Title 9. Rehabilitative and Developmental Services
Division 1. Department of Mental Health
Chapter 16. State Hospital Operations
Article 2. Treatment

Amend Section 4210 as follows:

§4210. Interim Involuntary Medication Hearing Procedures ~~Regarding Mentally Disordered Offenders, Sexually Violent Predators~~ at State Hospitals.

(a) The Department of State ~~h~~Hospitals may conduct administrative hearings on hospital grounds to determine the necessity to administer non-emergency interim involuntary antipsychotic medication to patients admitted under a not guilty by reason of insanity (NGI) plea as currently described in Penal Code Section 1026; Mentally Disordered Offenders (MDOs) as currently described in Penal Code Section 2962, and Sexually Violent Predators (SVPs) as currently described in Welfare and Institutions Code Section 6600, pursuant to the applicable legal standard for each category of individual patient. The appropriate court hearing as required by applicable law shall be requested as soon as possible by the ~~s~~State ~~h~~Hospitals concurrent with, or subsequent to, the administrative hearing.

(b) Before initiating the administrative hearing process, the individual patient's treating physician must first determine that involuntary medication is appropriate, inform the individual patient of such diagnosis, explain why medication is necessary along with the anticipated benefits and possible side effects, and ascertain that the individual patient either refuses to give informed consent to accept or is incompetent to give informed consent to receive the medication.

(c) The administrative hearing shall be held according to the following criteria:

(1) The individual patient must be given at least 24 hours' written notice of the ~~s~~State ~~h~~Hospital's intention to convene an involuntary medication hearing.

(2) The hearing shall be conducted by a panel of two psychiatrists and one psychologist, or three psychiatrists, none of whom have been directly involved in the individual patient's treatment.

(3) The ~~s~~State ~~h~~Hospital shall present evidence of the individual patient's treatment history, current medical condition, and of the information enumerated in subsection (b) above.

(4) The individual patient shall be given the choice to be present at the hearing, present evidence, and cross examine witnesses.

(5) The individual patient shall be given the choice to be represented by a disinterested lay adviser versed in the applicable psychological issues~~, and~~ who will explain the hearing procedures and the applicable legal standard for the involuntary administration of anti-psychotic medication to, and serve the written hearing notice on, the individual patient.

(6) The decision of the hearing panel shall be by majority vote, ~~and be~~ in writing, ~~and~~ include information as to the participants at the hearing, and whether the legal standard for involuntary medication applicable to the individual patient is met.

(7) The written decision shall be given to the individual patient wherein the individual patient has 24 hours from the time of receipt of the written decision to appeal to the medical director of the ~~s~~State ~~h~~Hospital or his or her designee. The ~~s~~State ~~h~~Hospital medical director or his or her designee shall decide any appeal within 24 hours after its receipt.

(8) The hearing panel's decision to allow involuntary medication may direct such treatment for up to14 days, unless superseded by a court decision pursuant to the court hearing that follows the interim administrative hearing process set forth in these regulations. After the 14-day treatment period, further treatment ~~could~~ may be authorized only after the same panel conducts a second hearing pursuant to these same elements wherein the hearing panel may then direct that treatment may continue for the sooner of up to an additional 180 days or when a decision is made by a court pursuant to the court hearing that follows the interim administrative hearing process set forth in these regulations.

(d) Nothing in these regulations shall affect any existing legal rights of the individual patient to seek a judicial review of the hearing panel's determination for involuntary medication.

(e) Nothing in these regulations shall affect any existing legal authority of the ~~s~~State ~~h~~Hospital to involuntarily medicate the individual patient in emergency situations.

NOTE: Authority cited: Sections 4005.1, 4027 and 4101, Welfare and Institutions Code. Reference: *In Re Qawi* (2004) 32 Cal.4th 1; *In Re Calhoun* (2004) 121 Cal.App.4th 1315; *In Re Greenshields* (2014) 227 Cal.App.4th1284; Sections 1026 and 2962, Penal Code; and Sections 5300 and 6600, Welfare and Institutions Code.