

	State of Indiana Indiana Department of Correction Division of Youth Services	Effective Date  4/1/2022	Page 1 of  8	Number  4.05Y
<b>HEALTH CARE SERVICES          DIRECTIVE-YOUTH SERVICES          Manual of Policies and Procedures</b>				

Title <b>INVOLUNTARY PSYCHOTROPIC MEDICATION ADMINISTRATION: NON-EMERGENT</b>
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Legal References (includes but is not limited to)  11-8-2-5	Related Policies/Procedures (includes but is not limited to)  01-02-101	Other References (includes but is not limited to)  National Correctional Healthcare Standards
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**I. PURPOSE:**

This Health Care Services Directive (HCS) outlines the procedure for the administration of psychotropic medications without the youth's consent when they are either gravely disabled or pose a likelihood of serious harm to self or others due to mental illness .

**II. DEFINITIONS:**

- A. **ASSISTING STAFF MEMBER:** A staff member who is not a qualified mental healthcare professional (QMHP) but who has been provided with training in the process of assisting patient and ensuring that the Treatment Review Committee addresses the basic questions regarding involuntary treatment.
- B. **GRAVELY DISABLED:** A condition in which the youth, as a result of mental illness, is in danger of impending harm because the youth 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 youth's inability to function independently.
- C. **LIKELIHOOD OF SERIOUS HARM:** Evidence of substantial risk of physical harm to self, or physical harm to others, or to the property of others.
- D. **MENTAL ILLNESS:** A psychiatric disorder that substantially disturbs a youth's thinking, feeling, or behavior and impairs the youth's ability to function.

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- E. **PSYCHIATRIC ORDER:** A medical order issued by a board certified or board eligible psychiatrist providing psychiatric services for the correctional facility.
- F. **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.
- G. **SEVERE DETERIORATION IN ROUTINE FUNCTIONING:** Evidence of repeated and escalating loss of cognitive or volitional control over one's actions, and therefore, not receiving such care as is essential for health and safety.

### III. GUIDELINES:

- A. In most clinical circumstances, youth are provided with psychotropic medication only after a diagnosis of serious mental illness is established and with their expressed consent. On rare occasion, a seriously mentally ill youth may become gravely disabled or poses a risk of serious harm to self or others due to a mental disorder and refuse recommended treatment. This directive outlines the circumstances in which non-emergent forced medications may be employed.
- B. In the juvenile settings the facility Warden is the legal guardian for health services. In no circumstance will forced psychotropic medication be administered without the consent of the Warden or their authorized designate. Although this directive discusses involuntary medication, in a strict sense, the forced medication discussed herein is administered with consent of the legal guardian.

Forced psychotropic medication will not be considered unless the youth/patient is diagnosed or thought to be seriously mentally ill and meets the following criteria:

1. The youth suffers from a mental illness or mental disorder, **and**;
2. The medication is in the best interest of the youth for medical reasons, **and**;
3. The youth is determined to be gravely disabled or exhibits severe deterioration in routine functioning or poses a likelihood of serious harm to self, others, or the property of others **and**;
4. The physician or psychiatrist has discussed them with the facility Warden,

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and has requested the Warden's consent for use of injectable psychotropic medication (including a discussion of the risks and benefits associated with forcible medication) **and**;

5. The Warden has provided their consent to forcible medication.
- C. Gravely disabled, mentally disordered youth who require medication to prevent severe deterioration in routine functioning and do not consent to treatment 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 psychotropic medication orders.
- D. The psychiatric orders for involuntary medications and the clinical evidence to support these orders shall be fully documented in the youth's health record. The psychiatrist shall meet with the youth to explain why the medications were ordered and discuss any concerns the youth may have; this meeting and the discussion shall be documented in the electronic medical record.
- E. The administration of psychotropic medications as ordered by the psychiatrist has been reviewed and approved by the Treatment Review Committee after the completion of a due process hearing.
- F. Whenever a psychiatric emergency situation exists and the youth poses an imminent threat of serious physical harm to self or others due to mental illness, no due process hearing is required prior to the administration of emergency forced psychotropic medication. In the case of a psychiatric emergency, the procedure outlined in HCSD 4.04Y "Emergency Involuntary Psychotropic Medication Administration—Youth," shall be followed.
- G. Treatment Review Committee Process:
  1. The Treatment Review Committee shall be comprised of three or more members. At least two members shall be physicians and at least one of those shall be a psychiatrist. Neither shall have been involved in the prescribing of the psychotropic medications under review.
  2. Members are not disqualified from sitting on the committee if they have treated or diagnosed the youth in the past. The lead psychologist shall serve as Chairperson of the Committee. The members of the Committee shall have completed a training program approved by the Chief Medical Officer (CMO) or designee after consultation with the jurisdiction administration regarding the legal and medical issues involved.
  3. The Warden shall identify one or more staff members to be available to

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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 youth 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 training program that has been approved by the CMO.

4. The Treatment Review Committee hearing shall be conducted as soon as possible after the determination of need for involuntary psychotropic medication has been made, and at maximum within three (3) business days.
5. The youth, the assisting staff member, the Warden and Executive Director of Youth Services 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 psychiatrist and other mental health staff believes the medication is necessary. State Form 48401, “Notice of Treatment Review Committee Hearing,” shall be used for this purpose.
6. The youth has the right to attend the hearing, to present evidence, including witnesses, and to cross-examine staff witnesses unless the youth’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 youth’s behalf whether the youth attends or not. The assisting staff member shall specifically request (at least) the following:
  - a. A summary of the evidence for serious mental illness, including the specific psychiatric disorder thought to be present;
  - b. An explanation why the psychiatrist believes that the recommended medication is in the youth’s best interest, including specific goals for treatment;
  - c. A summary of the evidence for grave disability, severe deterioration in routine functioning, or the likelihood of serious harm to self, others, or property; and,
  - d. A description of what other interventions might serve to treat the youth’s mental health condition.

The documentation in the health record shall be reviewed by the Treatment Review Committee and the committee may require that the prescribing psychiatrist appear in person at the hearing.

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7. Prior to the hearing, the youth and the 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 the hearing and that certain information be available at the hearing.
8. 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 that include, but are not limited to, the unavailability of the witness, or matters related to the orderly operation of the facility.
9. In the event that a requested witness is unable to appear at the hearing, but is otherwise available, the witness shall be interviewed by a committee member. The committee member shall ask the witness(es) any relevant questions provided by the youth and the youth's assisting staff member shall be given a copy of the responses of any witnesses interviewed. The assisting staff member shall consult with the youth regarding any statements made by the witnesses interviewed by the Committee.
10. At the hearing, the youth shall be assisted by the appointed staff member and may make statements and present documents which are relevant to the proceedings.
11. The youth 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 repetitive, irrelevant, or a threat to the safety of youths or the security of the facility.
12. The Treatment Review Committee shall conduct any investigations deemed necessary regarding the issue of administering psychotropic medication to the youth. 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 medication.
13. The Treatment Review Committee shall make its decision by simple majority of voting members.
14. 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

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disapproving the administration of the medication. 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 in number 6 above.

15. The administration of psychotropic medication on an involuntary basis shall begin immediately after the verbal agreement for this action by simple majority of the voting members of the Treatment Review Committee.
16. The original copy of the decision shall be placed in the youth's health record with copies provided to the youth, the warden, the CMO, and others as designated by the CMO. The CMO has the authority to overturn a Treatment Review Committee decision that affirms the use of involuntary medication if the CMO determines that good cause for this action exists.
17. If the Treatment Review Committee approves administration of the psychotropic medication, the youth 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 Treatment Review Committee's written decision. The youth shall complete State Form 48403, "Appeal of Treatment Committee Decision," and submit the form to the Chairperson of the Committee.
18. Within five (5) business days of receipt of the appeal from the youth, the Chairperson of the Committee shall forward the appeal to the CMO or designee, the Executive Director of Behavioral Health, the Director of Mental Health, and the Behavioral Health Services Program Coordinator. The CMO has five (5) business days to review and respond to the appeal.

H. Review by the Department's Chief Medical Officer (CMO):

If the youth appeals the decision of the Treatment Review Committee, health services staff shall enforce the administration of the medication as ordered by the psychiatrist and approved by the Treatment Review 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 designee shall review the Treatment Review Committee's decision and either authorize continued involuntary administration of medication or order that the medication be stopped by contacting the ordering psychiatrist and/or the facility. The CMO's decision shall be in writing on State Form 48403, "Appeal of Treatment Review Committee Decision."

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A copy of the appeal decision shall be placed in the youth's health record with copies to the youth, Warden, and others as designated by the CMO.

I. Periodic Reviews of Involuntary Medication Orders:

Once authorized, the effect of the involuntary medication treatment shall be reviewed by the psychiatrist within seven (7) days for newly-initiated involuntary medications and will be evaluated in an interview by an on-site psychiatric prescriber within 14 days of the initial injection and every thirty (30) days thereafter. If the orders are a renewal, the youth should continue to be seen by the psychiatrist every thirty (30) days. Full documentation shall be provided in the health record by the prescribing psychiatrist to support the decision to continue involuntary medication orders.

The Treatment Review Committee shall conduct a renewal hearing every six (6) months to review the need for involuntary medication administration for as long as the psychotropic medications are ordered on an involuntary basis.

J. If a determination is made that involuntary medication used emergently needs to be continued beyond the limits of HCSD 4.04Y, "Emergency Involuntary Psychotropic Medication," and the youth will not agree to take the medication 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.

K. Grievances:

A youth may submit a grievance concerning the involuntary administration of psychotropic medication in accordance with Policy and Administrative Procedure 03-02-105, "Youth 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 medical decisions.

L. Inter-Facility Transfer:

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

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IV. APPLICABILITY:

This HCSD is applicable to all facilities providing Health Services to youth.

Signature on file

\_\_\_\_\_  
Kristen Dauss, MD  
Chief Medical Officer

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Date