

MICHIGAN DEPARTMENT OF CORRECTIONS <b>POLICY DIRECTIVE</b>	EFFECTIVE DATE 10/09/1995	NUMBER 04.06.183
	SUBJECT VOLUNTARY AND INVOLUNTARY TREATMENT OF MENTALLY ILL PRISONERS	
SUPERSEDES PD 04.06.183 (01/01/77)		AUTHORITY MCL 330.1631; 330.2001 et seq.; 768.36; 791.203; 791.265; 791.265b
		ACA STANDARDS 3-4326; 3-4336; 3-4337; 3-4360; 3-4367; 3-4368; 3-4369; 3-4372
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**POLICY STATEMENT:**

Prisoners who have been diagnosed as seriously mentally ill may voluntarily agree to treatment or be subject to involuntary treatment if the need for such treatment is established at a hearing, as described in this policy.

**RELATED POLICIES:**

PD 04.06.180 Mental Health Services

DEPARTMENT OF MENTAL HEALTH POLICIES

1. III - 07 - GL - PSYCHOTROPIC MEDICATION
2. III - H - 009 - SECLUSION: ADULTS
3. III - H - 008 - PHYSICAL RESTRAINT: ADULTS

**POLICY:**

DEFINITIONS

- A. Comprehensive Psychiatric Examination: An examination by a psychiatrist to determine whether a prisoner is seriously mentally ill and a recommendation for suitable treatment. The examination addresses the following elements: identifying information; chief complaint(s); present illness; past history; mental status; determined diagnosis; current dangerousness to self or others; clinical summary; recommendation for treatment.
- B. Corrections Mental Health Program (CMHP): The program provided by contract with the Department of Mental Health (DMH) Bureau of Forensic Mental Health Services (BFMHS) which is responsible for the provision of mental health services to prisoners with serious mental illness/severe mental disorder. The program includes outpatient teams, residential mental health units in Department facilities, and inpatient services.
- C. Hearing Committee: A committee appointed by the Director of the CMHP to determine whether a prisoner who refuses voluntary admission to the program is mentally ill and whether proposed services, suitable to the prisoner's condition, shall be ordered. The hearing committee shall consist of a psychiatrist, a fully licensed psychologist, and another mental health professional whose licensure or registration requirements include a minimum of a baccalaureate degree from an accredited college or university, none of whom is, at the time of the hearing, involved in the prisoner's treatment or diagnosis.
- D. Mental Health Advisor: A person assigned by the CMHP to assist a prisoner with Hearing Committee proceedings; must be a mental health professional who is not involved in the prisoner's treatment or diagnosis and whose licensure or registration requirements include a minimum of a baccalaureate degree from an accredited college or university.
- E. Mental Illness: As defined in Act 252 of P.A. 1993, a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary

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demands of life.

- F. Mental Health Emergency: Prisoner behavior which is grossly inappropriate due to mental illness such as thought disorder, delusions, hallucinations, major mood disorder, attempted suicide, or self injury and which demonstrates a high risk for immediate danger to self, others, or serious destruction of property.
- G. Psychiatrist's Certificate: A statement of findings that specifies whether, in the psychiatrist's opinion, the prisoner is mentally ill.
- H. Psychological Services: Services provided by qualified mental health professionals employed by the Department of Corrections (DOC).
- I. Qualified Mental Health Professional (QMHP): A physician, psychiatrist, psychologist, social worker, registered nurse, or other health professional who is trained and experienced in the areas of mental illness or mental retardation and is licensed or certified by the State of Michigan to practice within the scope of their professional training.
- J. Qualified Mental Health Professional Evaluation: An evaluation by a Qualified Mental Health Professional, based on a review of records and face to face evaluation, to determine whether a prisoner may be seriously mentally ill/severely mentally disordered and require a referral for a comprehensive psychiatric examination and mental health services. This report shall include: identifying information; reason for referral/evaluation; current mental status; clinical history and impressions; diagnostic impressions; and conclusions/recommendations.
- K. Serious Mental Illness/Severe Mental Disorder: A substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with ordinary demands of life. In addition, includes behaviors requiring mental health assessment, diagnostic evaluation and treatment or disposition planning, and associated with the inability to attend to and effectively perform the usual/necessary activities of daily living; extreme impairment of coping skills, rendering the patient exceptionally vulnerable to unintentional or intentional victimization and possible mismanagement, and/or behaviors that are dangerous to self or others. Serious mental illness/severe mental disorder is not limited to specific diagnosis.

#### VOLUNTARY ADMISSION AND DISCHARGE

- L. Staff who suspect that a prisoner's behavior may be related to mental illness shall request evaluation of the prisoner by Psychological Services. Unless the prisoner is already a patient in the CMHP, an evaluation will be completed by a QMHP designated by the CMHP within two work days. If it is determined that the prisoner may be suffering from serious mental illness/severe mental disorder, the QMHP shall refer the prisoner to a psychiatrist in the CMHP for a comprehensive psychiatric examination. A prisoner who expresses a desire to be voluntarily admitted to the CMHP also may request an assessment by a designated QMHP.
- M. When a mental health emergency is suspected, custody staff shall place the prisoner in an observation room, or its reasonable equivalent in safety restrictions where an observation room is not available, e.g., in the Camp Program. Necessary precautions shall be taken to prevent him/her from engaging in behavior which is dangerous to self, others, or property in accordance with PD 04.05.112, Managing Disruptive Prisoners and PD 04.06.115, Suicide Prevention. Referral shall be made immediately to a designated QMHP for evaluation. If the prisoner is already on the caseload of the CMHP, the referral shall be directed to a QMHP on the appropriate mental health team for continued care and management. If the QMHP evaluation confirms that a mental health emergency exists, immediate referral shall be made for a comprehensive psychiatric examination.
- N. If, upon completion of a comprehensive psychiatric examination, the psychiatrist determines that the prisoner is suffering from a serious mental illness/severe mental disorder, s/he shall propose a suitable plan of service and voluntary admission to the CMHP. If the psychiatrist determines that further

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observation is required, s/he may recommend continued observation and evaluation at the institution or refer to the Crisis Stabilization Program as described in PD 04.06.180, Mental Health Services. If the prisoner does not require admission to the CMHP s/he will be referred back to Psychological Services for disposition.

- O. Voluntary admission to the CMHP and subsequent admission to an inpatient unit requires written informed consent of the prisoner. A voluntarily admitted prisoner shall be discharged from the CMHP within three working days, excluding Sundays and holidays, of giving written notice of his/her intention to terminate treatment, unless involuntary treatment proceedings are initiated. When verbally advised by a prisoner of his/her intention to terminate treatment, the CMHP shall provide the necessary form for termination of voluntary admission.
- P. The CMHP shall notify the warden immediately when involuntary treatment proceedings have been ruled out and the prisoner will be discharged from a mental health unit located in an institution. Prisoners so discharged shall be moved to an appropriate non-mental health bed as soon as possible, but no later than three business days from the date of discharge specified by the CMHP.

#### INVOLUNTARY ADMISSION TO CMHP

- Q. When a prisoner refuses consent for voluntary admission to the CMHP or gives written notice of an intention to terminate treatment, a psychiatrist's certificate shall be executed which states whether the prisoner is mentally ill. If the prisoner is determined to be mentally ill, a psychiatrist's report in support of the psychiatrist's certificate also shall be completed. The psychiatrist's report shall include a recommendation for prisoner placement pending the hearing. The recommendation for placement shall be communicated to the warden and, if necessary, the prisoner shall be transferred to an appropriate facility where a Hearing Committee can be convened.
- R. When the examining psychiatrist determines that a prisoner is mentally ill and is a present danger to himself or herself or to others, and the prisoner refuses treatment, the psychiatrist, upon completion of the certificate, may order involuntary administration of psychotropic medication pending the convening of a Hearing Committee. When the prisoner is not housed in an inpatient unit, the involuntary administration of medication shall occur in an appropriate health care or mental health site in the facility. If necessary, custody staff shall assist in escort of the prisoner and administration of the medication.
- S. When a psychiatrist's certificate, indicating the prisoner is mentally ill, has been completed and the prisoner has been moved to a designated hearing site, the CMHP shall provide a copy of the Psychiatric Certificate, Psychiatric Report, QMHP Report, and a notice of hearing and rights to the prisoner and, if one has been appointed, to the guardian of the person. For a prisoner already receiving services, these documents must be provided within three business days of written notice from the prisoner of his/her intention to terminate voluntary treatment.
- T. A Mental Health Advisor shall be assigned to assist a prisoner who is subject to a hearing. A hearing shall be held not less than 24 hours after the prisoner and his/her guardian, if applicable, are provided the documents described in paragraph S, but not more than seven business days after the documents have been provided to the prisoner. The prisoner shall not be medicated for 24 hours before a hearing.
- U. The facility head shall provide security staff, a suitable location, and timely access to the hearing site for Hearing Committee members, support staff, witnesses, and essential equipment including recording equipment and audiotapes.
- V. The Hearing Committee shall be convened by the Regional Director of the BFMHS and shall be comprised of staff designated by the CMHP Director. Hearings shall be conducted according to Hearing Committee procedures developed by the BFMHS.
- W. The Hearing Committee shall consider the QMHP Report alleging that the prisoner is mentally ill, the Psychiatric Report, the Psychiatrist's Certificate, proof that a notice of hearing has been served, proof

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that the prisoner has not been medicated within 24 hours and any other admissible evidence presented at the hearing.

- X. A prisoner has the following rights with respect to the hearing process:
1. Attendance at the hearing, and if the prisoner has a guardian of the person, the guardian's attendance at the hearing. However, a prisoner shall not be compelled to attend the hearing against his/her will.
  2. Presentation of evidence, including witnesses, who may be family members, and cross-examination of witnesses, unless the Hearing Committee finds that the presentation, confrontation, or cross-examination would present a serious threat to the order and security of the facility or the safety of the prisoner or others.
  3. Assistance of a Mental Health Advisor.
- Y. Following the taking of evidence, the Hearing Committee shall determine whether the prisoner is mentally ill and, if so, whether the proposed mental health services are suitable to the prisoner's condition. A finding of mental illness must be concurred with by the psychiatrist on the Hearing Committee to be valid. If the Hearing Committee finds that the prisoner is mentally ill but the proposed services are not suitable, it shall order services available within the CMHP that are suitable to the prisoner's condition.
- Z. The Hearing Committee shall prepare an official record of the hearing including all evidence presented and shall record electronically all taking of evidence by the committee. However, the recording need not be transcribed unless requested by a party to the hearing who shall pay for the transcription cost.
- AA. Within 24 hours, the Hearing Committee shall prepare and provide to the prisoner, a report including findings and orders, and an appeal form. An initial order for treatment shall be for a period not to exceed 90 days. According to the Hearings Committee findings, the prisoner shall be admitted to the CMHP at the appropriate level of care.
- BB. When the order of the Hearing Committee is for admission to a level of care located outside of an inpatient unit, the involuntary administration of medication shall occur in an appropriate health care or mental health site. If necessary, custody staff shall assist in the escort of the prisoner and the administration of medication.
- CC. If the Hearing Committee determines that the prisoner is not mentally ill, a referral to Psychological Services shall be made and the CMHP shall notify the warden that the prisoner will not be admitted. As soon as possible, but no later than three business days after such notification, a prisoner housed in a mental health unit shall be transferred to a non-mental health unit.
- DD. A prisoner may appeal the decision of the Hearing Committee to the Director of the CMHP within 48 hours of the prisoner's receipt of the Hearing Committee report. The Mental Health Advisor shall assist the prisoner in completing an appeal form. The Director of the CMHP shall render a decision within 2 business days after receipt of the appeal. A prisoner may appeal the decision of the CMHP Director to Circuit Court. On an appeal to the Circuit Court, the CMHP shall furnish the record of the hearing to the Mental Health Division of the Department of Attorney General. The prisoner's treatment shall not be stayed pending an appeal.

#### EXTENDING INVOLUNTARY TREATMENT

- EE. If necessary, not less than 14 days before expiration of the initial 90 day order, the treating psychiatrist shall file a report with the designated CMHP administrator, indicating that the prisoner continues to be mentally ill and requires mental health services. The prisoner shall be provided notification of an opportunity for a hearing. The prisoner may waive the right to a hearing and consent to voluntary

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admission or request a hearing. If a hearing is requested, the Hearing Committee shall conduct a hearing as set forth above and may order continued care in the CMHP for an additional period not to exceed 90 days.

- FF. If necessary, not less than 14 days before expiration of the second 90 day order, the treating psychiatrist shall file a report with the designated CMHP administrator, indicating that the prisoner continues to be mentally ill and requires mental health services. If the prisoner continues to refuse treatment and requests a hearing, the Hearing Committee, convened as described above, may order continued care in the CMHP for an additional period not to exceed 180 days. If continued treatment is required at the expiration of the 180 day order, the treating psychiatrist shall initiate a request for an initial order of admission.

#### PROTECTION FOR MENTALLY ILL PRISONERS

- GG. Within seven days after voluntary or involuntary admission to the CMHP, a prisoner shall be provided with the CMHP Guidebook containing rights information and offered an opportunity to consult with staff from the Office of the Legislative Corrections Ombudsman.
- HH. Prisoners receiving services from the CMHP retain the same rights and privileges offered to other prisoners and also are entitled to the rights described in the CMHP Guidebook. For additional information, see PD 04.06.180, Mental Health Services.

#### OPERATING PROCEDURE

- II. An Operating Procedure shall be jointly developed by the Administrator of the Department of Corrections Bureau of Health Care Services and the Director of the Department of Mental Health Bureau of Forensic Mental Health Services within 60 days of the effective date of this policy and shall be approved and signed by the Directors of the Department of Corrections and the Department of Mental Health.

#### AUDIT ELEMENTS

- JJ. A Primary Audit Elements List has been developed to ensure compliance with this policy by providing staff with a tool for self auditing. This list shall be used by the Bureau of Health Care Services for auditing purposes on an annual basis unless more frequently required by the Director or Deputy Director and shall be retained on-site and in accordance with the Retention and Disposal Schedule or for three years if not addressed in the Retention and Disposal Schedule and made available to the Internal Auditor when requested.

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