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	HEALTH CARE SERVICES DIRECTIVE-ADULT Manual of Policies and Procedures			

Title NON-EMERGENT INVOLUNTARY TREATMENT
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Legal References (includes but is not limited to) IC 11-8-2-5 IC 34-4-12.6	Related Policies/Procedures (includes but is not limited to) 01-02-101 01-02-106	Replaces: HCSDs 3.16A, 4.02A, 4.04A, and 4.05A (Effective Date 4-1-2022)
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I. PURPOSE:

This Health Care Services Directive (HCSD) outlines the procedures for the administration of treatment without the patient's consent when the patient is either gravely disabled, lacks the capacity for decision making, or poses a likelihood of serious harm to self or others due to a mental or physical health disorder.

II. DEFINITIONS:

- A. **ASSISTING STAFF MEMBER:** A staff member who is not a qualified mental healthcare professional but who has been provided with training in the process of assisting the patient and ensuring that the Treatment Review Committee addresses the basic questions regarding involuntary treatment.
- B. **DANGEROUSNESS:** A condition in which an individual, as a result of mental illness, presents a substantial risk to harm self or others.
- C. **GRAVELY DISABLED:** A condition in which the individual, as a result of mental illness, is in danger of impending harm because the individual is unable to provide for their food, clothing, shelter or other essential human needs; or, has a substantial impairment or an obvious deterioration of judgment, reasoning or behavior that results in the individual's inability to function independently.
- D. **LIKELIHOOD OF SERIOUS HARM:** Evidence of substantial risk of physical harm to self, or physical harm to others, or to the property of others.
- E. **MENTAL ILLNESS:** A psychiatric disorder that substantially affects an individual's thinking, feeling or behavior, and impairs the individual's ability to function.

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- F. PSYCHIATRIC ORDER: A medical order issued by a board certified or board eligible psychiatrist providing psychiatric services for the correctional facility.
- G. QUALIFIED MENTAL HEALTHCARE PROFESSIONAL (QMHP): A person with professional training, experience, and demonstrated competence in the treatment of mental illness. QMHPs include physicians, psychiatrists, psychologists, social workers, mental health counselors, mental health nurse practitioners, mental health-trained nurses, or other qualified persons as designated by the Executive Director of Behavioral Health Services.
- H. SEVERE DETERIORATION IN ROUTINE FUNCTIONING: Evidence of repeated and escalating loss of cognitive or volitional control over their actions and, therefore, not receiving such care as is essential for health or safety.
- I. TREATMENT REVIEW COMMITTEE: A treatment team comprised of individuals from different disciplines that contribute a broad range of perspectives and treatment modalities in the management of a patient's needs.

III. GUIDELINES:

- A. Patients who are gravely disabled or require treatment to prevent severe deterioration in routine functioning and do not consent to treatment or lack the capacity for informed consent shall be provided a due process hearing. This hearing shall be conducted by a Treatment Review Committee to review the documentation which explains the need to initiate and continue involuntary treatment
- B. A patient has a right to refuse treatment unless all of the following criteria are met:
 - 1. The individual suffers from a mental illness, or a physical health condition that impairs the ability for them to hold decisional capacity **and;**
 - 2. The treatment is in the best interest of the individual for health reasons, **and;**
 - 3. The individual is determined to be gravely disabled or exhibits severe deterioration in routine functioning and is at a risk for further developing serious physical health conditions or poses a likelihood of serious harm to self, others, or the property of others.
- C. The clinicians orders for involuntary treatment and the clinical evidence to support these orders shall be fully documented in the electronic medical record (EMR). The physician shall meet with the patient to explain why the treatment is recommended; any alternatives to suggested treatment; benefits/risks of treatment; outcome if the patient does not receive the treatment; how the treatment is applicable to them; and, discuss any other concerns the patient may have.

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- D. The administration of treatments ordered by the physician has been reviewed and approved by the Treatment Review Committee after the completion of a due process hearing.
- E. Whenever a psychiatric or physical health emergency situation exists, and the patient poses an imminent threat of serious physical harm to self or others due to a mental disorder or significant change in mental status, no due process hearing is required prior to the administration of emergency forced treatment. In the case of an emergency, the procedures outlined in HCSD 2.32A, "Emergent Involuntary Treatment," shall be followed.

IV. TREATMENT REVIEW COMMITTEE PROCESS:

- 1. The Treatment Review Committee shall be comprised of three or more voting members. At least two voting members shall be physicians and at least one of those shall be a psychiatrist. The prescribing physician cannot be a voting member of the committee. Members are not disqualified from being on the Committee if they have treated or diagnosed the patient in the past.
- 2. The lead psychologist shall serve as Chairperson of the Committee and will be a voting member. The members of the Committee shall have completed a training program approved by the Chief Medical Officer (CMO). A copy of this completed training and quiz will be the responsibility of the Health Services vendor and maintained on file in each committee member's personnel files.
- 3. The Warden shall identify one or more employees to be available to act as an "assisting staff member" in the due process procedure. The role of this assisting staff member is to facilitate understanding and participation by the patient during the hearing and to ensure that the Treatment Review Committee addresses the basic questions regarding the necessity of involuntary treatment. All assisting staff members shall complete a documented training program which has been approved by the CMO. A copy of this completed training and quiz will be the responsibility of the Warden and maintained on file in the employee's personnel files.
- 4. The Treatment Review Committee Hearing shall be conducted as soon as possible after the determination of need for involuntary treatment has been made, and at maximum within three (3) business days.
- 5. The patient and assisting staff member shall receive written notification of the time and place of the hearing at least twenty-four (24) hours prior to the hearing. The notification shall include the tentative diagnosis and the reasons the physician believes the treatment is necessary. State Form 48401, "Notice of Treatment Review Committee Hearing," shall be used for this purpose.

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6. The patient has the right to attend the hearing, to present evidence, including witnesses, and to cross-examine staff witnesses unless the patient's attendance at the hearing poses a substantial risk of serious physical or emotional harm to self or poses a threat to the safety of others. The assisting staff member shall appear at the hearing on the patient's behalf whether the patient attends or not. The assisting staff member shall specifically require (at minimum) the following from the prescribing physician :
 - a. A summary of the evidence for serious mental illness or physical health condition including the specific clinical diagnosis thought to be present;
 - b. An explanation why the physician believes that the recommended treatment is in the patient's best interest, including specific goals for treatment;
 - c. A summary of the evidence for grave disability, severe deterioration in routine functioning, severe deterioration in health condition, or the likelihood of serious harm to self, other, or property; and,
 - d. A description of what other interventions might serve to treat the patient's overall health condition.
7. The documentation in the health record shall be reviewed by the Treatment Review Committee and the Committee may require that the prescribing physician appear in person at the hearing. When the prescribing physician is not required to be present, a non-voting member of the Committee may read the documentation prepared by the prescribing physician of the above four (4) questions, minimally, that are the basis for the involuntary treatment hearing.
8. Prior to the hearing, the patient and assisting staff member may request in writing to the Chairperson of the Committee that certain staff witnesses be present at the hearing or that specific questions be asked outside of the hearing and that certain information be available at the hearing.
9. Reasonable efforts shall be made to have any requested witness present at the hearing, unless the witness testimony would be repetitive, irrelevant, or a threat to the safety of any of the persons involved, or to the security of the facility, or for other reasons, including, but not limited to, the unavailability of the witness, or matters related to the orderly operation of the facility.
10. In the event that the requested witnesses are unable to appear at the hearing, but are otherwise available, the witnesses shall be interviewed by a Committee member. The Committee member shall ask the witness(es) any relevant questions provided by the patient and the patient's assisting staff member. The patient and the assisting staff member shall be given a copy of the responses of any witnesses interviewed. The assisting staff member shall consult with the patient regarding any statements made by the witnesses interviewed by the Committee.

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11. At the hearing, the patient shall be assisted by the assisting staff member and may make statements and present documents which are relevant to the proceedings.
12. The patient and assisting staff member may make statements and may direct relevant questions to any staff witness at the hearing unless the Chairperson finds the questions to be repetitious, irrelevant, or a threat to the safety of individuals, or the security of the facility.
13. The Committee shall conduct any investigations, which it deems necessary, regarding the issue of administering treatment to the patient. Any information obtained during an investigation must be presented at the hearing in order to be considered by the Committee. The Committee shall consider all relevant information and material which has been presented at the hearing in deciding whether to approve or disapprove the administration of the treatment .
14. The Treatment Review Committee must make its decision by simple majority of voting members.
15. A written decision shall be prepared by the Chairperson and shall be signed by all members of the Treatment Review Committee. The decision shall include a summary of the hearing and the reasons for approving or disapproving the administration of the treatment. State Form 48402, "Report of Treatment Review Committee Hearing," shall be used for this purpose. The written decision must include answers to the questions asked by the assisting staff member and described under number 6 above.
16. The administration of treatment on an involuntary basis shall begin immediately after the verbal agreement for this action by the appropriate number of members of the Treatment Review Committee. When administered, the following conditions shall be met.
 - a. The authorization is by a physician who specifies the duration of treatment;
 - b. Less restrictive intervention options have been exercised without success as determined by the physician ;
 - c. Details are specified about why, when, where, and how the treatment is to be administered;
 - d. Monitoring is ordered and occurs for adverse reactions and side effects; and,
 - e. Treatment plan goals are prepared for less restrictive or less invasive treatment alternatives with return to voluntary treatment as soon as clinically feasible.
17. The original copy of the decision shall be placed in the patient's health record with copies provided to the patient, within five (5) business days of the hearing. The

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CMO has the authority to overturn a decision that affirms use of involuntary treatment if the CMO determines that good cause for this action exists.

V. APPEALING THE COMMITTEE DECISION:

If the Committee approves administration of the involuntary treatment, the patient shall be advised of the opportunity to appeal the decision by filing a written request of appeal to the CMO within five (5) business days after receipt of the Committee's written decision. The patient shall complete State Form 48403, "Appeal of Treatment Committee Decision," and submit the form to the Chairperson of the Committee.

Within five (5) business days, the Chairperson of the Committee shall forward the appeal and State Form 48402, "Report of Treatment Review Committee Hearing," to the CMO, the Executive Directors of Behavioral Health and Physical Health, the Director of Mental Health, the Health Services vendor's Regional Director of Behavioral Health and Psychiatry, and the prescribing psychiatrist. The CMO shall respond to the appeal within five (5) business days.

VI. REVIEW BY THE CHIEF MEDICAL OFFICER (CMO):

If the patient appeals the decision of the Treatment Review Committee, Health Services staff shall enforce administration of the treatment as ordered by the physician and approved by the Committee while awaiting the decision on the appeal by the CMO or designated physician.

Within five (5) business days of receipt of the appeal, the CMO or designated physician shall review the Committee's decision, either authorizing continued involuntary treatment or ordering that the treatment be stopped by contacting the ordering physician and/or the facility. The CMO's decision shall be in writing on State Form 48403, "Appeal of Treatment Review Committee Decision."

The original copy of the appeal decision shall be placed in the patient's health record with copies to the patient and others designated by the CMO.

VII. PERIODIC REVIEWS OF INVOLUNTARY TREATMENT ORDERS:

Once authorized, the effect of the involuntary treatment shall be reviewed by the physician (psychiatrist if psychotropic involuntary medications and site medical director if physical health involuntary treatment) within seven (7) days for newly-initiated involuntary treatment. If orders are a renewal, they should be reviewed by the physician within fourteen (14) days. Full documentation shall be provided in the electronic medical record by the physician to support the decision to continue involuntary treatment orders.

The patient shall be evaluated in an interview by the on-site provider every thirty (30) days. If the ordering provider is not a physician, the patient shall be seen by the provider's collaborating physician every ninety (90) days while the patient receives involuntary

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treatment. Full documentation shall be provided by the physician in the health record as long as involuntary treatment orders are continued.

The Treatment Review Committee shall conduct a hearing every six (6) months to review the need for involuntary treatment for as long as the treatment is ordered on an involuntary basis.

VIII. EMERGENCY ADMINISTRATION OF PSYCHOTROPIC TREATMENT:

If emergent intervention is used per HCSD 2.32A and it is determined that the medications need to be continued beyond the limits of the protocol, and the individual will not agree to take the medications on a voluntary basis, a Treatment Review Committee hearing must be held as soon as possible, but no later than three (3) business days following the referral.

IX. GRIEVANCES:

A patient may submit a grievance concerning the involuntary administration of treatment in accordance with Policy and Administrative Procedure 00-02-301, "The Grievance Process." When considering the grievance, the Warden shall confer with the CMO. The CMO shall be considered the final authority in matters relating to health decisions.

X. INTER-FACILITY TRANSFER AND CONTINUITY OF CARE:

Involuntary treatment approved by a Treatment Review Committee shall be continued when a patient is transferred from one Department facility to another. The same ongoing review requirements apply to the receiving facility.

IV. APPLICABILITY:

This HCSD is applicable to all facilities providing Health Services to incarcerated adults.

signature on file
Adrienne Bedford, MD
Chief Medical Officer

Date