



MONTANA STATE HOSPITAL POLICY AND PROCEDURE

INVOLUNTARY MEDICATIONS

Effective Date: June 2, 2020

Policy: PS-02

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- I. PURPOSE:** To define the circumstances under which patients, for whom the court has authorized the use of involuntary psychotropic medications, may be administered involuntary medications, and to define the administrative review process under which Montana State Hospital (MSH) may authorize involuntary medications.
- II. POLICY:**
- A. Montana Code Annotated § 53-21-162(5)(c) prohibits treatment, including medication, without informed, voluntary and written consent, except treatment:
1. During an emergency situation if the treatment is pursuant to or documented contemporaneously by the written order of a responsible mental health professional; or
 2. When otherwise permitted under the applicable law in the case of a person committed to a facility by a court.
 - a. For patients who have been civilly committed, Montana Code Annotated § 53-21-127(6) permits the MSH Medical Director to authorize involuntary medications when:
 - i. The patient has been committed to the facility and the applicable court has authorized involuntary medications as a part of the commitment, and
 - ii. The Chief Medical Officer of the facility or a practitioner designated by the court approves it prior to the beginning of the involuntary administration, and
 - iii. If possible, a medication review committee reviews it prior to the beginning of the involuntary administration or, if prior review is not possible, within 5 working days after the beginning of the involuntary administration.
 - iv. There must be a review of the administration of involuntary medication administration by the committee, should the procedure continue, at fourteen (14) days and after ninety (90) days.
 - b. If a patient is civilly committed without an order for involuntary medications as part of the commitment and subsequently refuses necessary medications, an order for involuntary medications may be sought from the applicable court.
 - c. For patients committed under Title 46, Chapter 14 (forensic commitment), please refer to MSH policy FP-08, Forensic Involuntary Medications.

- B. Montana's civil commitment statute allows the Chief Medical Officer, after review of details of a case, to authorize involuntary medications, but it implies such a decision should be made only after a duly organized review committee concurs with an affirmative decision. It does not, however, abrogate the Chief Medical Officer's authority to order medications in the absence of such a concurring opinion, specifically when the review cannot be arranged within five working days of the date of the request for medications. MSH will presume, for the purposes of this statute; therefore, that a prior review and concurrence of the Involuntary Medication Review Board (IMRB) will be prerequisite for the administration of involuntary medications, except in specific emergency situations. Those situations must be clearly documented within the patient's medical record by the attending Licensed Independent Practitioner.
- C. As is the case for most forms of treatment, good medical practice and more therapeutic Licensed Independent Practitioner-patient relations will more likely exist if medications are administered with the informed consent of the person receiving the treatment. Therefore, it will be the policy of MSH to use involuntary medications and to order them ONLY during the period of time the patient continues to require medications but concurrently refuses to accept them. Orders for involuntary administration of medications will be discontinued no later than fourteen (14) days after the day the patient agrees to accept medications voluntarily. After significant compliance with medications for at least this fourteen day period of time, the attending Licensed Independent Practitioner will either discontinue the "involuntary" aspect of the medication order or will rewrite the order(s) in such a way that the Medication Administration Records will indicate the medications are not to be automatically administered involuntarily in the event of refusal by the patient. In addition, the patient must be notified medications are being given voluntarily from that point forward. An order for involuntary medications may remain in the medication administration record ONLY when the IMRB has approved continued involuntary medication administration at the 14-day review. Continued use of involuntary medications must be reviewed by the IMRB again at 90 days. Such reviews must be documented and reported to the Medical Director by the same method used to report initial review.
- D. Only one initial IMRB approval (and necessary reviews) will occur during each hospitalization. Should the need arise for involuntary medications at a later time, but within the same hospital stay, the attending Licensed Independent Practitioner shall have authority to restart involuntary medications at his/her discretion, but the Medical Director will be so notified and the new order will be subject to the same fourteen and ninety day reviews by the IMRB described above.
- E. The involuntary use of medications, as established by the IMRB, may remain in effect throughout the hospitalization.

- F. 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 treatment represents a significant intrusion into their life and body.

III. DEFINITIONS:

- A. **Chief Medical Officer:** MSH Medical Director, or his/her designee. Any time the Medical Director is unavailable, ANY other psychiatrist may act as designee.
- B. **Emergency Situation:** *Defined by Montana Code Annotated § 53-21-102. For inpatients at MSH, the term includes a situation where:*
1. Any person, including the patient, is in imminent danger of death or bodily harm from the activity of a patient who appears to be suffering from a mental disorder, or
 2. A patient who appears to be suffering from a mental disorder is substantially unable to provide for the patient's own basic needs of food, clothing, shelter, health or safety in the hospital environment.
- C. **An Emergency Situation** exists when the attending or covering Licensed Independent Practitioner, after proper evaluation of the circumstances, is of the opinion with reasonable medical certainty that the patient, as a result of a mental disorder, presents an emergency situation. An Emergency Situation which persists beyond 3 days must be re-evaluated and documented by the Licensed Independent Practitioner every 3 days.
- D. **Involuntary Medication:** Any medication administered a) against the specific wish of a person or, b) when a person cannot give consent and it can be reasonably assumed that the patient, if able to consent, would refuse to do so, or c) to a person who has a legally appointed guardian who 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.
- E. **Involuntary Medication Review Board (IMRB):** Statutorily defined review committee appointed by the Medical Director which has the authority to a) review his/her decision to authorize the use of involuntary medications and b) authorize the use of involuntary medications requested by the attending Licensed Independent Practitioner, when all statutory requirements have been otherwise met. Its chair in every instance will be a psychiatrist. The IMRB will consist of the chair, registered nurse or licensed practical nurse, and at least one person who is not an employee of

the hospital. The patient and the patient's attorney or advocate (Board of Visitors or other), must receive adequate written notice of the date, time and place of the review and must be allowed to appear and give testimony and evidence.

- F. **Medications:** For the purposes of this policy, medications include psychotropic medications and other medications, such as insulin, antiandrogens, antihypertensives and pulmonary ventilation agents, which 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. Such medications can and will be administered under this policy when, in the opinion of the attending Licensed Independent Practitioner, with concurrence of the Chief Medical Officer and the IMRB, administration of such medication(s) will improve the patient's mental status (treat the mental illness symptoms) and/or treat an immediate medical problem which, due to the mental disorder, the patient refuses or is unable to cooperate or consent to treat.
- G. **Psychotropic Medications:** 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.

IV. RESPONSIBILITIES:

- A. **Medical Director** or designee: May, in the presence of a valid court order, authorize the involuntary use of medications prior to review and authorization of the IMRB. In that event, he/she will assure a prompt meeting of the IMRB and ensure reports of relevant information are prepared and distributed to other parties as required by statute.
- B. **IMRB:** Retains the authority to determine whether or not involuntary medications may continue.
- C. **Attending Licensed Independent Practitioner:** Determines the need for involuntary medications, completes the Involuntary Medication Request form, forwards it to the Medical Director or designee, documents the need for medications in the patient record and assures the proper authorization is obtained **before** medications are given involuntarily, except during a documented emergency situation. The attending Licensed Independent Practitioner is responsible for providing or attempting to provide a description of 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.

D. Administrative Assistant to Clinical Services:

1. Prepares the annual involuntary medication report for the Medical Director's review.
2. Coordinates involuntary medication review notification of attendees for initial involuntary medication reviews.
3. Tracks, suspends, and schedules 14-day and 90-day reviews.
4. Sends notification of IMRB results letter to patient.
5. Provides IMRB results to the appropriate ward clerk for filing in the patient's medical record.
6. Maintains a filing system/database containing all current and archived original IMRB patient files.

E. Administrative Assistant to the Hospital Administrator:

1. Prepares annual involuntary medication report cover letter for Hospital Administrator's signature and forwards to the Governor with CCs to the Director of the Department of Health and Human Services, and the Administrator of the Addictive and Mental Disorders Division.

V. PROCEDURE:

Responsible Staff:

A. Attending Licensed independent Practitioner:

1. Determines need for involuntary meds.
2. Orders medications in an emergency situation, documenting as necessary.
3. Determines if court order authorizes meds.
4. Files petition for involuntary meds as necessary.
5. Completes involuntary med request, sends it and copy of court order to Medical Director.
6. Contacts Medical Director directly for authorization to medicate (if Medical Director or designee is not available, does not require authorization when the Licensed Independent Practitioner first determines an emergency situation exists).

B. Medical Director or designee:

1. Reviews information about request, authorizes medications in an emergency, informs attending psychiatrist of decision.
2. Appoints a meeting of the IMRB within 5 working days of the request to use involuntary medications.
3. Promptly notifies patient, patient attorney/advocate, Administrator of Mental Health Division of DPHHS of time and place of hearing.
4. Maintains database of all involuntary medication actions.
5. Notifies patient of the Involuntary Medication Review Board's decision (approval or disapproval) for initial and continued administration of involuntary medication.
6. Compiles annual report to the Governor per statute and forwards it to the Administrator of the Addictive and Mental Disorders Division.

C. Chair, IMRB:

1. conducts review, hearing evidence of attending Licensed Independent Practitioner, patient, attorney, advocate, etc.
2. Notifies necessary persons and Medical Director of decision of the Board to: a) approve b) approve with conditions c) disapprove or d) withdraw the request.

D. Attending Licensed Independent upon approval of involuntary medications:

1. Institutes involuntary medications as authorized after making attempts to inform patient of risks and benefits of medications.
2. Discontinues order for involuntary meds pursuant to policy.
3. Requests 14 and 90-day reviews by IMRB where required.

E. Administrative Assistant to Clinical Services:

1. Tracks process of involuntary medications, assures proper documentation by staff, keeps records of all involuntary medication requests and procedures, and assures 14 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. Sends notification of IMRB results letter to patient and unit ward clerk for filing patient's medical record.

F. Administrative Assistant to Hospital Administrator:

1. Prepares annual involuntary medication report cover letter for Hospital Administrator's signature and forwards to the Governor with CCs to the Director of the Department of Health and Human Services, and the Administrator of the Addictive and Mental Disorders Division.

VI. REFERENCES: M.C.A. §: 53-21-127(6) "Trial or Hearing on Petition" and 53-21-162(5) "Establishment of Patient Treatment Plan – Patient's Rights"; In the Matter of the Mental Health of L.R., 2010 MT 76.

VII. COLLABORATED WITH: Hospital Administrator, Medical Director, , DPHHS Attorney; Administrative Assistant to Clinical Services.

VIII. RESCISSIONS: PS-02, *Involuntary Medications* dated December 11, 2014; PS-02, *Involuntary Medications* dated July 1, 2009; PS-02, *Involuntary Medications* dated August 22, 2006; PS-02, *Involuntary Medications* dated November 17, 2004; PS-02, *Involuntary Medications* dated March 31, 2003; PS-02, *Involuntary Medications* dated May 20, 2002; PS-02, *Involuntary Medications* dated November 14, 2000; and Policy PS-02 *Involuntary Medications* dated February 3, 2000.

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. [Involuntary Medication Review Board Request](#) form

Signatures:

Kyle Fouts
Hospital Administrator

Thomas Gray, MD
Medical Director