



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-172600 Civil Commitment Procedures to the New Mexico Behavioral Health Institute	Issued: 07/25/07 Effective: 07/25/07	Reviewed: 5/27/26 Revised: 2/16/15
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

NMSA 1978 Section 43-1-1 et seq, and Section 33-1-6, as amended.

REFERENCE:

- A. ACA Standard Practice 5-ACI-6A-37, *Performance-Based Standards and Expected Practices for Adult Correctional Institutions*. 5th Edition

PURPOSE:

To establish the process for referral and admission to the New Mexico Behavioral Health Institute for inmates needing involuntary psychiatric hospitalization and who are being released from New Mexico Corrections Department (NMCD) custody.

APPLICABILITY:

All NMCD facilities and facilities contracted to hold NMCD inmates.

FORMS:

Certification of Emergency Mental Health Evaluation form (*CD-172601.1*)

ATTACHMENTS:

None

DEFINITIONS:

- A. Grave passive neglect: Failure to provide for one's own basic personal or medical needs or for one's own safety to such an extent that it is likely that serious bodily harm will result in the near future.
- B. Likelihood of Serious Harm to Oneself: The likelihood that in the near future the person will attempt to commit suicide or will cause serious bodily harm to themselves by violent or other self-destructive means, including but not limited to, grave passive neglect.
- C. Likelihood of Serious Harm to Others: The likelihood that in the near future the person will inflict serious, unjustified bodily harm on another person or commit a sexual offense, as

evidenced by behavior causing, attempting, or threatening such harm, thus creating a reasonable fear of such harm from the person.

POLICY:

- A. **Access to the New Mexico Behavioral Health Institute**
Standards set by the American Psychiatric Association require that inmates have access to a full range of psychiatric services, including hospitalization in a psychiatric hospital accredited by The Joint Commission. A Joint Powers Agreement exists between the New Mexico Corrections Department and Department of Health. This agreement allows for the admission of inmates to the New Mexico Behavioral Health Institute if psychiatric treatment is needed and is not available within NMCD facilities.

- B. Inmates with severe mental illness or who are severely developmentally disabled receive a mental health evaluation and, where appropriate, are referred for placement in non-correctional facilities or in units specifically designated for handling this type of individual. **[5-ACI-6A-37]**



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Policy CD-172600

PROCEDURES:

A. Necessary standards for civil commitment.

The standards necessary for civil commitment, found in **NMSA Section 43-1-11 Commitment of Adults for thirty day (30) period**, are:

1. As a result of a mental disorder, the client presents a likelihood of serious harm to himself or others;
2. The client needs and is likely to benefit from the proposed treatment; and,
3. The proposed commitment is consistent with the treatment needs of the client and with the least drastic means principle.

B. Process to seek court ordered civil commitment.

1. Psychiatric staff and behavioral health treatment staff will begin a request for civil commitment at least 60 days prior to an inmate's anticipated release from custody.
2. The Office of Offender Management Services (OMS) will be notified to verify the exact date of an inmate's release from custody. Sufficient lead time is required to complete the request for civil commitment process in a timely fashion.
3. The facility records manager will verify the inmate's release date.
4. The 60 day lead time is preferred; however, this 60 day lead timeframe may be shorter if an inmate develops a need for civil commitment shortly before release from custody.

C. NMCD Health Services Bureau review process for civil commitment

1. Psychiatric staff will present an inmate's clinical history and basis for a request for civil commitment to the NMCD Health Services Administrator (HSA) and Behavioral Health Services Bureau (BHSB) Chief.

2. The contract psychiatrist completes a written memorandum for civil commitment.
3. The NMCD HSA and BHSB Chief will review the written memorandum for civil commitment.
4. After this review process, NMCD Office of General Counsel will then notify the HSA and BHSB Chief of the need to seek a civil commitment.

D. Documentation to be provided to NMCD Office of General Counsel

1. The BHSB Chief will send the completed memorandum for civil commitment to NMCD Office of General Counsel, with an annotation of the name and contact information of the contract psychiatrist who will testify at the civil commitment hearing.

E. Process for court testimony

1. NMCD Office of General Counsel will notify the contract psychiatrist of the date, time and place of the court hearing.
2. The contract psychiatrist will be prepared to appear in court to testify at any civil commitment hearings and to testify as to the clinical reasons for an inmate meeting criteria for a civil commitment.

F. Procedure for admission to the New Mexico Behavioral Health Institute for civil commitment.

1. Upon an order for civil commitment, the New Mexico Behavioral Health Institute Intake Coordinator will be notified by the contract psychiatrist to coordinate the admission for civil commitment and obtain a date and time the inmate will be admitted.
2. NMCD security staff or private prison security staff will transport inmates upon notification from the NM Behavioral Health Institute that it will take custody of the inmate.
3. The NMCD Victim Services Coordinator will be notified of any civil commitment to the New Mexico Behavioral Health Institute and the date and time the inmate will be admitted.
4. The NMCD Probation and Parole Division will be notified of any civil commitment involving inmates who have probation or parole terms remaining.

G. Documents to be sent with the inmate for civil commitment to the New Mexico Behavioral Health Institute

1. Written memorandum for civil commitment completed by the contract psychiatrist;

2. Court order for civil commitment;
3. Complete copy of the inmate's psychiatric and mental health files; and,
4. Additional inmate NMCD medical, psychiatric and mental health records will be provided if requested by New Mexico Behavioral Health Institute treatment providers.

H. **Emergency Evaluation and Commitment**

1. If NMCD Office of General Counsel determines there is not sufficient time to request a court ordered civil commitment, an emergency mental health evaluation and possible commitment may be done without a court order under NMSA Section 43-1-10 emergency mental health evaluation and care. A licensed physician or licensed psychologist must complete the **Certification of Emergency Mental Health Evaluation** form (*CD-172601.1*) to be sent with the inmate to the evaluation facility.

NMSA Section 43-1-10 allows for transport of an inmate to an evaluation facility on release from custody if “a licensed physician or certified psychologist certifies that the person, as a result of a mental disorder, presents a likelihood of serious harm to himself or others and that immediate detention is necessary to prevent such harm. Such certification shall constitute authority to transport the person”.

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CERTIFICATION OF EMERGENCY MENTAL HEALTH EVALUATION

Under **NMSA Section 43-1-10 Emergency mental health evaluation and care**, **NMSA Section 43-1-10** allows for transport of a patient to an evaluation facility if a licensed physician or licensed psychologist certifies that the person, as a result of a mental disorder, presents a likelihood of serious harm to themselves or others and that immediate detention is necessary to prevent such harm. Such certification shall constitute authority to transport the person to an evaluation facility.

Name of Inmate: (print name) _____ Date/time _____

Patient's current facility/location/address: _____

Nature of emergency (specify behaviors suggestive of serious harm to self, others or that they are unable to take care of themselves): _____

Diagnosis: _____

Evaluation facility patient to be transported to: _____

I am a licensed physician or licensed psychologist in the State of New Mexico. I have performed a face-to-face evaluation of this inmate and as a result of this evaluation it is my opinion that this inmate suffers from a mental disorder. I certify to the best of my knowledge that this inmate presents a likelihood of serious harm to himself or herself, others or that they are unable to take care of themselves due to mental illness and is in need of emergency mental health evaluation. I believe that detention is necessary to prevent such harm and is therefore the least drastic means of effecting treatment at this time. I hereby request an emergency mental health evaluation.

Name of authorized person requesting an emergency evaluation: (print name)

Signature of authorized person Phone Date Time