OFFICE OF THE SECRETARY OF STATE
TOBIAS READ
SECRETARY OF STATE

MICHAEL KAPLAN
DEPUTY SECRETARY OF STATE

ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 291
DEPARTMENT OF CORRECTIONS

FILED: 06/17/2026 3:46 PM
ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Informed Consent to Treatment with Psychotropic Medication

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/14/2026 12:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.
A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

CONTACT:
Julie Vaughn
971-701-0139
julie.a.vaughn@doc.oregon.gov
3723 Fairview Industrial Dr. SE, Ste 200
Salem, OR 97302

Filed By:
Julie Vaughn
Rules Coordinator

NEED FOR THE RULE(S):

The purpose of this rule is to establish Department of Corrections policy and procedures for the administration of psychotropic medications to adults in custody in Department of Corrections facilities.
These revisions are needed to: update terminology to current language; revise definitions or remove definitions; correct grammar and punctuation; clarify rule language; remove gendered terms; and align the rules with current practices and timeframes. Additionally, one key proposed amendment updates and clarifies the definition of “psychotropic medication” to include necessary laboratory tests or procedures (such as periodic blood draws) to monitor medication safety or efficacy.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

The Department of Corrections (DOC) anticipates that these proposed amendments to its administrative rules regarding

Informed Consent to Treatment with Psychotropic Medication, OAR 291-064, will have a positive impact on racial equity in this state.
These rules establish Department of Corrections policy and procedures for the administration of psychotropic medications to adults in custody in Department of Corrections facilities.
Proposed amendments to these rules update terminology to current language; revise definitions or remove definitions; correct grammar and punctuation; clarify rule language; remove gendered terms; and align the rules with current practices and timeframes. These changes are expected to have a positive impact on adults in custody by improving the delivery of effective psychiatric treatment.
One key amendment updates and clarifies that the definition of "psychotropic medication" may include necessary laboratory tests or procedures (such as periodic blood draws) to monitor medication safety or efficacy. This clarification expands available psychotropic medications and appropriate medical treatment for patients who would benefit from those medications that otherwise may not or should be administered without appropriate monitoring.
Enhancing the quality of psychiatric care may improve individuals' readiness for release, strengthen their participation in release planning, and support successful reintegration into society. These improvements may also benefit their friends and family, as well as community supervision staff, such as parole officers, who work with them after release.
The proposed amendments also incorporate the statutory term "adult in custody" for individuals incarcerated in Department of Corrections institutions. This terminology aligns with the department's mission to normalize and humanize the experience of people confined in Oregon's prisons. The department recognizes that all adults in custody, including those from minority racial groups, benefit from a culture of inclusivity, normalization, and humanization, and these amendments represent another step toward that goal.
Because minority racial groups have historically been overrepresented in Oregon's prison population, the department anticipates that these amendments may help promote fair and just treatment for these individuals during incarceration and as they transition back into Oregon communities.
For these reasons, the Department of Corrections anticipates that these proposed rule amendments will have a positive impact on racial equity in this state.

FISCAL AND ECONOMIC IMPACT:

These changes include various housekeeping, definition and language changes.

DOC anticipates will have no fiscal impact the department, AICs, partners, and the general public.

COST OF COMPLIANCE:
(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

None.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not involved in the development of these rules as they will not be impacted by these rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The department has determined that use of an advisory committee would not have provided any substantive assistance in drafting these rule revisions because of the technical nature of the revisions.

RULES PROPOSED:

291-064-0010, 291-064-0020, 291-064-0030, 291-064-0040, 291-064-0050, 291-064-0060, 291-064-0070, 291-064-0080, 291-064-0090, 291-064-0100, 291-064-0110, 291-064-0120, 291-064-0130, 291-064-0140

AMEND: 291-064-0010

RULE SUMMARY: Amends rule to change the term "inmate" to the term "adult in custody"; and to make a minor grammatical edit.

CHANGES TO RULE:

291-064-0010
Authority, Purpose and Policy ¶

(1) Authority: The authority for th~~is~~ese rules is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, 423.075 and 430.021.¶
(2) Purpose: The purpose of this rule is to establish Department of Corrections policy and procedures for the administration of psychotropic medications to ~~inmates~~adults in custody in Department of Corrections facilities.¶
(3) Policy: When psychotropic medications are recommended for treatment of mental disorders, the prescribing practitioner will attempt to obtain the ~~inmate~~adult in custody's informed consent. In all situations involving involuntary medication, the principles of good professional practice will prevail. For involuntary medication to be approved, it must be demonstrated that the ~~inmate~~adult in custody has a mental disorder and as a result of that disorder there exists a likelihood of serious harm to the ~~inmate~~adult in custody, others or property; or the ~~inmate~~adult in custody is gravely disabled, and that the treatment is in the ~~inmate~~adult in custody's medical interest.
Statutory/Other Authority: ORS 179.040, 423.020, 423.030, 423.075, 430.021
Statutes/Other Implemented: ORS 179.040, 423.020, 423.030, 423.075, 430.021

AMEND: 291-064-0020

RULE SUMMARY: Amends rule to change the term "inmate" to the term "adult in custody"; remove unnecessary definitions or update definitions to align with standard definitions adopted by the separtment; and clarify or update to current usage or medically accepted practice and terminology.

CHANGES TO RULE:

291-064-0020
Definitions ¶

(1) ~~Department: Oregon Department of Correction~~Adult in Custody: Any person under the supervision of the Department of Corrections who is not on parole, probation, or post-prison supervision status.¶
(2) Emergency: An immediate and serious danger to life or health.¶
(3) Facility: Any institution, facility, o~~perated by the Department of Corrections in which inmates in the physical custody of~~r staff office, including the grounds, operated by the ~~d~~Department ~~reside.~~of Corrections. ¶
(4) Gravely Disabled: A condition in which an ~~inmate~~adult in custody, as a result of a mental disorder, manifests a deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over behavior which creates a danger of serious physical ~~and/~~or psychological harm to the ~~inmate and/~~adult in custody or serious physical injury to others.¶
(5) Guardian: A person appointed by a court of law to act as the guardian of a legally incapacitated person.¶
(6) Independent Examining Physician: A licensed physician who ~~shall be board certified in psychiatry, shall have been subjected to~~se qualifications have been reviewed by the Health Services Division C~~linical Medical Director as to his/her qualifications to make such an~~hief of Medicine, or Chief of Psychiatry or their designee(s), and determined to be qualified to conduct independent examination~~,~~s as provided by these rules. The person~~d~~ shall have participated in a training program in the meaning and application of the provisions of th~~is~~ese rule~~. The independent examining physician~~s and shall not be an employee of the Department of Corrections.¶
(7) ~~Inmate: Any person under the supervision of the Department of Corrections who is not on parole or post-prison supervision status.¶~~
~~(8)~~ Legally Incapacitated: A person who has been found by a court of law to be unable, without assistance, to properly manage or take care of their personal affairs.¶
(~~9~~8) Likelihood of Serious Physical Injury: A substantial risk that a~~n inmate~~ person will inflict serious physical injury:¶
(a) ~~Upon the inmate~~To self, as evidenced by recent threats or attempts to commit suicide or self-inflicted physical injury; or¶
(b) ~~Upon~~To another, as evidenced by recent behavior which has caused such harm or has placed another person in reasonable fear of sustaining such injury; or¶
(c) ~~Upon~~To self or another by means of damaging property, as evidenced by recent behavior which has caused such injury or has placed another person in reasonable fear of sustaining such injury; or¶
(d) ~~Upon the inmate~~To self, another, or by damage to property, as evidenced by recent behavior or thinking which, in examining the ~~inmate~~person's prior medical history, is associated with a pattern of behaviors leading to such injury or damage.¶
(~~10~~9) Material Risk: A risk that may have a substantial adverse effect on the ~~inmate~~person's psychological ~~and/~~or physical health. For example, tardive dyskinesia is a material risk of neuroleptic medications.¶
(1~~1~~0) Mental Disorder:¶
(a) A~~n impaired~~ general medical condition resulting in impaired mental functioning, or impaired emotional health; or¶
(b) A longstanding, inflexible, pervasive, and enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture (usually constituting a maladaptive set of personality traits), usually of little concern to the person but which causes impaired life adjustment.¶
(1~~2~~1) Physical Injury: Impairment of physical condition or substantial pain.¶
(1~~3~~2) Psychotropic Medications: The class of medications that have central nervous system activity and are commonly used for the treatment of mental disorders. Types of medications within the class of psychotropic medications include, but are not limited to, neuroleptics (antipsychotics), lithium, and antidepressants. The administration of psychotropic medications may include necessary laboratory tests or procedures (for example, periodic blood draws) to monitor the safety or efficacy of the psychotropic medications.¶
(1~~4~~3) Serious Physical Injury: Injury which creates a substantial risk of death, causes serious and protracted disfigurement, impairment of health, or loss or impairment of the function of any bodily organ.¶
(1~~5~~4) Treating Practitioner: Any Health Services Division employee or contractor who by licensure is authorized to

prescribe treatment specifically, including the administration of psychotropic medications. ~~This includes physicians, nurse practitioners, and physician assistants.~~¶
(1~~6~~5) Treatment Plan: The comprehensive plan of medical, psychiatric, psychological, and psychosocial interventions used to guide treatment providers in assisting an ~~inmate~~adult in custody to accomplish the ~~inmate~~adult in custody's goals for behavioral change. One aspect of a treatment plan may be psychotropic medications.
Statutory/Other Authority: ORS 179.040, 423.020, 423.030, 423.075, 430.021
Statutes/Other Implemented: ORS 179.040, 423.020, 423.030, 423.075, 430.021

AMEND: 291-064-0030

RULE SUMMARY: Amends rule to change the term "inmate" to the term "adult in custody"; clarify the rule; update terminology to current language; and remove gendered language.

CHANGES TO RULE:

291-064-0030
General Policy on Obtaining Informed Consent for Administration of Psychotropic Medications ¶

~~Capacity of the Inmate to Give Informed Consent.¶~~
~~(1) Inmates~~(1) An adult in custody from whom informed consent to treatment with psychotropic medications is being sought shall be presumed competent to give consent unless:¶
(a) The ~~inmate~~adult in custody has been found to be legally incapacitated and unable to provide consent; or¶
(b) In the clinical opinion of the treating practitioner, the ~~inmate~~adult in custody currently demonstrates an inability to comprehend and weigh one or more factors involved in making informed consent as provided in OAR 291-064-0040(1).¶
(2) In determining the ~~inmate~~adult in custody's ability to comprehend and weigh the factors the treating practitioner shall:¶
(a) Disclose the information required in OAR 291-064-0040(1);¶
(b) Ask the ~~inmate~~adult in custody to repeat the information in the ~~inmate's~~ir own words or to explain what the information means; and¶
(c) Ask the ~~inmate~~adult in custody to give a practical example of how the information may affect the ~~inmate's decision.¶~~
~~(3) The inmate~~ir decision regarding whether to consent to medical treatment.¶
(3) The adult in custody's ability to comprehend and weigh the factors in OAR 291-064-0040(1) shall be documented in the ~~inmate's~~ir treatment record and supported by specific descriptions of the ~~inmate's~~ir statements or behavior.¶
(4) ~~An inmate shall~~The following are not, ~~be deemed~~y themselves, reasons to deem an adult in custody unable to give informed consent to administration of psychotropic medications ~~solely because:¶~~
~~(a) The inmate;~~¶
(a) The adult in custody has been diagnosed as mentally ill or ~~me~~with int~~a~~ll~~y retarded;¶~~
~~(b) The inmate~~ectual development disorder or disability;¶
(b) The adult in custody has previously disagreed or now disagrees with ~~his/~~their diagnosis; or¶
(c) The ~~inmate~~adult in custody has previously disagreed or now disagrees with the recommendation for psychotropic medications.
Statutory/Other Authority: ORS 179.040, 423.020, 423.030, 423.075, 430.021
Statutes/Other Implemented: ORS 179.040, 423.020, 423.030, 423.075, 430.021

AMEND: 291-064-0040

RULE SUMMARY: Amends rule to change the term "inmate" to the term "adult in custody"; for consistency within the rules; and to clarify the rule or simplify the rule text.

CHANGES TO RULE:

291-064-0040
Procedures for Obtaining Informed Consent and Information to be Provided ¶

(1) An ~~inmate~~adult in custody, or their guardian ~~of a legally incapacitated inmat~~when applicable, from whom informed consent ~~to~~for the administration of psychotropic medications is sought, shall be given information ~~orally and in writing as follows~~regarding:¶
(a) The nature of the ~~inmate~~adult in custody's mental disorder;¶
(b) The name and purpose of the recommended medication;¶
(c) The material risks of the recommended medication;¶
(d) The intended benefits of the medication;¶
(e) The alternatives to the recommended medication, if in the opinion of the treating practitioner those alternatives are available and comparable in effectiveness;¶
(f) The predicted medical~~/~~ or psychiatric consequences of not accepting the recommended medication; and¶
(g) That consent may be refused, withheld, or withdrawn at any time.¶
(2) The treating practitioner shall ask the ~~inmate or guardian if~~adult in custody, or their guardian when applicable, whether they would like additional information concerning the recommended medication~~,~~ and shall provide such information on request.¶
(3) The treating practitioner recommending administration of a psychotropic medication shall document by notation in the ~~inmate~~adult in custody's treatment record:¶
(a) That the information required in section (1) of this rule was explained; and¶
(b) Whether the ~~inmate o~~adult in custody or their guardian explicitly consented, refused, or withheld consent; and¶
(c) Whether the ~~inmate o~~adult in custody or their guardian requested and received additional information.¶
(4) Psychotropic medications may not be administered to an ~~inmate~~adult in custody who has been found legally incapacitated without the consent of their guardian, except in the case of an emergency.¶
(5) Reports of Progress: Upon request, an ~~inmate o~~adult in custody or their guardian shall be informed of the progress of the ~~inmate~~adult in custody during the administration of psychotropic medications.
Statutory/Other Authority: ORS 179.040, 423.020, 423.030, 423.075, 430.021
Statutes/Other Implemented: ORS 179.040, 423.020, 423.030, 423.075, 430.021

AMEND: 291-064-0050

RULE SUMMARY: Amends rule to change the term "inmate" to the term "adult in custody"; and simplify the rule.

CHANGES TO RULE:

291-064-0050
Consent Options - Exceptions to Informed Consent ¶

(1) ~~Inmates~~An adult in custody deemed able to consent pursuant to OAR 291-064-0030 may:¶
(a) Consent to voluntary administration;¶
(b) Withhold consent for up to 48 hours for the purpose of obtaining additional information;¶
(c) Refuse consent; or¶
(d) At any time, withdraw consent previously given.¶
(2) Any consent, refusal, or withholding of consent shall be fully documented in the ~~inmate~~adult in custody's treatment record, regardless of the treating practitioner's determination of capacity in OAR 291-064-0030.¶
(3) ~~Inmates~~An adult in custody who withhold~~ings~~ consent for 48 hours shall be considered to have refused consent.¶
(4) Where consent previously given is withdrawn, the person to whom the ~~inmate~~adult in custody's decision is communicated shall document the withdrawal of consent and the reason for withdrawal by notation in the ~~inmate~~adult in custody's treatment record.¶
(5) Psychotropic medications shall be administered to an ~~inmate~~adult in custody only after first obtaining ~~written~~ informed consent from the ~~inmate~~adult in custody in the manner prescribed in these rules, except as follows:¶
(a) Administration of psychotropic medications to a legally incapacitated ~~inmates~~adult in custody as provided in OAR 291-064-0040(4);¶
(b) Administration of psychotropic medications without informed consent in emergencies as provided in OAR 291-064-0060; and¶
(c) Involuntary administration of psychotropic medications for good cause as provided in OAR 291-064-0070.
Statutory/Other Authority: ORS 179.040, 423.020, 423.030, 423.075, 430.021
Statutes/Other Implemented: ORS 179.040, 423.020, 423.030, 423.075, 430.021

AMEND: 291-064-0060

RULE SUMMARY: Amends rule to change the term "inmate" to the term "adult in custody"; clarify roles; simplify the rule; remove gendered language; add rule citations; reorganize the rule; and update and clarify timeframe for review of a determination that good cause exists for involuntary administration of medications subsequent to an emergency.

CHANGES TO RULE:

291-064-0060
Emergency Administration of Psychotropic Medications ~~w~~Without Informed Consent ¶

(1) An emergency that is sufficient to allow the administration of psychotropic medications without informed consent exists, if in the opinion of the treating practitioner, an ~~inmate~~adult in custody has a mental disorder and as a result of that disorder:¶
(a) Immediate administration of psychotropic medication is medically necessary to preserve the life or health of the ~~inmate~~adult in custody; or¶
(b) Immediate administration of psychotropic medication is medically necessary because the ~~inmate~~adult in custody's behavior creates a likelihood of serious physical injury to the ~~inmate~~adult in custody or others; or¶
(c) Immediate administration of psychotropic medication is medically necessary because the ~~inmate~~adult in custody has:¶
(A) Recently damaged property and caused physical injury to self or others; or¶
(B) Recently expressed and acted upon an intent to cause serious physical injury to self or others by damaging property; or¶
(C) Recently demonstrated behavior or thinking which, in examining the ~~inmate~~adult in custody's prior medical history, is associated with a pattern of behavior leading to such property damage or physical injury to self or others.¶
(2) If an emergency exists, the treating practitioner may administer psychotropic medications to an ~~inmate~~adult in custody without first obtaining the ~~inmate's~~ir written informed consent provided:¶
(a) The specific nature of the emergency and all procedures used to cope with the emergency are fully documented in the ~~inmate's~~ir treatment record; and¶
(b) An effort has been made to contact the legal guardian of a legally incapacitated ~~inmate~~adult in custody prior to the administration of psychotropic medications.¶
(c) If the treating practitioner is not a mental health prescriber, consultation with the facility chief medical officer ~~or his/he~~, Department of Corrections Chief of Medicine or designee, or Department of Corrections Chief of Psychiatry or designee shall occur within 12 hours of the emergency.¶
(3) Within 72 hours after the emergency administration of psychotropic medications, the treating practitioner shall review the treatment plan and may implement a revised treatment plan.¶
(4) The administration of psychotropic medications in an emergency situation may not continue for more than 72 hours.¶
(5) If, in the opinion of the treating practitioner, involuntary administration of psychotropic medications beyond 72 hours is medically necessary, the treating practitioner must:¶
(a) Obtain the ~~inmate's written informed consent~~adult in custody's informed consent as provided in OAR 291-064-0030 and OAR 291-064-0040, or¶
(b) Determine that good cause for recommending involuntary administration exists as provided in OAR 291-064-0070~~,~~ and¶
~~(c) R~~refer the determination of good cause for review as provided in OAR 291-064-0080~~.~~¶
~~(6) Within seven~~ to 291-064-0120 and this rule. ¶
(6) Within five business days of a determination that good cause exists for involuntary administration of medications subsequent to an emergency, the independent examining physician shall review that determination as provided in OAR 291-064-0090 to 291-064-0120.
Statutory/Other Authority: ORS 179.040, 423.020, 423.030, 423.075, 430.021
Statutes/Other Implemented: ORS 179.040, 423.020, 423.030, 423.075, 430.021

AMEND: 291-064-0070

RULE SUMMARY: Amends rule to change the term "inmate" to the term "adult in custody"; and simplify the rule.

CHANGES TO RULE:

291-064-0070
Good Cause for Involuntary Administration of Psychotropic Medications ~~to Inmates~~ ¶

Good cause exists for recommending involuntary administration of psychotropic medications if, in the opinion of the treating practitioner:¶
(1) The ~~inmate~~adult in custody is suffering from a mental disorder and as a result of the disorder:¶
(a) The ~~inmate~~adult in custody is gravely disabled; or¶
(b) The ~~inmate~~adult in custody's behavior creates a likelihood of serious harm to self or others; and¶
(2) The ~~inmate~~adult in custody:¶
(a) Is deemed not competent to give informed consent to administration of psychotropic medications as provided in OAR 291-064-0030; or¶
(b) Has refused to give informed consent to the administration of psychotropic medications; and¶
(3) The use of psychotropic medications is clinically indicated for:¶
(a) Restoring, or preventing deterioration of the ~~inmate~~adult in custody's mental or physical health; or¶
(b) Alleviating extreme suffering; or¶
(c) Saving or extending the ~~inmate~~adult in custody's life; and¶
(4) Psychotropic medications are the most appropriate treatment for the ~~inmate~~adult in custody's condition according to current clinical practice; and¶
(5) Other less intrusive procedures have been considered and the reasons for rejecting those procedures have been documented in the ~~inmate~~adult in custody's treatment record; and¶
(6) The treating practitioner attempted to first obtain the ~~inmate's written~~adult in custody's informed consent.
Statutory/Other Authority: ORS 179.040, 423.020, 423.030, 423.075, 430.021
Statutes/Other Implemented: ORS 179.040, 423.020, 423.030, 423.075, 430.021

AMEND: 291-064-0080

RULE SUMMARY: Amends rule to remove gendered language; clarify the rule; and further define process.

CHANGES TO RULE:

291-064-0080
Review of Treating Practitioners Determination of Good Cause by an Independent Examining Physician ¶

(1) Prior to the involuntary administration of psychotropic medications for good cause, the treating practitioner shall refer ~~his or he~~their recommendation for review to an independent examining physician who will convene a medication review hearing.¶
(2) The medication review hearing may be held no more than ten business days after the treating practitioner submits a determination that good cause exists. ¶
(3) In the event the medication review hearing is based on the emergency administration of psychotropic medication, followed by a good cause determination to continue the psychotropic medication beyond 72 hours, as provided under OAR 291-064-0060, the medication review hearing may be held no more than ten business days after the first administration of emergency administration of psychotropic medication as provided under OAR 291-064-0060(2).
Statutory/Other Authority: ORS 179.040, 423.020, 423.030, 423.075, 430.021
Statutes/Other Implemented: ORS 179.040, 423.020, 423.030, 423.075, 430.021

AMEND: 291-064-0090

RULE SUMMARY: Amends rule to clarify; and change the term "inmate" to the term "adult in custody".

CHANGES TO RULE:

291-064-0090
Notice of Medication Review Hearing Required ¶

~~Inmates~~Adults in custody subject to the involuntary administration process shall be given written notice at least 24 hours in advance of the medication review hearing by the independent examining physician. The notice shall include:¶
(1) The date and time of the hearing;¶
(2) The ~~inmate~~adult in custody's diagnosis;¶
(3) A statement of the clinical basis for the diagnosis;¶
(4) A statement of the clinical basis for the determination that involuntary administration of psychotropic medications is in the ~~inmate~~adult in custody's medical interest; and¶
(5) An explanation of the ~~inmate~~adult in custody's rights.
Statutory/Other Authority: ORS 179.040, 423.020, 423.030, 423.075, 430.021
Statutes/Other Implemented: ORS 179.040, 423.020, 423.030, 423.075, 430.021

AMEND: 291-064-0100

RULE SUMMARY: Amends rule to change the term "inmate" to the term "adult in custody"; for minor grammatical edits or clarifications; to further define process; and to remove gendered language.

CHANGES TO RULE:

291-064-0100
~~Inmate Rights~~ Rights of the Adult in Custody ¶

(1) ~~Inmate~~Adult in custody rights during the hearing process include:¶
(a) The right, upon request, to discontinue emergency medications administered pursuant to OAR 291-064-0060 for 24 hours preceding the hearing and until the hearing adjourns;¶
(b) The right to be present during the hearing;¶
(c) The right to be heard in person and to present documentary evidence;¶
(d) The right to present testimony through witnesses and to cross-examine witnesses ~~that~~who are called by the Department of Corrections;¶
(e) The right to an advisor to assist in the articulation and presentation of the ~~inmate~~adult in custody's argument at the hearing;¶
(f) The right to the creation of a record of the hearing;¶
(g) The right to appeal the decision of the independent examining physician to the chief medical officer or, during the chief medical officer's absence or vacancy, to the Department of Corrections Chief of Medicine or designee, as provided in this rule; and¶
(h) The right to retain counsel for the hearing at ~~his/~~their own expense.¶
(2) Assignment of Advisor:¶
(a) A Health Services staff member shall be assigned to act as the ~~inmate~~adult in custody's advisor in the hearing process;¶
(b) In assisting the ~~inmate~~adult in custody to articulate their objection to the recommended medications, the advisor shall:¶
(A) Inform the ~~inmate of his/~~adult in custody of their right to retain counsel for the hearing at ~~his/~~their own expense;¶
(B) Interview the ~~inmate~~adult in custody and discuss the psychiatric issues involved, and the ~~inmate~~adult in custody's options;¶
(C) Assist the ~~inmate~~adult in custody in articulating a list of witnesses and questions for witnesses as required in section (3) of this rule;¶
(D) Review the ~~inmate~~adult in custody's treatment record, including records of efforts made to obtain informed consent;¶
(E) Be provided a copy of administrative rules OAR 291-064-0010 through 291-064-0140;¶
(F) Be provided an opportunity to review any other evidence presented by the Department of Corrections upon which the recommendation for involuntary administration of medications is based;¶
(G) Be competent to understand and interpret the ~~inmate~~adult in custody's rights and the hearing process;¶
(H) ~~Have an u~~Understand~~ing of~~ the psychiatric diagnosis and issues that the case may present; and¶
(I) Appear with the ~~inmate~~adult in custody at the hearing before the independent examining physician.¶
(3) If the ~~inmate~~adult in custody wishes to present or cross-examine witnesses, the~~/she~~ adult in custody must provide a written request to the independent examining physician prior to the hearing, listing the names of requested witnesses and the questions to be asked of each witness.¶
(4) The ~~inmate~~adult in custody's right to be present at the hearing may be limited because of ~~his/~~their medical condition or because of other specific reasons relating to the interest of institutional safety and security.¶
(5) Reasons for the limitation of the right to present and cross-examine witnesses include, but are not limited to:¶
(a) Irrelevance;¶
(b) Redundancy;¶
(c) Other specific reasons relating to the interest of institutional safety and security.¶
(6) The reasons for any limitation of the ~~inmate~~adult in custody's rights shall be specified orally at the hearing and in writing as part of the final decision.
Statutory/Other Authority: ORS 179.040, 423.020, 423.030, 423.075, 430.021
Statutes/Other Implemented: ORS 179.040, 423.020, 423.030, 423.075, 430.021

AMEND: 291-064-0110

RULE SUMMARY: Amends rule to change the term "inmate" to the term "adult in custody"; make minor clarifications; and remove gendered language.

CHANGES TO RULE:

291-064-0110
Scope of Review ¶

(1) The independent examining physician shall:¶
(a) Review the ~~inmate~~adult in custody's treatment record, including the records of efforts made to obtain informed consent;¶
(b) Discuss the matter with the ~~inmate~~adult in custody and witnesses;¶
(c) Review the evidence presented by the Department of Corrections upon which the recommendation for involuntary administration of medications is based; and¶
(d) Consider additional information, if any, presented at the time of the review by the ~~inmate~~adult in custody, the advisor, the Department of Corrections, or witnesses.¶
(2) The record of the hearing shall be the documents and statements relied on by the independent examining physician as noted in ~~his/~~their report. Copies of all documents shall be made a part of the ~~inmate~~adult in custody's treatment record.
Statutory/Other Authority: ORS 179.040, 423.020, 423.030, 423.075, 430.021
Statutes/Other Implemented: ORS 179.040, 423.020, 423.030, 423.075, 430.021

AMEND: 291-064-0120

RULE SUMMARY: Amends rule to change the term "inmate" to the term "adult in custody"; add rule citation; remove gendered language; and further define process.

CHANGES TO RULE:

291-064-0120
Determination of Independent Examining Physician ¶

(1) In each hearing, the independent examining physician shall determine:¶
(a) Whether the treatment record contains a sound medical diagnosis supported by sufficient clinical documentation;¶
(b) The capacity of the ~~inmate~~adult in custody to give informed consent as provided in OAR 291-064-0030 and OAR 291-064-0040;¶
(c) The reasons for the ~~inmate~~adult in custody's refusal or withdrawal of consent, if the ~~inmate~~adult in custody has refused or withdrawn consent;¶
(d) Whether the ~~inmate~~adult in custody's behavior constitutes good cause for involuntary administration of psychotropic medications as provided in OAR 291-064-0070;¶
(e) Whether the reasons given for rejecting less intrusive procedures are medically sound; and¶
(f) Whether the involuntary administration of psychotropic medication is in the ~~inmate~~adult in custody's medical interest.¶
(2) The independent examining physician shall not approve involuntary administration of psychotropic medications unless it is determined that good cause exists, and the involuntary administration of psychotropic medications is in the ~~inmate~~adult in custody's medical interest.¶
(3) The independent examining physician will prepare a written report of ~~his/~~their decision containing a summary of evidence presented and specific reasons for approving or disapproving involuntary administration of psychotropic medications. That report shall be provided within 10 calendar days of the hearing. This report will be provided to:¶
(a) The chief medical officer of the facility;¶
(b) The ~~inmate~~adult in custody for whom involuntary administration of psychotropic medications is recommended; and¶
(c) The treating practitioner.¶
(4) A copy of the independent examining physician's report will be made part of the ~~inmate~~adult in custody's treatment record.¶
(5) Approval of the involuntary administration of psychotropic medications shall be effective for 180 days.
Statutory/Other Authority: ORS 179.040, 423.020, 423.030, 423.075, 430.021
Statutes/Other Implemented: ORS 179.040, 423.020, 423.030, 423.075, 430.021

AMEND: 291-064-0130

RULE SUMMARY: Amends rule to change the term "inmate" to the term "adult in custody"; for consistency within these rules; to clarify the rule; and further define process.

CHANGES TO RULE:

291-064-0130
Appeal of the Determination of the Independent Examining Physician~~s Determination~~ ¶

(1) The ~~inmate~~adult in custody may appeal the determination of the independent examining physician in writing to the facility chief medical officer within 24 hours after the determination has been communicated to the ~~inmate~~adult in custody.¶
(2) Upon receipt of the ~~inmate~~adult in custody's request for appeal, the facility chief medical officer or their designee shall review the appeal and the report of the independent examining physician.¶
(3) Except in emergencies as provided in this rule, medications will not be involuntarily administered until the chief medical officer has decided the appeal.¶
(4) The facility chief medical officer shall approve or disapprove the independent examining physician's decision within seven days of receiving the ~~inmate~~adult in custody's request for appeal.¶
(5) Written notice of the chief medical officer's decision on appeal shall be provided to the ~~inmate~~adult in custody and made part of the ~~inmate's~~ treatment record.¶
(6) In the absence o~~f the~~r vacancy of the facility chief medical officer, the notice of appeal will be given or forwarded to the Department~~'s clinical director~~ of Corrections Chief of Medicine or designee, who shall either decide the appeal or delegate that decision to the chief medical officer of another Department of Corrections facility.
Statutory/Other Authority: ORS 179.040, 423.020, 423.030, 423.075, 430.021
Statutes/Other Implemented: ORS 179.040, 423.020, 423.030, 423.075, 430.021

AMEND: 291-064-0140

RULE SUMMARY: Amends rule to update title and process to align with current practice; and change the term "inmate" to the term "adult in custody".

CHANGES TO RULE:

291-064-0140
Periodic Review ¶

(1) When psychotropic medications are involuntarily administered pursuant to this rule, the treating practitioner shall:¶
(a) Submit a progress report to the ~~facility chief medical officer~~Department of Corrections Chief of Psychiatry every 30 days; and¶
(b) Place a copy of the progress report in the ~~inmate~~adult in custody's treatment record.¶
(2) The progress report will document the ~~inmate~~adult in custody's response to medications, including the ~~inmate~~adult in custody's attitude toward the medication and any changes in medication or side effects, and will indicate the treating practitioner's prognosis of the ~~inmate~~adult in custody's need for medications.¶
(3) Discontinuation of medications or voluntary consent to medications will be included in the progress report.¶
~~(4) The facility chief medical officer shall submit to the clinical director an annual report describing all involuntary administration of psychotropic medications.~~
Statutory/Other Authority: ORS 179.040, 423.020, 423.030, 423.075, 430.021
Statutes/Other Implemented: ORS 179.040, 423.020, 423.030, 423.075, 430.021