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|  <p style="text-align: center;">DIVISION OF ADULT INSTITUTIONS</p> <p style="text-align: center;">POLICY AND PROCEDURES</p> | DAI Policy #: 500.30.20 | Page 1 of 8 |
| | Original Effective Date: 12/15/05 | New Effective Date: 01/11/21 |
| | Supersedes: 500.30.20 | Dated: 09/01/16 |
| | Administrator's Approval: Makda Fessahaye, Administrator | |
| Required Posting or Restricted: | | |
| <input checked="" type="checkbox"/> Inmate <input checked="" type="checkbox"/> All Staff <input type="checkbox"/> Restricted | | |
| Chapter: 500 Health Services | | |
| Subject: Involuntary Administration of Psychotropic Medications | | |

POLICY

The Division of Adult Institutions shall refer mentally ill inmates to a state court for mental health commitment and involuntary administration of psychotropic medication when clinically appropriate and when the inmate cannot be treated adequately on a voluntary basis. This policy only applies to mental health treatment – not medical treatment.

REFERENCES

Standards for Health Care in Prisons, National Commission on Correctional Health Care, 2018, P-G-03 – Emergency Psychotropic Medication
Wisconsin Statutes Ch. 51 – State Alcohol, Drug Abuse, Developmental Disabilities and Mental Health Act
Wisconsin Statutes Ch. 54 – Guardianships and Conservatorships
Wisconsin Statutes Ch. 55 – Protective Service System
Wisconsin Statutes Ch. 155 – Power of Attorney for Health Care
Wisconsin Administrative Code Ch. DOC 311 – Observation Status
Wisconsin Administrative Code Ch. DOC 314 – Mental Health Treatment for Inmates
Wisconsin Statutes s. 302.38 – Medical Care of Prisoners
DAI Policy 500.70.08 – Wisconsin Resource Center Transfers

DEFINITIONS, ACRONYMS AND FORMS

Advanced Care Provider (ACP) – Provider with prescriptive authority

Circuit Court Form ME-903 – 51.20 Petition for Examination

Circuit Court Form ME-904 – Motion and Order for Dismissal

Circuit Court Form ME-905 – Order for Involuntary Medication and Treatment

Circuit Court Form ME-910 – Order for Final Hearing

Circuit Court Form ME-911 – Order for Commitment/Extension of Commitment/Dismissal

Circuit Court Form ME-917 – Physician's Report for Medication or Treatment and Request for Hearing

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Circuit Court Form ME-934 – 51.20 (ar) Petition for Examination of a State Prison Inmate

DOC – Department of Corrections

DOC-3021 – Progress Notes

Guardian of the person – A guardian appointed to comply with the duties and to exercise any of the powers specified under Ch. 54, following a finding by the court the individual is mentally incompetent and whose primary responsibility is to provide for the essential requirements for health and safety of the ward in the ward's best interests.

Health Care Record (HCR) – Official confidential DOC record created and maintained for each patient consisting of all or some of the following components: Medical Chart, Dental Services Record, Psychological Records-Copies envelope, Medications Record envelope, Patient Request Folder, Psychological Services Unit Record, and other components as defined by the Bureau of Health Services.

HSU – Health Services Unit

Informed Consent – For purposes of administering psychotropic medications, informed consent means a consent given voluntarily by an inmate or individual legally authorized to consent, or a court appointed guardian, to treatment after an explanation of the nature of the condition being treated, purpose/nature/dose of medication, desired effects of medication, risks/side effects of medication, alternatives available and prognosis without medication.

Involuntary treatment with psychotropic medication – The administration of psychotropic medication to an individual pursuant to a court order. The involuntary administration of medication may or may not involve the use of any physical force.

M-Team – DOC Mental Health Multidisciplinary Team

NP – Nurse Practitioner

PA – Physician Assistant

PSU – Psychological Services Unit

Psychotropic medication – Prescription medication used to influence psychological functioning, behavior or experience. Examples include anti-psychotics, antidepressants, anti-anxiety agents, sedative hypnotics, stimulants and mood stabilizers.

RN – Registered Nurse

State Treatment Facility – An institution operated by the Department of Health Services for the purpose of providing diagnosis, care or treatment for mental or emotional

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disturbance, developmental disability, and alcohol or drug dependency and includes Mendota Mental Health Institute and Winnebago Mental Health Institute. WRC is not a state mental health institute. DAI Policy 500.70.08 governs the transfer of inmate patients to WRC.

WRC – Wisconsin Resource Center

PROCEDURES

I. General Guidelines

- A. Nearly all psychotropic medications in correctional facilities are administered on a voluntary basis.
 - 1. In rare situations, a patient may demonstrate dangerousness as described in §51.20(1)(a), or a need for treatment as described in §51.20(1)(ar), and be appropriate for a §51.20, mental health commitment.
 - 2. Further, some patients may, as a result of their mental illness, lack competence to refuse psychotropic medication and be appropriate for court-ordered involuntary medications.

- B. Involuntary psychotropic medications are those ordered by a court under §51.61, when the court has determined a patient is not competent to refuse psychotropic medication. Once a court order is in place, a patient may agree to take the court-ordered medication without physical force (most situations); or, if refusing, may require physical force be used (more rare).

- C. In most cases, patients can be referred to WRC for the purpose of initiating proceedings for commitment and medication orders. This policy describes the process for DOC facilities to initiate those proceedings when referral to WRC is not possible or appropriate.

- D. Staff shall attempt less restrictive or intrusive measures (including voluntary treatment) prior to initiating involuntary treatment.

II. Initiating a Section 51.20 Commitment

- A. A treating DOC psychiatrist or licensed DOC psychologist shall assess the patient for appropriateness for commitment according to criteria in §51.20(1)(a) or § 51.20(1)(ar).
 - 1. If the patient is appropriate for commitment under §51.20(1)(a), a DOC psychiatrist or licensed psychologist shall complete ME-903 – Petition for Examination.
 - 2. If the patient is appropriate for commitment under § 51.20(1)(ar), a DOC psychiatrist or licensed psychologist shall complete form ME-934 – Petition for Examination of a State Prison Inmate §51.20 (1)(ar).

- B. A DOC psychiatrist may also assess whether the patient is not competent to refuse psychotropic medication and treatment as described in §51.61(1)(g)2.

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- C. If the DOC psychiatrist believes the patient is not competent to refuse psychotropic medication, he/she shall complete ME-917 – Physician's Report for Medication or Treatment and Request for Hearing.
- D. The PSU Supervisor shall forward the applicable petitions to the Warden/designee for signature/notarization.
- E. The PSU Supervisor shall ensure the completed petitions are delivered to the Corporation Counsel in the county the correctional facility resides. A copy of the petitions shall be scanned into the Healthcare Record (HCR).
- F. The Corporation Counsel may arrange for a probable cause hearing.
 - 1. The county court may arrange for independent evaluators and schedule a final hearing.
 - 2. Facility staff shall ensure independent evaluators and legal counsel are given the opportunity to meet with the patient.
 - 3. The Warden/designee shall ensure transportation arrangements are made for court hearings.
- G. Copies of any court orders for commitment or involuntary medication shall be reviewed by the PSU Supervisor to ensure the court order for treatment is written in accordance with Section III A. the PSU supervisor shall enter an order into the patient's HCR for "court ordered treatment", which will be displayed on the banner bar.
- H. The PSU Supervisor/designee shall maintain a list of patients who have involuntary orders for medication and arrange for recommitment proceedings at least 60 days prior to the end of the order. In most cases, patients are transferred to WRC for recommitment proceedings.

III. Administration of Court-ordered Psychotropic Medication

- A. The necessary conditions for DOC staff to order and administer court-ordered (involuntary) psychotropic medication are as follows:
 - 1. Court has committed the patient under §51.20 as an outpatient in a correctional facility.
 - 2. Court has found the patient not competent to refuse psychotropic medications under §51.61.
- B. When the above conditions are met, the treating DOC psychiatrist or a physician may write an order for psychotropic medication in the patient's HCR.
- C. If a patient agrees to take the prescribed court-ordered medication, DOC staff may administer the medication to the patient.
- D. If a patient refuses, by words or actions, to take court-ordered medication, health services staff shall follow the steps below:

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1. A RN, NP, PA or physician shall counsel the patient and attempt to persuade the patient to take the medication.
 2. If the patient continues to refuse, the RN, NP, PA or physician shall contact the physician who wrote the order to assess the situation. If that physician is unavailable, contact the Mental Health Director or Psychiatry Director to assess the situation.
 3. The physician shall decide the course of action which may include one or more of the following:
 - a. Take no action for a period of time.
 - b. Transfer the individual to a special unit within the correctional facility for treatment of mental illness.
 - c. Place the individual in observation status pursuant to Wisconsin Administrative Code Ch. DOC 311.
 - d. Recommend transfer to an alternate correctional facility pursuant to facility procedures.
 - e. Recommend transfer of the patient to a state treatment facility, pursuant to §51.20 or §51.15.
 - f. Direct medication be administered with the use of force, if necessary.
- E. If the prescribing physician, Mental Health Director or Psychiatry Director directs the medication be administered with the use of force, the following shall occur:
1. The prescribing physician, Mental Health Director or Psychiatry Director shall order that the medication be administered with the use of force and give the reason for use of force. If the physician is not on-site, the RN shall document the telephone call, including the physician's decision.
 2. HSU staff shall notify the Health Services Manager and Security Director/designee (and Office of Legal Counsel if the individual is under age 14) prior to using force to administer medication.
 3. The physician, RN, NP or PA shall instruct the patient to take the medication.
 4. If the patient continues to refuse to take the medication, security staff shall restrain the patient while the physician, RN, NP or PA administers the medication.
 5. Staff shall use the minimal amount of force required to effectively administer the medication.
 6. HSU staff shall document in the HCR the reason for use of force, what steps were taken to counsel or persuade the patient, the patient's condition and response to medication.

IV. Inmates Under a Ch. 54 Guardianship

- A. §55.14 outlines the involuntary administration of psychotropic medication as a protective service to individuals under a guardianship under Ch. 54.
- B. A guardian of the person may consent to the involuntary administration of psychotropic medication for a patient who is under a guardianship only if there is a court order for such medication under §55.14. The court order

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should specify a treatment plan and the methods of involuntary administration of psychotropic medication to which the guardian may consent.

- C. For the purpose of this section, involuntary administration of psychotropic medication means any of the following:
 - 1. Placing psychotropic medication in an individual's food or drink with knowledge that the individual protests receipt of the psychotropic medication.
 - a. "Protest" means to make more than one discernible negative response, other than mere silence, to the offer of, recommendation for, or other proffering of voluntary receipt of psychotropic medication.
 - b. "Protest" does not mean a discernible negative response to a proposed method of administration of the psychotropic medication.
 - 2. Forcibly restraining an individual to enable administration of psychotropic medication.
 - 3. Requiring an individual to take psychotropic medication as a condition of receiving privileges or benefits.

- D. A guardian cannot direct health services staff to involuntarily administer psychotropic medication without being authorized by the court.

- E. Upon receipt of a guardianship order the HSU manager shall enter an order into the patient's HCR for "court ordered treatment", which will be displayed on the banner bar.

- V. Patients with an Activated Power of Attorney for Health Care**
 - A. Under an activated Power of Attorney for Health Care, a health care agent lacks legal authority to place the patient (principal) in an institution for mental diseases, intermediate care facility for mentally retarded, state treatment facility, or a treatment facility as defined in Ch. 51.

 - B. The health care agent cannot consent to experimental mental health research, psychosurgery, electroconvulsive treatment or other drastic mental health treatment procedures.

 - C. The health care agent may consent to the administration of psychotropic medications without a Ch. 51 order unless the patient objects by word or behavior.

 - D. If the patient objects by word or behavior to administration of psychotropic medications, a Ch. 51 commitment with a medication order shall be necessary before administration.

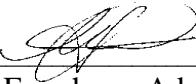
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Bureau of Health Services: Michael Rivers **Date Signed:** 1/8/21
Michael Rivers, Director of Healthcare Administration

_____ **Date Signed:** _____
Vacant, Medical Director

Mary Muse **Date Signed:** 1/8/21
Mary Muse, Nursing Director

Kevin Kallas **Date Signed:** 1/8/21
Kevin Kallas, Mental Health Director

Administrator's Approval:  **Date Signed:** 01/11/21
Makda Fessahaye, Administrator

DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES

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| Facility: Name | | |
| Original Effective Date: | DAI Policy Number: 500.30.20 | Page 8 of 8 |
| New Effective Date: 00/00/00 | Supersedes Number: | Dated: |
| Chapter: 500 Health Services | | |
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| Will Implement <input type="checkbox"/> As written <input type="checkbox"/> With below procedures for facility implementation | | |
| Warden's/Center Superintendent's Approval: | | |

REFERENCES

DEFINITIONS, ACRONYMS AND FORMS

FACILITY PROCEDURE

I.

A.

B.

1.

2.

a.

b.

c.

3.

C.

II.

III.

RESPONSIBILITY

I. Staff

II. Inmate

III. Other