  - 2. The outcome of the second Involuntary Medication Committee's review shall be submitted in writing to the following:
    - a. The Warden;
    - b. The patient and his staff representative.

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3. If the committee approves continued involuntary medication, the treating psychiatrist shall send the Warden an involuntary medication progress report every fourteen (14) days as long as medication administration remains involuntary.
- D. Each time the treating psychiatrist determines it necessary to continue involuntary medication for an additional period of 180 days after the second review, the psychiatrist shall so state in the appropriate involuntary medication progress report to the Warden.
1. Upon receiving the psychiatrist's report, the Warden or designee shall appoint another Involuntary Medication Committee as described in Section II., B., 3., c.. to approve or disapprove continued involuntary medication for a period not to exceed 180 consecutive days.
  2. Each committee shall decide the case based on the patient's treatment record, health record, and previous Involuntary Medication Committee hearing records.
  3. Voting shall be conducted in the same manner as provided in Section II. B. 3. d. 2.
  4. Each committee shall submit its decision in writing to the following:
    - a. The Warden;
    - b. The patient and his original staff representative.
  5. The treating psychiatrist shall send the Warden an involuntary medication progress report every fourteen (14)days during each 180-day period.
  6. If the psychiatrist discontinues medication or if the patient begins to take medication voluntarily, the psychiatrist shall send the Warden a final involuntary medication progress report.
  7. The patient through his staff representative has the right to appeal the decision of each Involuntary Medication Hearing or Committee review to the DOC Medical Director within forty-eight hours following receipt of written notification excluding weekends and holidays.
    - a. The Director or designee shall review the appeal and respond in writing within forty-eight hours of the receipt of the appeal excluding weekends and holidays.

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- E. If the Warden has cause to believe that the continued administration of involuntary medication adversely affects the security of the institution or the safety of the staff or both, the Warden may reconvene the Involuntary Medication Hearing Committee for a second hearing with all the rights and procedures set out in Section II. B. 3.
  
- F. If it is determined that involuntary medication shall be necessary beyond 180 days after the second review a new hearing shall take place in accordance with subsections II. A and B of this policy.