MONTANA STATE PRISON
OPERATIONAL PROCEDURE

Procedure:	**MSP HS G-03.0 INVOLUNTARY PSYCHOTROPIC MEDICATIONS**
Effective Date:	04/30/2013 Page 1 of 3
Revision Date(s):	10/01/2020; 06/30/2026
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I. PURPOSE

Establish processes for the involuntary administration of psychotropic medications. These processes are modeled after *Harper v. State of Washington* and only apply to non-emergency situations where psychotropic medications may be utilized to involuntarily treat inmates. The requirements apply to all staff involved in assessing the need for and administration of these medications.

The Department requires 3 conditions to justify the use of involuntary psychotropic medications:
A. the inmate suffers from a mental illness or mental disorder;
B. the medications are in the best medical interest of the inmate; and
C. the inmate is either gravely disabled or poses a likelihood of serious harm to self or others.

II. DEFINITIONS (see Glossary)

III. REQUIREMENTS

A. General Requirements

1. Criteria for Administration of Involuntary Psychotropic Medications
   a. For involuntary psychotropic medications to be approved, the treating psychiatrist (or in the absence of the psychiatrist, a physician with mental health experience) has determined that:
      1) the inmate suffers from a mental illness or mental disorder;
      2) the medications are in the best medical interest of the inmate; and
      3) the inmate is either gravely disabled or poses a likelihood of serious harm to self or others.

2. Prior approval or a hearing will not be required when psychotropic medications are administered in an emergency situation (see *MSP HS G-03.1 Emergency Medications*).

3. Involuntary Psychotropic Medications Hearing Process (for controlled involuntary medication of an inmate)
   a. A treating psychiatrist or physician who requests the administration of involuntary psychotropic medications will prepare a complete evaluation, which documents the facts and underlying reasons supporting the decision as well as the inmate's mental condition for the Treatment Review Committee.
      1) This evaluation includes, but is not limited to:
         a) the DSM diagnosis;
         b) indications from the medical record or direct observation that the inmate is either gravely disabled or poses a likelihood of serious harm to self or others;

c) methods used to motivate the inmate to accept medications voluntarily and the inmate's response to these efforts; and
d) the inmate's expected prognosis and behavior on and off of medications.

b. The inmate must receive an *MSP HS G.03.0 (A) Notice of Hearing for Treatment with Involuntary Psychotropic Medications* form indicating that involuntary medications are being considered.
   1) The *Notice* must include:
      a) the date and time the hearing will be held;
      b) the mental health diagnosis;
      c) the factual basis for such a diagnosis; and
      d) the basis on which it has been determined that there is medical necessity for involuntary treatment.
c. Inmate Rights at Hearing
   1) The inmate has an opportunity to:
      a) be present,
      b) be heard in person at the hearing; and
      c) to present evidence on the inmate's behalf.
   2) The inmate has the right to hear evidence that is being relied upon in the consideration of involuntary treatment.
   3) The inmate has a limited right to:
      a) present testimony through the inmate's own witnesses; and
      b) to cross-examine witnesses who are called by the treating psychiatrist or physician and witnesses provided by mental health staff.
   4) The inmate may have a Lay Advisor appointed by the Mental Health Director to advise the inmate during the hearing process.
      a) The lay advisor will meet with the inmate prior to the hearing to discuss the hearing process and mental health issues involved.
      b) The Lay Advisor will document the interaction with the inmate in a Data, Assessment, and Plan (DAP) note.
   5) At the hearing, the treating psychiatrist or physician is obligated to disclose to the inmate the evidence used for the proposed involuntary psychotropic treatment.
d. When MSP staff members are called as witnesses by the Treatment Review Committee, every effort will be made to have such witnesses present to testify at the hearing.
   1) Written statements of such staff members may be considered in their absence.
e. The hearing chairperson will document reasons for not allowing an inmate to present or cross examine a witness orally at the hearing and in writing as part of the final decision.
   1) Reasons for not allowing an inmate to present witnesses or to cross examine witnesses include, but are not limited to:
      a) irrelevance;
      b) lack of necessity;
      c) redundancy;
      d) possible reprisals; or
      e) other reasons related to institutional interests of security and order.
f. Treatment Review Committee Process
   1) The Treatment Review Committee will base its decision on:
      a) the treating psychiatrist or physician's recommendation and report;
      b) information provided by other mental health professionals and involved staff members;
      c) a review of the inmate's health record;
      d) the hearing record, and
      e) a face-to-face interview and/or evaluation of the inmate.
   2) The chairperson will document the findings of the hearing on the *MSP HS G-03.0 (B) Involuntary Psychotropic Medications Hearing Treatment Review Committee Documentation* form, including the evidence relied on and rationale for the committee's final decision.

3) The chairperson may choose to:
   a) table the request for involuntary psychotropic medications;
   b) request further evidence; or
   c) conduct another hearing.

g. After the Hearing
   1) Once the Treatment Review Committee has made the decision to authorize involuntary treatment with psychotropic medications, the treating psychiatrist will have the responsibility to:
      a) order medications according to the accepted medical standard of care in the community;
      b) order any necessary laboratory tests or other procedures to monitor prescribed medications; and
      c) temporarily discontinue the involuntary medications as a result of the following (this may be done without affecting the involuntary status of the patient):
         (1) excessive side effects or medical problems suspected to be due to medications; or
         (2) toxic levels of the medications in the inmate's blood.
   2) The inmate will be given a copy of *MSP HS G-03.0 (B) Involuntary Psychotropic Medications Hearing Treatment Review Committee Documentation* within 7 days.
      a) Copies will also be placed in the mental health and medical files.
   3) Following the hearing, the inmate may receive involuntary medications based on the Treatment Review Committee recommendations.
      a) Per *MSP 3.1.8 Use of Force and Restraints*, both force and restraints may be utilized in the administration of involuntary medications.
   4) The administration of involuntary medications is in effect indefinitely without further action from the committee.
   5) Inmate Appeal Process
      a) The inmate will be permitted to submit a written appeal of the decision to the Mental Health Services Manager.
         (1) The appeal must be submitted within 7 days from the inmate's receipt of the committee's decision.
      b) The MSP Mental Health Services Manager will:
         (1) serve as the Department's designee for appeals;
         (2) review all appeals to determine if all requirements were followed;
         (3) take action within 5 days of receipt of the appeal, excluding holidays or weekends; and
         (4) review this procedure annually.
      c) Treatment reviews will only be done if the inmate requests a review in writing.
   6) Reviews can be requested every 6 months following the initial hearing and once per year thereafter.
      a) The Treatment Review Committee will conduct a review in accordance with committee guidelines.
   7) If the inmate agrees to voluntarily submit to treatment following a positive committee decision for involuntary medicine, involuntary requirements can be suspended.
      a) However, the order remains in effect, and the treating psychiatrist can resume involuntary medications as necessary, depending on the inmate's compliance with treatment.

IV. CLOSING

Questions about this procedure should be directed to the MSP Health Services Manager.

V. FORMS

A. *MSP HS G-03.0 (A) Notice of Hearing for Treatment with Involuntary Psychotropic Medications*
B. *MSP HS G-03.0 (B) Involuntary Psychotropic Medications Hearing Treatment Review Committee Documentation*