

# **State of Iowa Department of Corrections**

## **Policy and Procedures**

Policy Number: FPH-36  
Applicability: Institutions  
Policy Code: Public Access  
Iowa Code Reference: 904, 812, 229  
Chapter 10: Forensic Psychiatric Hospital  
Sub Chapter: Treatment  
Related DOC Policies: AD-CR-04, HSP-701, HSP-775  
Administrative Code Reference: 481  
Subject: Civil Commitment  
PREA Standards: NA  
Responsibility: Warden Mike Heinrich, Dr. Theresa  
Clemmons Effective Date: October 2024 Authority:

### **1. PURPOSE:**

To ensure that policy and procedures comply with all applicable provisions for the civil commitment of mentally ill patients.

### **2. POLICY:**

It is the policy of the Forensic Psychiatric Hospital to comply with **Chapter 229 of the Iowa Code**, Hospitalization of Mentally Ill Persons.

### **3. DEFINITIONS - As used in this document:**

#### **Iowa Code – Chapter 229 – Iowa Civil Commitment Statute**

- A. Seriously Mentally Impaired or Serious Mental Impairment – The condition of a person with mental illness and, because of that illness, lacks sufficient judgment to make responsible decisions with respect to the person's hospitalization or treatment, and who because of that illness meets any of the following criteria:
1. Is likely to physically injure the person's self or others if allowed to remain at liberty without treatment.

2. Is likely to inflict serious emotional injury on members of the person's family or others who lack reasonable opportunity to avoid contact with the person with mental illness if the person with mental illness is allowed to remain at liberty without treatment.
  3. Is unable to satisfy the person's needs for nourishment, clothing, essential medical care, or shelter so that it is likely that the person will suffer physical injury, physical debilitation, or death.
  4. Has a history of noncompliance with treatment, and that noncompliance has either (1) been a significant factor in the need for emergency hospitalization, or (2) has resulted in acts causing serious physical injury to the person's self or others or an attempt to cause physical injury to the person's self or others.
- B. Involuntary Hospitalization – Admission to a state mental health institution or hospital psychiatric ward by order of the court.
- C. Chemotherapy – Treatment of an individual by use of a drug or substance which cannot legally be delivered or administered to the ultimate user without a physician's prescription or medical order.

If the physician states in his report to the court that the patient is seriously mentally impaired and recommends further treatment (under **229.14(1)(b)**) and the court orders the patient to receive mental health services in a correctional facility (under **§229(2)(c)**), the treating physician can mediate against the patient's wishes as long as they remain committed.

## 4. PROCEDURE

- A. Whenever a patient receives mental health services, pursuant to **Chapter 229 of the Iowa Code**, professional staff at the FPH ensure that services comply with all provisions of this statute.
- B. Patients are admitted to the FPH by court order or they have been civilly committed prior to admission. It would be rare to utilize this civil commitment process with the FPH. It is important to understand how this process applies within the FPH during the hospital stay and also during discharge.
  1. Application for Order of Involuntary Hospitalization

Proceedings for the involuntary hospitalization of an individual (patient) may be commenced by any interested party by filing a verified

application (completed by a social worker) with the Clerk of Court for Johnson County. Accompanying the application is the following:

- a. A written statement of a licensed physician/psychiatrist in support of the application.
- b. Supportive documentation, i.e. Physician's Report of Examination, clinical staff notes, incident reports, Observation/Restraint/Seclusion logs.

## 2. Service of Notice on the Respondent (Patient)

Upon filing of the application, the clerk shall docket the case and immediately notify a district court judge. The judge will review the application and accompanying documentation. If the judge approves the application, the court will set a time and place for a hearing, but the hearing will not be heard less than 48 hours after the patient has been served by a member of the Johnson County Sheriff's Department. Along with the Notice of Hearing, the patient will be served with a copy of the application and all supporting documentation. Typically, the hearing is held at IMCC. The hearing is attended by the patient, the respondent's legal counsel, prosecuting attorney, hospital referee (legal authority), the psychiatrist, and the patient's advocate.

## 3. Hearing Procedure

At the hearing, evidence in support of the contentions made in the application shall be presented by the county attorney. During the hearing, the applicant and the patient shall be afforded an opportunity to testify and to present and cross-examine the witness, and the court may receive the testimony of any other interested person. The patient has the right to be present at the hearing. If the patient attends the hearing, and has been medicated within twelve hours prior to the beginning of the hearing, the judge shall be informed in writing of the medication, dose, time delivered and any possible side effects (Notice of Medication Form).

## 4. Hearing Follow-Up

A completed copy of the hearing results will be faxed, emailed or mailed by the Johnson County Clerk of Court.

## 5. Appeal

The patient is informed by their attorney that they have the right to appeal the verdict of the hospital referee. Should the patient appeal the

verdict, an appeal hearing is scheduled by the clerk of court. The appeal hearing is held at the Johnson County Courthouse.

6. Evaluation Order (**Code 229.13**) – Treatment – If upon completion of the hospitalization hearing, the court finds by clear and convincing evidence that the patient has a serious mental impairment, the court shall order the patient committed as expeditiously as possible for a complete psychiatric evaluation and appropriate treatment. Copies of the Treatment Order are provided to all parties.
7. Court Reports – The psychiatrist shall file their report to the presiding county's clerk of court no more than 15 days after the respondent is placed, making a recommendation for disposition in the matter. An extension of time may be granted, not to exceed seven days upon a showing of cause. A copy of the report will be sent to the patient's attorney, prosecuting attorney and patient. Upon receipt and review of the court report by the judge, an order will be filed for continued hospitalization and will include when the next report is due, usually 30 days. Copies of this order will be provided to all parties.
8. Periodic Report Distribution (Patients originating within DOC)

Original: Mental Health Department (Clerk of District Court)

Copies: Patient medical file

Psychiatric hospital record (if in patient status)

Mental Health Treatment facility (Registrar if applicable)

Civil Commitment file

9. Court Order Distribution

Original: Civil Commitment file

Copies: Psychiatric record

Patient health record

Mental Health Treatment facility (Registrar)

10. Patients from HHS MHI – transfers in

Original: Civil Commitment file

MHI where civil commitment originated

Copies: Forensic Psychiatric Hospital record

## 11. Change in Patient Status

When there is a change in a civilly committed patient's status, i.e. discharge from the Forensic Psychiatric Hospital, discharge to outpatient status (but still incarcerated), change in institutions, or placement in a residential facility upon discharge of their sentence, the psychiatrist must complete a court report showing the change(s) to the clerk of court in the county who has current legal responsibility for the civil commitment. It is the civilly committed individual's legal right to request a hearing to challenge the validity of their civil commitment each time they are physically moved to a new environment.

- a. When the patient is close to discharging from the FPH, the court report must contain the name of the outpatient or inpatient treatment facility, address and phone. Further, it must contain the treating psychiatric practitioner's name and the date and time of the patient's first appointment.
- b. The social worker or counselor will make the arrangements for notifying the proper FPH/IMCC personnel regarding any change in the civilly committed individual's status, which must be done prior to any movement from the FPH patient program.
- c. The judge will review the court report and, if in agreement, issue an order acknowledging the court's approval of the changes requested. This order is faxed and an original mailed.