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<b>Involuntary Psychotropic Medication</b>	<b>ACA Standards: 2-CO-4E-01, 4-4401M</b>		
<b>Joe M. Allbaugh, Director</b> <b>Oklahoma Department of Corrections</b>		<b>Signature on File</b>	

## **Involuntary Psychotropic Medication in Non-Emergency Situations**

For the purpose of this procedure, the term “inmate” will apply to anyone under the authority, custody or care of a prison or a community-based facility operated by or contracted with the Oklahoma Department of Corrections (ODOC).

### **I. Purpose**

The Oklahoma Department of Corrections (ODOC) expects that voluntary participation be sought from inmates requiring mental health treatment and for whom psychotropic medications have been prescribed. In the event an inmate is reluctant to accept psychotropic medication as part of his/her treatment program, cooperation should be sought through education and explanations, to the extent that he/she can comprehend, about the purpose of the treatment and the possible medical consequences of the refusal to accept medication in accordance with [OP-140117](#) entitled “Access to Health Care.” Under no circumstances will an inmate be coerced into accepting medication except in the case of a life-threatening situation as governed by local, state and federal laws. (4-4401M)

### **II. Applicability**

This procedure applies only to non-emergency situations where designated psychotropic medications are required to involuntarily treat seriously mentally ill inmates who meet the specified criteria and applies to all staff involved in the process. Involuntary psychotropic medication in an emergency must be administered as prescribed in [OP-140653](#) entitled “Emergency Forced Psychotropic Medication.”

Involuntary psychotropic medication in non-emergency situations will only be administered to inmates housed in the agency’s designated mental health units (MHUs) where acute care stabilization and chronic care medical/mental health treatment is available for the inmate with severe mental illness. [OP-140127](#) entitled “Mental Health Units, Intermediate Care Housing Units, and Habilitation Programs” describes MHU procedures and specifies which facilities include an MHU.

### III. Definitions

#### A. Psychotropic Medication

For the purpose of this procedure, this category includes anti-psychotic, anti-anxiety, anti-depressant and mood stabilizing agents.

#### B. Serious Mental Illness

A substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality or cope with the ordinary demands of life within the prison environment and which is manifested by substantial suffering or disability. Serious mental illness requires a documented mental health diagnosis, prognosis and treatment, as appropriate, by mental health staff.

#### C. Likelihood of Serious Harm

Likelihood of serious harm is defined as:

1. A substantial risk that serious physical harm will be inflicted by an inmate upon his/her person, as evidenced by threats or attempts to commit suicide or inflict physical harm to one self.
2. A substantial risk that serious physical harm will be inflicted by an inmate upon another as evidenced by behavior which has caused such harm or which placed another person in reasonable fear of sustaining such harm.

#### D. Gravely Disabled

Gravely disabled is defined as a condition in which a person, as a result of a serious mental illness:

1. Is in danger of serious physical harm resulting from a failure to provide for his/her essential physical needs of health or safety; or
2. Manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his/her actions.

E. Psychiatrist

For the purpose of this procedure, a psychiatrist is the same as defined in [OP-140141](#) entitled "Therapeutic Restraints and Seclusion."

IV. Situations Justifying Involuntary Administration of Psychotropic Medication

A. Identification

For involuntary medication to be approved, it must be demonstrated by clear and convincing evidence that the inmate suffers from a serious mental illness, that administration of clinically indicated psychotropic medication is in the inmate's medical interest, and because of the serious mental illness, one or more of the following concerns exist:

1. There is a substantial likelihood of serious physical harm to self;
2. There is a substantial likelihood of serious physical harm to others;
3. There is a substantial risk of significant property damage that may result in harm to self/others;
4. The inmate is gravely disabled and is unable to care for himself/herself so that his/her health and safety is endangered; and/or
5. The inmate is gravely disabled and is incapable of participating in any treatment plan that would offer the inmate a realistic opportunity to improve his/her condition and alleviate physical suffering and/or further deterioration.

B. Approval (4-4401M b# 1, 2)

Involuntary administration of medication may be considered only on the recommendation of the inmate's treating psychiatrist, and only after reasonable efforts to counsel the inmate to accept clinically indicated medication voluntarily have been unsuccessful. These efforts will be documented in the electronic health record by the psychologist and/or the appropriate QMHP. Involuntary medication may not be instituted unless the treating psychiatrist's recommendation has been reviewed and approved by a Medication Review Committee, as established in this procedure.

V. Procedures

The clinical coordinator of the appropriate Mental Health Unit is responsible for oversight of all activities related to this procedure to ensure appropriate procedure is followed. The clinical coordinator and facility head or designee will communicate directly regarding all matters pertaining to this procedure.

A. Involuntary Medication Report

When a psychiatrist prescribes psychotropic medication for a seriously mentally ill inmate as part of an individualized treatment plan and the inmate refuses to accept the medication, the psychiatrist will make reasonable efforts to counsel the inmate to comply with treatment. The treating psychiatrist may enlist the assistance of other qualified mental health professionals (QMHPs) or other staff with whom the inmate has a relationship in efforts to achieve voluntary adherence.

If reasonable efforts to counsel the inmate to accept prescribed medication voluntarily are unsuccessful, the psychiatrist will complete an "Involuntary Medication Report" ([DOC 140652A](#), attached) recommending that the inmate be administered medication involuntarily and providing the reasons for this recommendation. The "Involuntary Medication Report" ([DOC 140652A](#)) will be submitted to the facility head on the date completed and signed, and a copy will be placed in the inmate's medical file. The completed report will include: (4-4401M)

1. A psychiatric examination which documents the inmate's mental condition;
2. The inmate's diagnosis in accordance with the current edition of the Diagnostic and Statistical Manual of Mental Disorders;
3. Descriptive evidence to support how the inmate presents as a substantial risk of serious harm to himself/herself or others, substantial risk of significant property damage that may result in harm to himself/herself or others, or is gravely disabled and thus requires involuntary psychotropic medication(s). These reasons will be provided in sufficient detail and in language that the inmate and non-clinical staff can understand and use them to make relevant decisions;
4. Authorization is by a psychiatrist who specifies the duration of therapy, and the proposed type, dosage range, and route of administration of the psychotropic medication, including injectable and oral alternatives; (4-4401M, b# 1, 3)
5. A description of the methods used to motivate the inmate to accept medication voluntarily and the inmate's response to these efforts;
6. Indication of whether this is an initial medication request for 30 days or a continuation medication request for 180 days;

7. The consideration and rejection of less intrusive alternatives along with the rationale for resorting to involuntary medication; (4-4401M, b#2)
8. Any recognized religious objection to medication;
9. Any history of side effects, including severity, from the proposed involuntary medication and that the gains anticipated from the proposed medication outweigh the potential side effects;
10. Specified monitoring necessary for adverse reactions and side effects; and (4-4401M, b# 4)
11. Proposed treatment goals when less restrictive treatment alternatives become possible. (4-4401M, b# 5)

**B. Medication Review Committee**

1. Within two working days of receiving the “Involuntary Medication Report” ([DOC 140652A](#)) from the psychiatrist, the facility head will convene a Medication Review Committee. This committee will consist of a psychologist (chairperson for the committee), a psychiatrist, the CHSA or designee and an administrative/security representative for the facility head.
  - a. The psychologist and psychiatrist assigned to the medication review committee may not be the same health care professionals who are currently involved in the inmate’s mental health treatment or diagnosis.
  - b. The clinical coordinator or designee will assign a psychologist to serve as chairperson. The chairperson will attend the meeting as a non-voting member to ensure compliance with policy.
  - c. In the event a psychiatrist is not readily available to sit on the committee, a physician (or advanced practice nurse specializing in mental health) may be substituted to avoid delays in treatment. The physician will consult with a psychiatrist, not involved in the direct care of the inmate, concerning the treatment recommendations prior to the meeting.
  - d. Additional team members may be appointed at the facility head’s discretion. The chief mental health officer (CMHO) will assist the facility in arranging for committee members when facility staff who meets the criteria is not available.

2. A staff representative will be appointed by the chair of the Medication Review Committee. The staff representative need not be a mental health care professional but will be an individual with some understanding of the inmate's diagnosis and the issues to be considered at the hearing. The staff representative's function will be to assist the inmate in articulating his/her position at the hearing; to help the inmate understand his/her rights regarding the hearing, and to participate in the hearing process.
  - a. At the completion of the hearing, the staff representative will complete the "Involuntary Medication Hearing-Staff Representative Fact Sheet" ([DOC140652D](#), attached).
  - b. The chair of the Medication Review Committee will retain a copy of this completed form.

C. Hearing Procedures (4-4-4401M)

1. After reviewing the case, the Medication Review Committee chair will provide written notice, utilizing the "Notice of Hearing to Consider Recommendation of Involuntary Administration of Psychotropic Medication" form ([DOC 140652B](#), attached), to the inmate at least 24 hours prior to any involuntary medication hearing. Copies of this notice will be given to the facility head, inmate and a copy will be retained by the chair. This notice must include:
  - a. The mental health diagnosis;
  - b. The factual basis for such a diagnosis;
  - c. Authorization by a psychiatrist who specifies the duration of therapy, and the proposed type, dosage range, and route of administration of the psychotropic medication, including injectable and oral alternatives;
  - d. The basis on which it has been determined that there is a necessity for involuntary treatment;
  - e. Date and time the involuntary medication hearing will be held;
  - f. Identification of the staff representative; and
  - g. Listing of the rights of the inmate at involuntary medication hearings.
2. If, for unforeseeable reasons, the hearing is not held as specified in the notice, a new notice must be given as specified with the first notice.

3. The inmate will have the right to refuse psychotropic medication on the day of the involuntary medication hearing, unless an emergency psychiatric situation is present, in which case [OP-140653](#) entitled “Emergency Forced Psychotropic Medication” will apply.
4. Inmate rights at the involuntary medication hearing include:
  - a. To receive written notice, at least 24 hours prior to the hearing, stating the date, time and location of the hearing.
  - b. To be present at the hearing. The chair of the Medication Review Committee may limit the inmate’s right to be present at the hearing or limit the inmate’s right to present testimony and cross-examine witnesses at the hearing. Reasons for this include, but are not limited to relevance, redundancy, possible reprisals, or reasons related to institutional security and order.
  - c. To have a staff representative to assist the inmate during the process. If the inmate is absent from the hearing, the staff representative will exercise the rights of the inmate on the inmate’s behalf.
  - d. To be without medication, if so requested, on the day of the hearing.
  - e. To present alternatives to involuntary medication at the hearing.
  - f. To present testimony through his/her own witnesses.
  - g. To cross-examine witnesses supporting involuntary medication.
  - h. To appeal the Medication Review Committee decision, if the decision authorizes involuntary medication.
  - i. To have a staff representative assist in the appeal process.
  - j. To receive a written copy of the Medication Review Committee’s decision to review if an appeal is considered.
5. At the conclusion of the hearing, the Medication Review Committee will decide by a preponderance of evidence whether or not involuntary medication may be administered to the inmate. Each committee member is required to document his/her decision in the “Medication Review Committee Report” ([DOC 140652C](#), attached). The chair will retain a completed report. If the decision is not unanimous, involuntary medication will not be administered unless the physician/psychiatrist is in the majority, authorizing medication use. An initial finding by the committee to permit the involuntary

administration of psychotropic medication will be in effect for 30 consecutive days, including holidays and weekends.

6. If the treating psychiatrist subsequently recommends that initial involuntary medications continue longer than 30 consecutive days, a second "Involuntary Medication Report" must be completed by the inmate's psychiatrist. The Medication Review Committee will conduct a second hearing on or before the 30th day following the initial hearing in accordance with the procedures set out in items B. and C. above.
7. At this second hearing, the committee will make a decision as to approval or disapproval of continued medication for up to a maximum time period of 180 days. The process, as outlined in this procedure, may be repeated every 180 days as long as the medication is clinically indicated and the inmate meets the criteria for the administration of involuntary psychotropic medication and refuses voluntary psychotropic medication.
8. When the Medication Review Committee has made the decision to authorize involuntary treatment with psychotropic medication, the treating psychiatrist will have the responsibility to order medications through the electronic health record according to accepted medical standards of care within one working day of the committee's decision. When it is known from records or treatment history that a mentally ill inmate favorably responds to a particular medication, that medication will be first considered by the prescribing psychiatrist.
9. The inmate may voluntarily take medication without invalidating the existing order.
10. Documentation by the Medication Review Committee of all hearings will include the evidence relied upon and the reasons for the final decision.
11. Each committee member will record his/her decision by indicating approval/disapproval on the "Medication Review Committee Report" ([DOC 140652C](#)) within three hours of the hearing.
12. The "Medication Review Committee Report" ([DOC 140652C](#)) will be sent to the warden or administrative designee for review and signature within one working day (excludes holidays and weekends). A copy of the report form will then be delivered to the inmate within one additional working day. The original will be retained by the chair of the Medication Review Committee.
13. The "Medication Review Committee Report," ([DOC 140652C](#)) signed by the warden or administrative designee, will be made a permanent part of the inmate's medical file. A copy of the form will be forwarded

to the CMHO. All other documents will be placed in a separate file entitled "Involuntary Medication Hearings," which will be securely maintained in medical or mental health services.

14. The administration of involuntary medication may not be initiated within 24 hours of the inmate receiving his/her copy of the "Medication Review Committee Report" ([DOC 140652C](#)).
15. Consistent with accepted medical standards of care, the treating psychiatrist will have the responsibility to:
  - a. Temporarily suspend involuntary medication as clinically indicated without affecting the validity of the existing order;
  - b. Continue an inmate on involuntary medication status while given a temporary trial period of voluntary medications; and
  - c. Order appropriate laboratory testing which may be collected via veni-puncture (involuntarily if necessary) to monitor therapeutic medication levels and/or to detect adverse reactions of the medications.
16. If involuntary psychotropic medication is administered in accordance with these procedures, the responsible QMHP will place an alert in the inmate's electronic health record indicating involuntary medication was administered.

#### D. Appeal Procedures

1. An inmate will be permitted to appeal, in writing, the decision of the medication review committee within 24 hours of receipt of the written committee decision ("Medication Review Committee Report", [DOC 140652C](#)). The inmate appeal will be documented on the "Involuntary Medication Appeal Request" ([DOC 140652E](#), attached).
  - a. After being reviewed and signed by the warden or administrative designee, the appeal request will be sent for review to an ODOC psychiatrist not directly involved with the inmate's treatment and designated by the CMHO.
  - b. Access to the staff representative will be provided to assist the inmate in this process.
  - c. Administration of involuntary medication will not occur until the appeal has been decided.
2. The reviewing psychiatrist will review and decide on the appeal of the medication review committee's decision to permit involuntary

medication of the inmate within one working day of receiving the appeal.

- a. The decision will be issued in writing using the “Involuntary Medication Appeal Decision” ([DOC 140652E](#), attached).
- b. A copy of the reviewing psychiatrist’s decision will be given to the inmate and placed in the inmate’s medical file and the “Involuntary Medication Hearings” file.

#### VI. Administration of Psychotropic Medication

The initial administration of injectable involuntary medication will be administered by a registered nurse, nurse practitioner, physician assistant or a physician. After the psychiatrist determines the inmate is stabilized, involuntary medication may be administered by a qualified health care professional, as determined by the psychiatrist.

If necessary for medication administration, an appropriate use of force may be used in accordance with [OP-050108](#) entitled “Use of Force Standards and Reportable Incidents” and [OP-140141](#) entitled “Therapeutic Restraints and Seclusion.”

#### VII. References

Policy Statement No. P-140100 entitled “Inmate Medical, Mental Health and Dental Care”

OP-050108 entitled “Use of Force Standards and Reportable Incidents”

OP-140117 entitled “Access to Health Care”

OP-140127 entitled “Mental Health Units, Intermediate Housing Care Units, and Habilitation Programs”

OP-140141 entitled “Therapeutic Restraints and Seclusion”

OP-140653 entitled “Emergency Forced Psychotropic Medication”

43A O.S. § 5-204

43A O.S. § 3-702

57 O.S. § 400

Washington vs. Harper, 494 U.S. 210,

Vitek vs. Jones, 445 U.S. 480

VIII. Action

The chief mental health officer is responsible for compliance with this procedure.

The division manager of Health Services is responsible for the annual review and revisions.

Any exceptions to this procedure will require prior written approval from the director.

This procedure is effective as indicated.

Replaced: Operations Memorandum No. OP-140652 entitled "Involuntary Psychotropic Medication in Non-Emergency Situations" dated October 30, 2015

Distribution: Policy and Operations Manual  
Agency Website

<u>Referenced Forms</u>	<u>Title</u>	<u>Location</u>
<a href="#">DOC 140652 A</a>	"Involuntary Medication Report"	Attached
<a href="#">DOC 140652 B</a>	"Notice of Hearing to Consider Recommendation of Involuntary Administration of Psychotropic Medication"	Attached
<a href="#">DOC 140652 C</a>	"Medication Review Committee Report"	Attached
<a href="#">DOC 140652 D</a>	"Involuntary Medication Hearing-Staff Representative Fact Sheet"	Attached
<a href="#">DOC 140652 E</a>	"Involuntary Medication Appeal Request"	Attached
<a href="#">DOC 140652 F</a>	"Involuntary Medication Appeal Decision"	Attached

