



MONTANA STATE HOSPITAL POLICY AND PROCEDURE

FORENSIC INVOLUNTARY MEDICATIONS (NGMI, GBMI, UTP COMMITMENTS)

Effective Date: February 17, 2016

Policy: FP-08

Page 1 of 5

- I. PURPOSE:** To define the circumstances under which forensic patients committed as Guilty but Mentally Ill (GBMI) pursuant to § 46-14-312, MCA, Not Guilty due to Mental Illness (NGMI) pursuant to §46-14-301, MCA, or Unfit to Proceed (UTP) pursuant to § 46-14-221, MCA, may be administered involuntary medications, and to define the administrative review process under which Montana State Hospital (MSH) may authorize involuntary medications.

The procedures are modeled after Harper v. State of Washington, and apply to non-emergency situations where appropriate medications may be utilized to involuntarily treat forensic patients. This policy does not preclude the administration of medications on an emergency basis for any patient admitted to the hospital as permitted by § 53-21-162 (5)(c)(i), MCA.

This policy does not apply to patients who have been committed as unfit to proceed and have had a court authorize involuntary treatment as provided in § 46-14-221(2) (b), MCA, because they have already had a court hearing.

II. POLICY:

- A. MSH requires four conditions to be identified to justify the involuntary administration of appropriate medications to forensic patients:
1. The forensic patient has been committed by a court for “treatment”, which includes any commitment as guilty but unable to appreciate the criminality of the patient’s behavior or to conform the patient’s behavior to the requirements of law due to a mental disease or disorder under § 46-14-312, MCA, not guilty by reason of inability to form a mental state that is an element of the crime charged, because of a mental disease or disorder under § 46-14-301, MCA, or as unfit to proceed under § 46-14-221 (2)(b), MCA.
 2. The forensic patient suffers from a mental disease or disorder.
 3. The medication is in the best medical interest of the forensic patient. In the opinion of the treating psychiatrist or advanced practice registered nurse and the Involuntary Medication Review Board, the administration of such medication(s) will improve the patient’s mental status (treat the mental illness symptoms) and/or

treat the immediate medical problem which is related to or caused by the mental illness symptoms.

4. The forensic patient is either gravely disabled or poses a likelihood of serious harm to self or others.
- B. Notwithstanding the above policy, it will always be the goal of this hospital and its Medical Staff to administer medications with the full consent of each patient receiving those medications. Each attending Licensed Independent Practitioner at MSH will strive to use whatever means at his/her command to assure patients treated retain, whenever possible, the full and unrestricted right to provide meaningful and collaborative opinion into the process of their treatment, especially where that treatment represents a significant intrusion into their life and body.

III. DEFINITIONS:

- A. Mental Disease or Disorder: as defined in § 46-14-101, MCA, an organic, mental, or emotional disorder that is manifested by a substantial disturbance in behavior, feeling, thinking, or judgment to such an extent that the person requires care, treatment, and rehabilitation. The term "mental disease or disorder" does not include:
1. An abnormality manifested only by repeated criminal or other antisocial behavior;
 2. A developmental disability, as defined in § 53-20-102, MCA;
 3. Drug or alcohol intoxication; or
 4. Drug or alcohol addiction.
- B. Gravely Disabled: the forensic patient, as a result of a mental disease or disorder, is in danger of serious physical harm resulting from the failure to provide for his essential human needs of health or safety or manifesting severe deterioration in routine functioning, evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions, and is therefore not receiving such care as is essential for his or her health and safety.
- C. Involuntary Medication: any medication administered when one or more of the following circumstances are present: 1) administration of medication is against the specific wish of a person, made evident by verbal or non-verbal behavior reasonably interpreted as an objection, or 2) a person who does not have a legally appointed guardian lacks capacity to give informed consent, or 3) a person's legally appointed guardian cannot or will not give consent. Administration of any drug via a parenteral route is not, in and of itself, to be construed as involuntary. Parenteral administration of medication is considered involuntary only if one or more of the above criteria are met.
- D. Involuntary Medication Review Board (IMRB): a committee appointed by the Medical Director which has the authority to: 1) authorize the use of involuntary medications requested by the attending Licensed Independent Practitioner, when all

policy requirements have been met, and 2) to determine whether or not involuntary medications may be continued. The IMRB will include: a registered nurse, one psychiatrist who is not employed at the FMHF, and a person who is not an employee of the hospital. The psychiatrist will chair the committee. No committee member may be directly involved in the patient's care.

- E. Appropriate Medications: include those medications commonly used by Licensed Independent Practitioners to treat the symptoms of mental illness. These include, but are not limited to antipsychotics (traditional and atypical), antidepressants, mood stabilizers, several anti-epileptics, anxiolytics, psychostimulants, and the hormone levothyroxine. Several other medications, such as insulin, antiandrogens, antihypertensives, and pulmonary ventilation agents, are used either to treat some facet of mental illness (such as delirium) or some critical medical illness that is out of control because of the influence of the ongoing symptoms of mental illness.

IV. RESPONSIBILITIES:

- A. The Medical Director or designee will assign members of the committee, assure a prompt meeting of the IMRB, and ensure reports of relevant information are prepared and distributed to IMRB participants in a timely manner.
- B. The Attending Practitioner (psychiatrist or advanced practice registered nurse) will determine the need for involuntary medications, complete the Forensic Involuntary Medication Request form, forward it to the Medical Director or designee, document the need for medications in the patient record, and assure that the proper authorization is obtained **before** medications are given involuntarily. The attending Licensed Independent Practitioner is responsible for describing the risks and benefits of the proposed medications, and alternatives thereto, if any exist. The attending Licensed Independent Practitioner must also request reviews by the IMRB and document results thereof in the medical record.
- C. Staff Assistant is responsible for:
1. Preparing an annual involuntary medication report for the Medical Director's review and forwarding the report to the Administrator, Addictive and Mental Disorders Division, Department of Public Health and Human Services (DPHHS).
 2. Coordinating involuntary medication review notification of attendees for initial involuntary medication reviews.
 3. Tracking, suspending, and scheduling 14-day and 90-day reviews.

V. PROCEDURE:

Responsible Staff:

- A. Attending Licensed Independent Practitioner:
1. Determines need for forensic involuntary medication.

2. Confirms that court order commits patient under §46-14-221, § 46-14-301, § 46-14-311., or § 46-14-312, MCA. If the court order is ambiguous, obtains legal interpretation from DPHHS Office of Legal Affairs.
3. Completes the Forensic Involuntary Medication Request Form and sends it and a copy of the court order (and legal interpretation, if necessary) to the Medical Director.

B. Medical Director or designee:

1. Reviews information from the attending Licensed Independent Practitioner.
2. Appoints a meeting of the IMRB within 5 working days of the request to use involuntary medications.
3. Promptly notifies the forensic patient, the Mental Disabilities Board of Visitors, and the Administrator of Addictive and Mental Health Division, DPHHS, of the time and place of the hearing.
4. Notifies the forensic patient of the IMRB's decision (approval or disapproval) for initial and continued administration of involuntary medication.

C. Chair, IMRB:

1. Conducts the review, hearing evidence from the attending Licensed Independent Practitioner, forensic patient, Board of Visitors, and all members of the committee.
2. Notifies necessary persons and Medical Director of decision of the IMRB to:
a) approve medications, b) approved with conditions, c) disapproved, or d) withdraw the request.

D. Attending Licensed Independent Practitioner:

1. Institutes involuntary medications as authorized by IMRB after making attempts to inform the forensic patient of the risks and benefits of medications.
2. Discontinues order for involuntary medications when they are no longer necessary.

E. Staff Assistant:

1. Tracks process of involuntary medications, assures proper documentation by staff, keeps records of all involuntary medication requests and procedures, and assures 14-day and 90-day reviews occur as required.
2. Schedules a meeting of the IMRB within 5 working days of the request to use involuntary medications.
3. Maintains a database of all involuntary medication actions.
4. Compiles an annual report to the Governor following the Medical Director's review, and forwards it upon approval to the Administrator of the Addictive and Mental Disorders Division, DPHHS.

VI. REFERENCES: § 46-14-101, § 46-14-301(2)(a), § 46-14-312(2), § 53-21-127(6); and § 53-21-162(5)(c), MCA; Washington v. Harper, 494 U.S. 210 (1990); Sell v. U.S., 539

Montana State Hospital Policy and Procedure

FORENSIC INVOLUNTARY MEDICATIONS

Page 5 of 5

U.S. 166 (2003); In the Matter of the Mental Health of L.R., 2010 MT 76; Montana State Prison Health Services Operation Procedure “Involuntary Psychotropic Medications” MSP HS x.x.168.

- VII. COLLABORATED WITH:** Hospital Administrator, Medical Director, President of the Medical Staff, DPHHS Office of Legal Affairs.
- VIII. RESCISSIONS:** FP-08, *Involuntary Medications (NGMI and GBMI Commitments)* dated February 2, 2011; FP-08, *Involuntary Medications (NGMI and GBMI Commitments)* dated October 25, 2010.
- IX. DISTRIBUTION:** All hospital policy manuals
- X. ANNUAL REVIEW AND AUTHORIZATION:** This policy is subject to annual review and authorization for use by either the Administrator or the Medical Director with written documentation of the review per ARM § 37-106-330.
- XI. FOLLOW-UP RESPONSIBILITY:** Medical Director
- XII. ATTACHMENTS:** For internal use only.
- A. Forensic Involuntary Medication Review Board Request form

Signatures:

John W. Glueckert
Hospital Administrator

Thomas Gray, M.D.
Medical Director