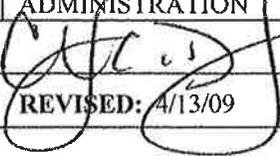


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DEPARTMENT OF CORRECTION	RELATED NCCHC/ACA STANDARDS: P-I-02, 4-4342-1 (ESSENTIAL)	
CHAPTER: 11 BUREAU OF CORRECTIONAL HEALTHCARE SERVICES	SUBJECT: NON-EMERGENCY INVOLUNTARY MEDICATION ADMINISTRATION	
APPROVED BY THE COMMISSIONER:		
EFFECTIVE DATE: 11/19/07	REVISED: 4/13/09	
APPROVED FOR PUBLIC RELEASE		

- I. AUTHORITY: Bureau of Correctional Healthcare Services
- II. PURPOSE: To establish procedures that govern Involuntary Medication Administration for all incarcerated individuals who fall under the auspices for the Delaware Department of Correction (DOC).
- III. APPLICABILITY: All Department of Correction employees and vendor staff, offenders, and any outside healthcare provider servicing DOC offenders.
- IV. DEFINITIONS: See policy.
- V. POLICY:
The Delaware DOC Mandates that all incarcerated individuals under the control of the Department of Corrections will have access to both emergency and non-emergency mental health services which shall include, but not be limited to, non-emergency involuntary psychotropic medication administration when clinically indicated by the treating psychiatrist that it is in the best medical interest for a seriously mentally ill offender who, despite reasonable efforts by mental health providers to obtain voluntary compliance, refuses to accept such medication prescribed for him as part of an individualized treatment program.

The Mental Health Provider shall report all cases, including the use of involuntary medication administration (emergent and non-emergent), at the next Mental Health Provider's Site Quality Improvement Meeting for review. This review shall ensure proper procedures were followed.

Voluntary participation is to be sought from offenders prescribed psychotropic medication, in emergency as well as non-emergency situations, whenever possible. However, a psychiatrist may order that the offender be administered psychotropic medications involuntary.

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III. CONDITIONS and PROCEDURES

- A. Conditions under which non-emergency medications may be prescribed involuntarily.
1. A psychiatrist shall not override a mentally ill offender's right to refuse psychotropic medication when imminent danger to the patient or others is not present unless the psychiatrist determines that:
 - a. The offender is incapable, without medication, of participating in a treatment plan that will provide a realistic opportunity of improving his/her condition. An example is an offender diagnosed with schizophrenia who, as a result of the irritability, hostility and paranoia arising from the offender's schizophrenia, is unable to cooperate with correctional officers, clinicians, or offenders. Such an offender may incur non-violent disciplinary charges that extend the time incarcerated and/or otherwise demonstrates incapacity to function in the prison setting. In like cases, non-emergency involuntary psychotropic medication administration is an appropriate medical intervention in the best medical interest of the offender to reduce the number of disciplinary charges and resolve the incapacity to function in the prison setting.
 - b. There is a significant possibility that, without medication, the patient will harm himself, others or cause substantial property damage before improvement of his condition is realized. In such cases, imminent violence or self-harm is not required. Given that research has shown past behavior is the best predictor of future behavior, incidences of substantial property damage, violence, or self-harm arising from mental illness must be shown to have occurred previously in order for a request for non-emergency involuntary medication to meet this standard.
 - c. The offender is unable to care for himself or herself so that his or her health and/or safety are endangered. An example is an offender diagnosed with schizophrenia that is disorganized to the extent of not showering for a substantial period of time, becomes malodorous and at risk of infection. Such an offender becomes provocative around others and is at risk for becoming a target of hostility from others. In such cases, non-emergent involuntary medication is the best medical interest of the offender.

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2. Non-emergency involuntary psychotropic medication must be prescribed by a psychiatrist, and only in the medical interest of a seriously mentally ill offender.
3. Medication shall be administered in accordance with generally accepted medical standards, including appropriateness to the offender's diagnosis, and with consideration given to any known comorbid mental illness. Medication shall not be used as punishment, for the convenience of staff, as substitute for a treatment program, or, if possible, in quantities that interfere with the offender's treatment program.
4. Involuntary administration of medication may be considered only after reasonable efforts by the treating psychiatrist to educate the offender to accept clinically indicated medication voluntarily have proven unsuccessful. The psychiatrist may enlist the assistance of other mental health staff, medical staff, or others with whom the offender has a relationship in efforts to achieve voluntary compliance with medication.

The treating psychiatrist must document the individualized efforts at psycho-education regarding the offender's illness/symptoms and the reason(s) medication is being recommended. Furthermore, a discussion of the risks of not implementing medication intervention is to be documented.

5. The mental health treatment team will document in the offender's medical record any less restrictive alternative interventions attempted and the offender's response to them, as well as the offender's problematic statements and/or behaviors. If clinically appropriate, other less restrictive interventions might include: improvements in the offender's living environment, involvement in structured group activities, and individual counseling.

B. Procedures for the administration of non-emergency psychotropic medication

1. Involuntary Medication Report (IMR) and Treatment Review Committee (TRC): If any of the conditions listed in Section A.1 (a, b, or c) are met, and reasonable efforts to educate the offender to accept prescribed medication voluntarily are unsuccessful, the treating psychiatrist may complete an IMR recommending that the offender be administered medication involuntarily.

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- a. The IMR shall be submitted to the Regional Director of Psychiatry, or designee, for review for completeness. The Regional Director of Psychiatry or designee will immediately present the IMR to the medical provider's site Medical Director or designee for signature indicating the offender has no medical contra-indications to implementing involuntary medications. This signature is entered on the line below the signature of the psychiatrist.

The Regional Director of Psychiatry or designee will identify and appoint a non-treating psychiatrist and psychologist who might serve on the Treatment Review Committee and list the names and pager numbers of the identified clinicians on the Appointment of Treatment Review Committee form.

- b. Upon appointment of clinical staff to the TRC to consider the treating psychiatrist's recommendation, the Regional Director of Psychiatry will immediately send both forms (the IMR and the Appointment of Treatment Review Committee form) to the local Site Administrator. The TRC now has 24 hours from the Site Administrator's time of receipt of the IMR to convene.
 - i. The Treatment Review Committee's responsibility is to consider the treating psychiatrist's recommendation to involuntarily medicate an offender and to determine whether the recommendation meets the criteria to be in the offender's medical interest.
 - ii. The Treatment Review Committee will consist of a Psychiatrist, a Psychologist, and the Institutional Administrator or designee who will serve as the Committee's Chair.
 - a. No Committee member may be currently involved in the offender's treatment or diagnosis.
 - b. A mental health professional shall not be barred from serving on a Treatment Review Committee by having diagnosed or treated the offender in the past.
 - iii. When the 24-hour period expires on a weekend or holiday, the Regional Director of Psychiatry or designee may

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appoint a Treatment Review Committee on the next business day following the weekend or holiday.

- iv. The Treatment Review Committee shall have no authority to consider the treating psychiatrist's recommendation until the psychiatrist documents the following information in the offender's Involuntary Medication Report.
 - a. The results of a psychiatric examination reflecting the offender's mental status;
 - b. The offender's diagnosis in accordance with the current edition of the Diagnostic and statistical manual of Mental Disorders (DSM), using Axes I – V;
 - c. The signs, symptoms and behaviors, observed by mental health staff which indicate that the offender falls within one or more of the conditions set forth in A.1. (above).
 - d. The offender's individualized treatment plan which is to include the type(s) of medication (typically an anti-psychotic, benzodiazepine for agitation and anti-cholinergic for side effect control); dosage range(s); route to be used involuntarily (typically intramuscular); the clinical goal(s) (typically to diminish psychosis and dangerousness to self); and duration of involuntary medication administration (180 days).
 - (1) The psychiatrist is encouraged to include any and all medications related to the mental health condition that he/she may wish to prescribe involuntarily (ex., Cogentin for extrapyramidal symptoms, lorazepam for agitation, the decanoate form of anti-psychotic medication for long term stabilization/compliance).
 - (2) The psychiatrist will list the anticipated dose and frequency of the involuntary medication(s) requested (ex., Haldol 5 mg

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IM bid”) on the Involuntary Medication Report, with the understanding that a different dose, frequency of administration, and even medication may be ordered, according to the clinical judgment of the treating psychiatrist, in meeting the evolving individualized clinical needs of the offender. Such changes may be ordered by the treating psychiatrist. The TRC is not authorized to alter, modify, add, change, or delete any medical treatment to the offender’s medical record or IMR. The TRC is solely charged with the authorizing the treating psychiatrist to do so.

- e. The efforts undertaken to encourage the offender to voluntarily accept medication prescribed and the reasons given for recommending that involuntary medication be instituted.
- f. Typical and severe possible adverse effects of the medication(s) requested, including any known history of adverse effects in the offender, noting their severity.
- g. The gains expected as a result of involuntary medication and the stated belief that the possible gains for the offender outweigh the risks of the medication and its administration involuntarily. This is the determining factor for the meeting the criteria that involuntary medication administration is in the best medical interest of the offender.
- v. Although informed consent is not required, the offender should, if clinically feasible, be offered an opportunity to be clinically informed, to ask questions, and to state any cogent reasons for objecting.
- vi. If feasible, the offender should be informed that he/she will have an opportunity to voice any objections during the interview with the Review Committee’s non-treating psychiatrist.

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- c. The members of the Treatment Review Committee will immediately and independently review the treating psychiatrist's Involuntary Medication Report (IMR) and any reports submitted as documents to meet criteria listed in this procedure.
- d. Within five days (but preferably sooner) of the initial review of the IMR and documents by the TRC, the Treatment Review Committee will convene a hearing at which time the treating psychiatrist's recommendation will be considered. The committee is to provide the offender with written notice of the hearing at least 24 hours before the hearing is to take place. This written notice is to be made via the DOC Form Notice of Hearing to Consider Recommendation of Involuntary Administration of Psychotropic Medication, which also outlines the offender rights during the hearing. A copy is given to the offender. The TRC renders its decision using the DOC form Treatment Review Committee Report, a completed copy of which will be provided to the offender.
- e. The Chair of the Treatment Review Committee (TRC) will appoint a Staff Advisor to assist the offender at the hearing. The Staff Advisor is typically a member of the Delaware DOC Counseling staff.
- f. The offender may refuse medication until the TRC reaches a decision. However, nothing in this policy prevents mental health staff from taking appropriate action if an offender requires mental health care on an emergency basis before the TRC reaches a decision. Under such circumstances, mental health care providers should proceed according to the DOC policy for Emergency Psychotropic Medication (I-02).
- g. A TRC finding permitting involuntary medication is in effect for 180 calendar days.
 - i. The TRC's authorization of involuntary medication applies to all procedures, examinations and/or tests (including blood samples) which are clinically indicated for the safe and effective administration of the medication.
 - ii. When the TRC authorization of involuntary medication expires on a weekend or holiday, involuntary medication

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may continue until the next business day following the weekend or holiday on which the authorization expired.

- iii. To extend the administration of involuntary medication longer than 180 consecutive days, the treating psychiatrist must complete a new Involuntary Medication Report and submit it to the Regional Director of Psychiatry or designee. This should be accomplished no less than 48 hours before the authorization expires to prevent a lapse in medication.
 - a. The TRC must meet on or before the day the authorization expires to consider the treating psychiatrist's request that involuntary medication be continued.
 - b. If the 180-day authorization expires on a weekend or holiday, the committee may meet the first business day following the weekend or holiday on which the authorization expires.
 - c. At the required hearing, the Committee will decide whether or not to authorize continued involuntary medication for a period of 180 days. A clinical member of the TRC must document the TRC decision in the medical record.
 - d. This procedure may continue in accordance with the Delaware DOC policy at 180-day intervals as long as the medication is clinically indicated and the mental health staff is unable, despite reasonable efforts, to obtain the offender's voluntary compliance with the medication (all such efforts must be documented in the medical record).
 - e. If the TRC does not authorize the treating psychiatrist's recommendation that involuntary medication be continued, the treating psychiatrist may, if he/she believes resumption of involuntary medication to be in the offender's best medical interests, submit and IMR at a future date.

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h. Documentation of the TRC decision giving approval of non-emergency involuntary medication administration, along with the beginning and expiration dates of approval will be placed in the offender's medical record.

2. Administration of Non-Emergency involuntary medication

a. The offender may voluntarily accept medication without invalidating the existing involuntary medication order. Therefore, the physician will order an injectable form of psychotropic medication as well as an appropriate alternative oral dose (preferably in liquid/concentrate form to improve the likelihood of compliance), to be offered to the offender before the offender is involuntarily administered the intramuscular form.

Voluntary and involuntary medications and doses should be stated explicitly on the physician's order in the medical record (e.g. "Give per TRC authorization Haldol HCL 5mg IM for each refusal of Haldol 5 mg po conc. Q day x 90 days").

b. As stated in B.1.d.2 above, the treating psychiatrist may change the dose frequency of administration, and even medication ordered, according to the judgment of the treating psychiatrist and the evolving individualized clinical needs of the offender. Such changes may be administered involuntarily to the offender, and do not require the completion of a new IMR and reconvening of the TRC.

1. Thus, for example, if emergency Cogentin is needed for acute dystonia, or Ativan is needed for agitation, these additional medications may be administered involuntarily even though not initially listed on the IMR, without having to reconvene the TRC. Likewise, the treating psychiatrist may choose to change the antipsychotic medication used.

2. The treating psychiatrist must document his/her clinical rationale for any changes, as above, in the offender's medical record.

c. The treating psychiatrist may order the involuntary administration of any medication discontinued, where clinically indicated, without invalidating the existing authorization for the involuntary administration of the medication.

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- d. A nurse will thoroughly document any involuntary administration of psychotropic medication in the offender's medical record and list any problems encountered.
- e. Nursing staff (and, if possible, correctional staff) will observe offender taking oral medication to ensure compliance. If a single dose is refused, the nurse is to immediately implement involuntary medication.

3. Appeal

An offender may appeal in writing a TRC's authorization of medication administration decision based solely upon the allegation that the authorization policy was not followed. The offender will be notified in writing of the right to appeal when notified the decision of the TRC hearing as per the Treatment Review Committee Report. The Staff Advisor is to provide assistance to the offender who requests assistance in writing the appeal. The appeal is to be sent through the Staff Advisor to the medical provider's Director of Psychiatry. The Staff Advisor is to notify the TRC of the appeal and results of the appeal. The Director of Psychiatry will review all appeals within 2 business days and alert the Staff Advisor. The TRC's approval will be stayed until the Director of Psychiatry renders a decision. If the Director of Psychiatry agrees with the TRC, the beginning date of the 180-day period of involuntary medication will be the date of the Director of Psychiatry's decision. If the Director of Psychiatry decides that policy was not adhered to procedurally, the TRC's decision will be vacated. However, the treating psychiatrist may immediately reapply (or resubmit the IMR if the initial IMR was not the source of the policy violation). Like wise, the TRC may immediately reconvene and rehear the case.

Reference(s):

National Commission on Correctional Health Care: Standards for Health Services in Prisons, 2008, P-I-02

American Correctional Association: Standards for Adult Correctional Institutions, 4th Edition, 2008 Supplement. 4-4342

DELAWARE DEPARTMENT OF CORRECTION

Correctional Facility

Notice of Hearing to Consider Recommendation of Involuntary
Administration of Psychotropic Medication

TO: _____ DATE: _____
Inmate Name Inmate No.

You have been diagnosed as suffering from:

The following psychotropic medication(s) have been prescribed to treat your illness:

You have refused to accept the prescribed medication. A recommendation has been made by _____ to administer psychotropic medication to you with or without your consent. The reason(s) for the recommendation is/are as follows:

The treatment Review Committee of this institution will conduct a hearing in accordance with the Department of Correction Policy on Non-Emergency Administration of Involuntary Medication to consider the recommendation on _____, at _____, has been assigned as a Staff Advisor to assist you at the hearing and will contact you shortly to discuss this matter.

You have the right to refuse the prescribed medication until the Treatment Review Committee reaches a decision. However, health care providers are not prevented from taking appropriate actions if you require mental health care on an emergency basis before the Treatment Review Committee reaches a decision. Under such circumstances, health provision of emergency mental health care, including but not limited to commitment to a hospital for inpatient mental health treatment.

At the hearing, you will have the following rights:

1. To be present at the hearing and to make a statement to the Treatment Review Committee, unless the Committee determines that it is likely that your attendance would subject you to substantial risk of serious physical or emotional harm or pose a threat to the safety of others;
2. To have the aid of a Staff Advisor to assist in presenting evidence and questioning adverse witnesses. The Staff Advisor will be present at the hearing whether or not the inmate appears;
3. To have disclosed to you the evidence which supports involuntary medication where and to the extent such disclosure is consistent with your best medical interests and with institution security;
4. To receive a written report signed by the Chairman of the Treatment Review Committee reflecting the Committee's findings and conclusions where and to the extent that such a report is consistent with your best medical interests and with institution security;
5. To present documentary evidence and call witnesses to testify in your behalf;
6. To cross-examine witnesses called by the Treatment Review Committee;

The Committee has the discretion to limit your right to present documentary evidence and testimony to cross-examine witnesses.

The Treatment Review Committee will within 24 hours of the rendering of a decision, provide you with written notice of its decision and reasons supporting the decision.

Chairman Treatment Review Committee

A copy of this report was delivered to the above inmate by:

Printed Name

Signature

Position

Date: _____

Time: _____

DELAWARE DEPARTMENT OF CORRECTION

Correctional Facility

TREATMENT REVIEW COMMITTEE REPORT

Inmate Name

Inmate No.

In accordance with the Department of Correction Policy Non-Emergency Involuntary Medication Administration, the Treatment Review Committee has reviewed the information presented at the administrative hearing regarding the above-reference inmate. The Hearing was conducted on _____.

_____ was assigned as the inmate's Staff advisor and assisted the inmate with his hearing. Notice of the Hearing was given to the inmate on _____ (attach a copy of the notice of the hearing to this form).

I. Investigation

The Committee has considered the following information as documented in the inmate's Medical Record:

A. The results of a psychiatric examination reflecting the inmate's mental status
 Yes No

B. The inmate's DSM_IV diagnosis
 Yes No

C. The inmate's Individualized Treatment Plan
 Yes No

D. The Medication and dosage prescribed for the inmate by the treating psychiatrist
 Yes No

E. Signs, symptoms and behaviors observed by mental health staff indicating that one or more of the following apply (check each that apply):

___ There is a substantial likelihood of serious physical harm to the inmate or to others.

___ There is a substantial likelihood of significant property damage.

___ The inmate is unable to care for himself/herself so that his/her health and/or safety is endangered.

___ The inmate is incapable of participating in any treatment plan which would offer the inmate a realistic opportunity to improve his/her condition

The following efforts were taken to encourage the inmate to accept the prescribed medication:

Medication is recommended because the following gains from the medication are expected:

Potential side effects that may occur from the recommended medication are:

II. Record of The Hearing:

A. Inmate [] was [] was not in attendance. If not, state reasons inmate was not in attendance:

B. Name and position of Staff Advisor assisting inmate: _____

C. The following evidence in support of the recommendation of **involuntary medication** was presented at the hearing:

Inmate Name & Number

D. The following evidence was not disclosed to the inmate of Staff advisor (list evidence withheld and reasons the evidence was not disclosed):

E. Cross-examination conducted by or on behalf of the inmate (if cross-examination was not permitted or was limited, state reasons):

F. Statement by the inmate and/or Staff Advisor (list on separate page if necessary):

G. Evidence presented by the inmate, attach additional pages if necessary, (if inmate not permitted to present evidence or the Committee limited the evidence presented, state reasons):

Inmate Name & Number

H. The Staff Advisor acknowledges that the record of the hearing, as recorded above, accurately reflects what took place at the hearing.

Printed Name of Staff Advisor

Signature of Staff Advisor

III. Decision

The Treatment Review Committee consisting of _____, Committee Chairman, _____, Psychiatrist, and _____, Psychologist find that (check all that apply):

- A. Without medications, continued decompensation of the inmate's mental health is likely, thus presenting a substantial likelihood the inmate will cause significant property damage.
- B. Without medications, continued decompensation of the inmate's mental health is likely, thus presenting a substantial likelihood the inmate will cause significant property damage.
- C. Without medication, continued decompensation of the inmate's mental health is likely, thus presenting a substantial likelihood that the inmate will be unable to care for him/herself so that his/her health and/or safety is endangered.
- D. Without medications, continued decompensation of the inmate's mental health is likely thus presenting a substantial likelihood that inmate would be incapable of participating in any treatment plan which would offer the inmate a realistic opportunity to improve his/her condition.

List evidence relied upon in support of the above finding(s):

Inmate Name & Number

THEREFORE, pursuant to an in accordance with the Department of Correction policy on Non-Emergency Involuntary Medication Administration,

A. The Treatment Review Committee adopts the recommendation that _____, SBI# _____, is to be involuntary medicated, and that _____, is to comply with this Committee's decision to administer psychotropic medication.

Treatment Review Committee Chairman

Date

B. The Committee does not adopt the recommendation that _____, SBI# _____ receive involuntarily administered medication.

Treatment Review Committee Chairman

Date

Any appeal of this decision must be made in writing to the Regional Director of Psychiatry or designee within 24 hours of the inmate's notification of the decision. The Staff Advisor that assisted the inmate at the Hearing shall be available to assist in an appeal to the Regional Director of Psychiatry or designee.

A copy of this report was delivered to the above inmate by:

Printed Name

Signature

Position

Date: _____

Time: _____

cc: Inmate
Classification File

FILE IN MEDICAL RECORD

DELAWARE DEPARTMENT OF CORRECTION

Correctional Facility

INVOLUNTARY MEDICATION REPORT
(TO BE COMPLETED BY PSYCHIATRIST)

Inmate Name: _____ Number: _____

Mental Health History: _____

Current Mental Status: _____

DSM Diagnoses: Axis I: _____
Axis II: _____
Axis III: _____
Axis IV: _____
Axis V: Current _____ Past Year _____

Inmate's mental health individualized treatment plan, including medication prescribed, dosage of medication, route medication is to be delivered, clinical goals, and duration of involuntary medication administration:

The inmate has refused to accept the prescribed medication. The following efforts have been made to convince the inmate to voluntarily accept the medication:

Signs, symptoms, and behaviors observed by Mental Health staff, which support that the inmate meets the criteria for involuntary medication:

The gains expected from administering the medication involuntarily are as follows:

Typical and severe adverse effects of the medication(s) requested, including any known history of adverse effects, on the part of this particular inmate, are as follows:

I believe that if the inmate continues to be non-compliant, the following will occur:

I believe that the possible gains from involuntary medication outweigh the possible risk of involuntary administration of medication because:

I therefore recommend the Treatment Review Committee that the above referenced inmate to be administered the following medication(s) involuntarily:

Signature of Psychiatrist

Date

Date and Time Report Received by Medical Director or designee

FILE IN MEDICAL RECORD

DELAWARE DEPARTMENT OF CORRECTION

Correctional Facility

APPOINTMENT OF TREATMENT REVIEW COMMITTEE
(TO BE COMPLETED BY PSYCHIATRIST)

TO: COMMITTEE MEMBERS DESIGNATED BELOW

FROM: _____
Regional Director of Psychiatry or designee

DATE: _____

SUBJECT: _____
Inmate Name _____ Number _____

In accordance with the DOC Policy for Involuntary Administration of Psychotropic Medication in Non-Emergency Medical Situations, a Treatment Review Committee for the above referenced inmate is appointed as follows:

Chairman: _____
Institutional Administrator or designee

Psychiatrist: _____

Psychologist: _____

Attached is the Involuntary Medication Report regarding the above referenced inmate for committee review and appropriate action.

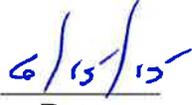
cc: Medical Record

STATE OF DELAWARE DEPARTMENT OF CORRECTION	POLICY NUMBER I-02.1	PAGE NUMBER Review Addendum
SUBJECT: NON-EMERGENCY INVOLUTARY MEDICATION ADMINISTRATION		

I have reviewed this policy and it is scheduled for revision.



Acting BCHS Bureau Chief
Vincent F. Carr, DO, FACP



Date