

<b>GEORGIA DEPARTMENT OF CORRECTIONS</b> <b>Standard Operating Procedures</b>		
<b>Policy Name:</b> Involuntary Medication Administration		
<b>Policy Number:</b> 508.26	<b>Effective Date:</b> 12/9/2019	<b>Page Number:</b> 1 of 10
<b>Authority:</b> Commissioner	<b>Originating Division:</b> Health Services Division	<b>Access Listing:</b> Level II: Required Offender Access

**I. Introduction and Summary:**

It is the policy of the Georgia Department of Corrections (GDC) that voluntary participation is to be sought from mental health (MH) offenders for whom psychotropic medication has been prescribed. The offender has the right to refuse medication except under those conditions described in this procedure.

**II. Authority:**

- A. O.C.G.A.: 37-3-163 and 37-3-81;
- B. GDC Standard Operating Procedure (SOP): 209.04 Use of Force and Restraint for Offender Control;
- C. ACA Standard: 4-4401 (MANDATORY);
- D. National Commission on Correctional Health Care (NCCHC) Standards for Health Services in Prisons;
- E. NCCHC Standards for Health Services in Juvenile Detention and Confinement Facilities; and
- F. *Washington v. Harper*, 110 S. Ct. 1028 (1990).

**III. Definitions:**

- A. **Hearing Administrator** - A mental health staff member who facilitates the Involuntary Medication Due Process Committee through the hearing process, ensuring that policy is followed. This role is usually filled by the mental health unit manager or designee.
- B. **Involuntary Medication Due Process Committee** - Three people who are selected from the facility staff, through coordination by the facility mental health unit manager, to act as decision makers regarding involuntary medication administration at a due process hearing. The three people will include a deputy warden of care and treatment or designee, a professional member of the mental health staff (counselor, mental health technician, mental health nurse, or psychologist) and a medical staff member (registered nurse (RN), advanced practice nurse (APRN), physician's assistant (PA) or physician). The committee members cannot have been directly

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involved with recent mental health treatment or evaluation of the offender. Each committee member has one equally weighted vote. The mental health unit manager should not be a member of the committee. A designated recording secretary will audio record the committee proceedings.

- C. **Involuntary Medication Due Process Hearing** - A meeting of assigned Involuntary Medication Due Process Committee members to make an objective decision by independent and impartial people, whether to provide involuntary medication while protecting the rights of the offender.
- D. **Offender Advocate** - A mental health counselor assigned by the mental health unit manager to explain the rights to offender and assist the offender to verbalize reasons for refusing psychotropic medication during the due process hearing. The Offender Advocate cannot be the offender's assigned counselor.
- E. **Psychiatric Emergency** - A crisis in which the offender is currently presenting risk of harm to self or others, or unable to participate in their care or treatment due to a decline in their functioning as a result of mental illness.
- F. **State's Advocate** - A mental health counselor or mental health technician not directly involved in the treatment of the offender acts as the State's Advocate and presents documentary evidence, during the due process hearing.

**IV. Statement of Policy and Applicable Procedures:**

The purpose of these procedures is to guide options for treatment of an offender who is unwilling to accept medication while affording offenders the right to due process in contesting the administration of psychotropic medication prescribed by licensed physicians authorized to prescribe such medications.

- A. **Conditions Under Which Medication May Be Administered Involuntarily:**  
Psychotropic medication may be administered against the offender's refusal under one or more of the following conditions:
  - 1. **Psychiatric Emergency:**
    - a. The offender has a mental illness, that is, has a disorder of thought or mood which significantly impairs judgment, behavior, the capacity to recognize reality, or the ability to cope with the ordinary demands of life; and

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- i. Presents a substantial risk of imminent harm to themselves or others as manifested by recent overt acts or recent expressed threats of violence which present a high probability of physical injury to themselves or to other persons; or
  - ii. Who is so unable to care for their own personal health or safety as to create an imminently life-endangering crisis; or their inability to participate in their treatment and less restrictive intervention options have been exercised without success as determined by psychiatry services.
- b. Decanoate medications may not be given in an emergency unless the offender is on “involuntary medication status” as granted by a previous due process hearing committee.
- i. Emergency involuntary medication may be ordered only per one dose at a time and may not be written as PRN (as needed).
  - ii. Pursuing an involuntary medication hearing is not mandatory if:
    - (a) Use of emergency medication occurs within a limited time frame (24 hours) and does not occur again within 30 days.
    - (b) The use of more than one dose of emergency medications (short-acting injectable) during a 24-hour time frame to treat one episode of urgent illness or emergent uncontrolled behavior such as serious self-injurious behavior.
    - (c) Ongoing use of emergency medication is not anticipated in the next 30 days.
- Note: If the treatment team determines that involuntary medication is not clinically indicated prior to the hearing, the process can be stopped.
- iii. Emergency involuntary medication may be administered until a due process hearing occurs. This hearing must be scheduled after the 24-hour time frame and within seven (7) days of the first opinion made by the attending psychiatrist who initiates the involuntary medication process.

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2. Chronically Dangerous Severely Mentally Ill:

- a. Psychotropic medication may also be administered against the offender's refusal under the following conditions:
  - i. When the offender refuses to accept medication, in the treatment of a chronic psychiatric condition; and
  - ii. The offender has a documented history of becoming dangerous to self or others without psychotropic medication.

B. Procedures for Placing an Offender on Involuntary Medication Status:

- 1. When an offender refuses to accept medication by verbal statement, written statement, gesture, or silence in the treatment of a chronic psychiatric condition and is currently (or historically when off medication) dangerous to self or others with no expectation of improvement, the attending physician must then explain to the offender:
  - a. The assessment results;
  - b. The reason(s) for prescribing the medications;
  - c. When, where, and how the medication is to be administered;
  - d. The risks and benefits of taking the medications; and
  - e. The advantages and disadvantages of taking voluntary and involuntary medications.
- 2. The physician will inform the offender that the medication may be given involuntarily.
- 3. The physician will inform the offender that the issue of involuntary medications will be discussed in a meeting of the Mental Health Due Process Committee.
- 4. Emergency involuntary medication may be administered until a due process hearing occurs. This hearing must be scheduled after the 24-hour time frame and

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within seven (7) days of the first opinion made by the attending physician who initiates the involuntary medication process.

D. Within 14 working days of the offender being informed that medication may be given involuntarily, the physician will request a second opinion on the need of involuntary medication administration. The second opinion is to be done by another physician and will be documented using Attachment 2, Physician Opinion for Involuntary Medication (M66-01-02).

1. Both physician opinions should be documented no later than the 14-day time frame.
2. The physician will document the above steps using Attachment 1, Involuntary Medication Order Check Sheet (M66-01-01), as a guide. The physician will include documentation of how the offender satisfies B.1.a. using Attachment 2, Physician Opinion for Involuntary Medication (M66-01-02).

E. Mental Health Due Process Committee:

1. Each correctional facility with a mental health program will have its own Mental Health Due Process Committee. The mental health unit manager at the facility will appoint the committee.
2. The voting committee will be composed of three individuals:
  - a. The deputy warden of care and treatment/designee, but not the mental health unit manager.
  - b. A professional member of the mental health staff who is not directly involved in the offender's treatment.
  - c. A medical staff member who is not directly involved in the offender's treatment (RN, APRN, PA, or physician)
3. Due Process Hearing:
  - a. The mental health unit manager or designee will coordinate the hearing procedure. The mental health unit manager will also assign the State's Advocate and Offender Advocate. The mental health unit manager will assemble an impartial due process hearing committee.

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- b. The mental health unit manager will arrange a time and location for the hearing consistent with the timetables detailed in these procedures.
- c. The assigned Offender Advocate will notify the offender of the time and location of the hearing using Attachment 3, Notification of Involuntary Medication Committee Hearing (M66-01-03). The Offender Advocate will explain the offender's rights using Attachment 4, Involuntary Medication Rights of Offenders (M66-01-040). Copies of both forms will be provided to the offender.
- d. Upon request, the GDC's Office of Legal Services will provide consultation and direction, as needed, through the process.
- e. Attorney advocates retained by the offender will be allowed to visit with the offender consistent with Ga. Comp. R. & Regs. 125-03-04-.07. It will be the responsibility of the GDC to notify the offender's privately retained attorney of the time and location set for the hearing. The records and documentation will be made available to the attorney advocate.
- f. The purpose of the impartial due process hearing will be to determine whether the offender has a mental illness and has a condition that meets the criteria described in Section IV.B.1.a. of this procedure.
- g. The State's Advocate will be responsible for presenting all evidence from documented information, including a written summary of key history relevant to the need for involuntary medication, and psychiatry findings regarding evaluation of history, mental status and opinion on need for medication.
- h. The highest-ranking administrative member of the committee will be appointed "Hearing Officer" and guide the process of the hearing.
- i. The Offender Advocate will provide representation to the offender in expressing their reasons for not requiring medication. The offender's attorney will serve this role if present. However, the attorney's presence does not eliminate the possible need for support from the Offender Advocate.
- j. The offender has the right to attend the hearing. The offender or the offender's representative has the right to call any person as a witness including people located at other institutions, unless reasonable cause exists not to allow this. Said reasons will be documented. At the discretion of the

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hearing officer, however, such testimony may be taken by phone or in writing, on condition that the offender provides written questions to be asked of the witness(s).

- k. The offender or their representative may question and cross-examine witnesses called by the GDC, except upon the finding by the Hearing Officer that reasonable cause exists not to allow cross examination. Said reasons will be documented in the record. In the event of such a finding, the offender or his/her representative may submit to the Hearing Officer questions to be asked of such witnesses.
- l. The Hearing Officer will admit all relevant evidence. The Hearing Officer may limit evidence that is merely cumulative. In the event, however, that admissible evidence is found to be cumulative, the offender or their representative may select the evidence they wish to introduce among the cumulative sources of otherwise admissible evidence. A designated recording secretary will record the proceeding before the Hearing Officer. The mental health unit manager will keep the recording of the hearing proceedings for at least two (2) years from the date of the hearing.
- m. After the Committee has received all pertinent information, all non-committee participants will be excused while the committee deliberates in private regarding the testimony presented.
- n. If after the committee's deliberation, it finds that criteria for involuntary medication administration is met, it will issue its findings in writing using Attachment 5, Mental Health Due Process Committee Involuntary Medication Review (M66-01-05), affirming the appropriateness of the involuntary medication. If criteria have not been met, the committee will issue its findings in writing using Attachment 5, Mental Health Due Process Committee Involuntary Medication Review (M66-01-05), to that effect and involuntary medication may not be administered.
- o. The documentation of the proceedings will include the offender's most recent treatment plan, the offender's reasons for refusal, efforts made by staff to obtain the offender's medication adherence, and rationale for the conclusion reached by the committee as well as other pertinent data related to the decision to involuntarily medicate the offender.

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- p. Decisions to continue involuntary medication status require a rehearing process every six (6) months. If the six (6) month involuntary medication status expires, involuntary treatment for chronic conditions should be delayed until there is another involuntary hearing. The rehearing process will follow the above steps.
    - q. The mental health unit manager will keep an Involuntary Medication Hearing Log (M66-01-06) which is Attachment 6.
  4. Notification of the Committee Decision: The Offender Advocate will provide a copy of the decision to the offender within two (2) working days of the hearing using Attachment 7, Notification of Involuntary Medication Committee Decision (M66-01-07).
  5. Involuntary Medication Administration:
    - a. The offender will be closely monitored to ensure there are no adverse reactions and side effects.
    - b. Efforts will be made to counsel the offender about compliance with an involuntary medication order without use of force. Voluntary acceptance will not negate the involuntary status of the medication order.
    - c. When medication is administered involuntarily, security staff will use only the minimum force needed. A Use of Force report will be completed in accordance with department guidelines (SOP 209.04).
    - d. The Mental Health Nurse will document any need for use of force or coercion in a progress note that will be placed in the mental health section (Section 5) of the medical record.
    - e. Nursing staff will clearly label the offender's medication administration record (MAR) with the phrase "Involuntary Medication Status."
  6. Documentation (Filing): The following documentation of the actions surrounding the hearing will be packaged (stapled together as a unit). The original package will be filed in the mental health section (Section 5) of the medical record. A copy of the package will be filed in the mental health record (Section 5). The documentation package will include the following:



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- a. Attachment 1: Involuntary Medication Order Check List (M66-01-01);
  - b. Attachment 2: Physician Opinion for Involuntary Medication (M66-01-02), and/or psychiatric progress notes by the ordering physician and/or second opinion by physician regarding need for involuntary medication;
  - c. Attachment 3: Notification of Involuntary Medication Committee Hearing (M66-01-03);
  - d. Attachment 4: Involuntary Medication Rights of Offender (M66-01-04);
  - e. Attachment 5: Mental Health Due Process Committee Involuntary Medication Review (M66-01-05).
  - f. Attachment 7: Notification of Involuntary Committee Decision (M66-01-7); and
  - g. A copy of any progress notes which were used as evidence during the due process hearing.
7. After the Six (6) Month Interval: If at the six (6) month interval following a due process hearing, the offender continues to meet the above criteria, another due process hearing will be necessary.
- a. If, based on history, the offender continues to meet the above criteria but is willing to take medication voluntarily, the due process hearing is still necessary at the six (6) month interval. At this time a decision will be made to either extend or suspend the administration of involuntary medication.
  - b. Prior to deciding to discontinue the prescribed medications or deciding to allow the offender to take voluntary medication by mouth, the attending physician shall discuss the decision with the offender's treatment team and document the discussion. Less restrictive treatment alternatives should be used as soon as possible and documented in the treatment plan.
  - c. The licensed physician who prescribes medication to be administered involuntarily must ascertain the medication:
    - i. Is consistent with the accepted treatment for the offender's diagnosis(s) and symptoms; and

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- ii. Is expected to provide an effective treatment response for the offender's diagnosis(s) and symptoms.

**V. Attachments:**

Attachment 1: Involuntary Medication Order Check Sheet (M66-01-01)

Attachment 2: Physician Opinion for Involuntary Medication (M66-01-02)

Attachment 3: Notification of Involuntary Medication Due Process Committee Hearing (M66-01-03)

Attachment 4: Involuntary Medication Rights of Offender (M66-01-04)

Attachment 5: Mental Health Due Process Committee Involuntary Medication Review (M66-01-05)

Attachment 6: Involuntary Medication Hearing Log (M66-01-06)

Attachment 7: Notification of Involuntary Medication Due Process Committee Decision (M66-01-07)

**VI. Record Retention of Forms Relevant to this Policy:**

Upon completion, Attachments 1-5 and 7 shall be placed in the offender's mental health file. At the end of the offender's need for mental health services and/or sentence, the mental health file shall be placed within the offender's health record and retained for 10 years. Attachment 6 shall be maintained in the mental health area for four (4) years.